

**CONSTRUCTING PRISONER REENTRY  
SERVICE PROVIDERS' ROLES AND PERCEPTIONS OF LAW, JUSTICE  
AND FAIRNESS**

by

Tanya N. Whittle

A dissertation submitted to the Faculty of the University of Delaware in partial fulfillment of the requirements for the degree of Doctor of Philosophy in Sociology

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## ABSTRACT

This research introduces new ways of theorizing prisoner reentry work. To date, little work has investigated service providers who work with ex-offenders as they return from prison. Reentry service providers make a compelling case for the examination of the influences of law, organization policy, and personal values since reentry service providers' decision-making processes and resulting actions at the micro-level often determine the services received by clients and client outcomes. Drawing on data collected between 2013-2016, including in-depth interviews (35), job shadowing (120+ hours), and field observations (140+ hours) of pre- and post-release corrections and reentry assistance programs and service providers, this study demonstrates the *construction of prisoner reentry*.

Reentry service providers express competing perceptions of their roles and goals and of effective services and definitions of success. They also express competing understandings of prisoner reentry laws and policies and conceptions of justice and fairness. My analysis demonstrates the need to recognize reentry as shaped by the workgroup of professionals and volunteers who put policy into practice. I show that service providers' legal consciousness is fluid, polyvocal, and situated by their positionality and perceptions. Service providers' competing conceptions of justice and fairness can result in what I term "justice dissonance." Justice dissonance requires adaptations which shape the way reentry service providers do their job. It can also negatively impact service providers' perceptions of legitimacy and can result in efforts to change policy through formal means or through policy violations. In addition to the

competing rule enforcer and social work roles already documented in the literature, service providers who experience justice dissonance may take on the roles of bureaucratic survivalists and what I term “underground advocates” and “vocational phoenixes.”

## **Chapter 1**

### **INTRODUCTION**

#### **Background**

To fully understand prisoner reentry issues, scholars and practitioners need to understand service providers who work with men and women after their release from prison and whose decision-making processes and actions often determine the services received by clients and client outcomes. Using grounded theory, this study draws on in-depth interviews and job shadowing of reentry service providers (RSPs—See Appendix A: List of Abbreviations) and observations from pre- and post-release reentry service events and programs to explore how providers experience their work and influence services.

RSPs, like other street-level bureaucrats (SLBs), are informal policy makers who utilize competing and complimentary professional roles to navigate complex work experiences fraught with resource shortages, conflicting and abstract laws and policies, and competing roles and goals (Lipsky 1980). SLBs' discretionary decisions and interpretations of policy are influenced by resource limitations, cultural norms, and personal perspectives and preferences.

To navigate work expectations and challenges, SLBs typically maintain rule enforcer and social worker roles and goals; however, in response to workplace conflict, SLBs may adapt by taking on additional roles or professional identities (Watkins-Hayes 2009). Each role or professional identity corresponds to a discretionary toolkit made up of terminology/language, definitions of success, and

goals utilized to conduct their work. Subsequent research has found that non-government service providers also act as informal policy makers by influencing policy interpretations and service outcomes (ex. Court translators influence court outcomes; contracted treatment providers influence criminal justice decisions and outcomes) (Castellano 2009).

Criminal justice scholars recognize service providers' influences on policy in action. Sociolegal literature on legal consciousness shows that *how* people think about law and policy influences how people engage with law, creating law in action. But little is known about how reentry service providers think about law and policy, how their legal consciousness influences their work experiences, or how service providers' legal consciousness impacts service provision. Reentry service providers make a compelling case for the examination of the influences of law, organization policy, and personal values since reentry service providers' decision-making processes and resulting actions at the micro-level often determine the services received by clients and client outcomes.

Findings from this project indicate that RSPs' discretionary decisions are greatly influenced by their perceptions of law and policy's fairness, justice, and legitimacy (i.e., their legal consciousness). Perceptions that law and policies are unfair or unjust frequently result in negative feelings and occasionally results in disillusionment in the criminal justice system (CJS). Coining the concept "justice dissonance" to describe the conflict between competing justice narratives (See Findings below), this project contributes to understanding the existence and impact of conflicting justice narratives among RSPs and in the field of prisoner reentry, including when and how justice dissonance arises in service providers' work. By

exploring RSPs' legal consciousness and discretionary decisions within a prisoner reentry framework, this project expands our knowledge of how RSPs' perceptions of law and policy translate macro-level policy and rhetoric into everyday lived practices that influence services received by clients and their reentry outcomes. It is at the micro-level through day-to-day interactions that prisoner reentry policy and practices are constructed, and the results are not always as policy makers intended because of the complex interactions among prisoner reentry needs and processes, service provision, and legal consciousness.

### **Statement of the Problem and Purpose of Research**

This project expands knowledge of service providers' interactions in reentry fields and individual-level decision-making processes to include SLBs' perceptions of justice, fairness, and law's legitimacy. In turn, we better understand why SLBs adhere to or resist policy and law (ex. to achieve procedural justice, reduce justice dissonance, or prevent burnout). This knowledge will improve our ability to understand prisoner reentry experiences, including disparate receipt of services, recidivism, and reintegration. This project also expands knowledge of non-government service providers as SLBs (Smith & Lipsky 1993; Castellano 2009), which is needed as non-CJ personnel are increasingly involved with CJ professionals in prisoner reentry decisions and wrap-around services but may have different orientations. It also expands what is known about competing professional roles and corresponding cultural toolkits that service providers use to conduct their work (Watkins-Hayes 2009).

This project introduces the concept of justice dissonance to advance understandings of SLBs' legal consciousness and discretionary decisions for workers within what Castellano calls (2009: 432) the "new satellite of control". Beyond role

differences, justice dissonance illuminates the cultural toolkits at play in reentry decisions, predicting that service providers' perceptions of law are related to their professional orientations. By exploring worker's justice dissonance, this project builds on identified roles (rule enforcer/efficiency engineer, social worker, and bureaucratic survivalist roles), and demonstrates what has been missing from prior work: identification of the underground advocate and vocational phoenix.

Reentry courts, evidence-based practices, and collaborative reentry partnerships, which rely on CJS and social service agencies, are increasingly being used to reduce recidivism and promote reintegration for the 700,000 people leaving prison each year. Discretionary decisions impact services provided to clients, which can impact clients' reintegration into the community and desistance from crime. A better understanding of workers' perceptions of fairness, justice, and law's legitimacy improves our ability to understand their decisions-making processes and facilitate implementation of reentry initiatives.

### **Organization of Dissertation**

Chapters 2-3 provide a guiding framework for the findings and analysis chapters (Chapters 4-8) and the conclusion chapter. Chapter 2 provides a review of the literature on prisoner reentry with particular focus on service providers who work as part of the reentry field. Chapter 2 also includes a review of the literature on discretion among frontline service workers and what is currently known about legal consciousness. I conclude the chapter by identifying existing gaps in the literature and outlining this project's research questions.

Chapter 3 provides details about this project's methodology. I outline the data collection protocol, including access and recruitment strategies. Additionally, I

describe the study location and sites at which observations were conducted. I also provide demographic and professional descriptors about the service providers who participated in interviews and job shadowing observations. Finally, I describe how data was recorded and analyzed.

Chapters 4-8 constitute this dissertation's findings and analysis chapters. Chapter 4 primarily provides descriptive information relating to prisoner reentry service providers' work experiences in order to ground subsequent theoretical chapters (Chapters 5-8) and provide context for interview and observation data. In particular, Chapter 4 discusses competing understandings of prisoner reentry among service providers. In Chapter 4, I also describe reentry service work environments, providers' tasks and goals, and worker-client interactions. Reentry workers operate as street-level bureaucrats within "catch-all bureaucracies" that suffer from resource shortages, unclear or unobtainable goals, and immense layers of policy moderated by service providers' discretion. In Chapter 4, I highlight the competing CJ/Control and Supervision and Social Justice/Treatment orientations that exist among reentry service workers, including these orientations' competing perspectives on prisoner reentry and reentry services; these orientations provide RSPs cultural toolkits (Swidler 1986) that help service providers conduct their work. Service providers' language, discretion, and rationales are influenced by their environments, organizational cultures and resources, and reentry workgroups.

Chapter 5 presents detailed description and analysis of prisoner reentry service providers' complex and competing expressions of legal consciousness. Law and policy are a particularly salient part of prisoner reentry. Chapter 5 describes how service providers' orientation towards law, perceptions of reentry-specific law and policies,

and broad understandings of law's role in society influence their discretionary decisions and how they feel about the work they conduct. This chapter analyzes service providers' fluid and competing expressions of legal consciousness, including how service providers perceive law on the books versus policy in action and service providers' concerns with risk and risk mitigation. Chapter 5 also looks at how service providers' legal consciousness translates into action and legality.

Chapter 6 focuses on service providers' perceptions of justice and fairness. I start Chapter 6 by describing competing justice narratives service providers use while conducting their work. Specifically, I discuss procedural justice and distributive justice narratives, which generally correspond with CJ/Control and Supervision and Social Justice/Treatment orientations respectively. Service providers may use competing justice narratives without issue, oscillating between the competing justice narratives and corresponding orientations or professional roles; however, conflicting justice narratives result in what I term "justice dissonance". Chapter 6 concludes by describing justice dissonance, its causes, and some potential consequences, such as frustration, anger, feelings of powerlessness, confusion on how to proceed, anxiety, and depression. Justice dissonance can also result in RSPs' diminished perceptions of rules, law and policy's legitimacy, or the system in general.

Chapter 7 describes how service providers' legal consciousness, including perceptions of justice and fairness, relates to RSP attempts to change reentry policy and practices. This chapter focuses on reentry service providers' motivations, methods of creating change or achieving goals, and challenges to changing reentry policies and practices. RSP methods of changing reentry include formally modifying reentry policy and informally changing reentry practices through discretion and role adaptations. In



Chapter 7, I describe three role adaptations RSPs use to reduce justice dissonance and change reentry outcomes: bureaucratic survivors, underground advocates, and vocational phoenixes. I conclude Chapter 7 by discussing how RSPs' legal consciousness and access to resources interact to influence how RSPs respond to what they perceive as unfair reentry policies and practices.

Chapter 8, the final findings chapter, discusses how reentry service providers' legal consciousness and resulting actions are influenced by their backgrounds, identities, and positions in society. Service providers' information about and understandings of reentry policy, clients, and fairness influences their legal consciousness and discretionary decisions. Specifically, my data show pathways to the reentry field, felony status, prior victimization and perpetration experiences, and cultural competency make RSPs more empathetic to clients. Empathy in turn generally contributes to service providers expressing Social Justice/Treatment orientations and corresponding distributive justice rhetoric. Chapter 8 includes discussion of peer-support RSPs' polyvocal expressions of legal consciousness and the unique contribution they make to reentry workgroups and clients by bridging diverse RSP and client perspectives in efforts to bring about services deemed fair by clients and RSPs.

Chapter 9 summarizes this research project's contributions to the field, by explicitly answering each of this project's research questions. In Chapter 9, I also discuss implications of this project's findings and policy recommendations. I conclude Chapter 9 with a brief discussion of this project's research limitations and suggestions for areas of future research.

### **A Statement on Language**

The people I spoke with and encountered through this project come from a wide range of backgrounds, organizations, and orientations, and the frameworks, languages, and labels they use to describe the same concepts are quite varied. Many service providers I spoke with struggle with how to label their clients<sup>1</sup>, using terms including clients, citizens, participants, probationers, (ex)offenders, (ex)criminals, or (ex)felons. Similarly, “reentry” (or re-entry) means different things to different people. The vocabulary I have acquired in the academy is not always compatible with the language used in the field. Community members and government employees, lawyers and laymen, criminal justice and social service workers, service providers and service recipients, they too struggle to communicate with one another, not understanding one another’s terms, acronyms, concepts, approaches, rationales, or demeanor because they carry different cultural toolkits. While reentry service providers share work environments, goals, challenges, and clients, they do not share one story, language, or culture.

Throughout this dissertation, I switch between various service providers’ terminologies in an attempt to “give voice” to the service providers I interviewed and observed while also connecting those statements and experiences to multiple academic literatures. Specifically, this dissertation links the criminal justice and organizational literatures on “Street-Level Bureaucrats” (i.e., service providers as informal policy makers) with the sociolegal literature on legal consciousness with empirical grounding through interviews and observations of prisoner reentry service providers’

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<sup>1</sup> This is a common issue among providers who work with corrections populations (See Hickman 2015).

experiences. Although person-first language is preferable, the terms (ex)prisoners, (ex)felons, (ex)offenders, clients, etc. are used interchangeably because my respondents and the literatures use them, and for brevity. The term “service provider” was rarely used by the people I call service providers, but I use it for brevity to refer to a wide variety of personnel that are generally referred to as probation officers, parole officers, counselors, therapists, mentors, teachers, service coordinators, workforce development specialists, case workers, peer supports, sponsors, intake specialists, etc.

## **Chapter 2**

### **LITERATURE REVIEW**

In this chapter I review the existing criminology and criminal justice literatures on prisoner reentry issues, policy, services, and service providers. I will particularly focus on the role of service providers in reentry and service providers' discretion. I will also review existing sociolegal scholarship on legal consciousness, including expressions of legal consciousness and its role in creating legality and legitimacy. At the conclusion of this chapter, I will discuss existing gaps in the CJ and sociolegal literature and how this project contributes to filling those gaps by drawing on both fields in formulating this project's research questions.

#### **Prisoner Reentry Nature and Scope**

"Prisoner reentry" is a term used frequently among academics, policy makers, and some service providers to refer to one's release from incarceration or the transition period/process of returning from prison to the community (Visser and Travis 2003; Travis 2005). The terms and concepts of rehabilitation, reintegration, and reentry are conflated, with some providing a more holistic approach to understanding prisoner reentry experiences and needs.

Approximately two thirds of the 700,000 people released from prison each year are re-arrested, re-convicted, or re-incarcerated within 3 years from release. This high recidivism rate is affected by what are widely recognized as barriers to reentry such as employment limitations, financial legal obligations, criminological thinking

patterns, gaps in mental and physical health care, social bonds, and spoiled identity (See Petersilia 2003, Travis 2002, Visher and Travis 2003, Mallik-Kane, K., & Visher 2008, Kilmer 2016). Prisoner reentry and reintegration has become more difficult and fewer people successfully complete parole than in the past (Glaze 2002), in part because of “get tough” CJ and social service policies established in the 1980s and 1990s and the myriad of informal collateral consequences of punishment and formal felony collateral sanctions that exist (Mauer & Chesney-Lind 2002; Pager 2003). Social welfare and social control institutions are increasingly a part of the carceral state (Simon 2007; Hinton 2015), and “welfare discourses and procedures are increasingly criminalized” (Soss, Fording, and Schram 2011:295). Additionally, rehabilitative programming such as education in prisons has been displaced by reentry-related life skills programs; Phelps (2011) argues this represents a large gap that exists between rehabilitation rhetoric and realities in America. As noted by Visher (2006: 301), “there are many ‘rocks in the path from prison to home,’ but there are just as many obstacles in the design and implementation of reentry interventions, and their elimination would provide a smoother trail for helping men and women exit prison and return home.”

### **Prisoner Reentry Services and Service Providers**

Prisoner reentry services include “all activities and programming conducted to prepare ex-convicts to return safely to the community to live as law abiding citizens” (Petersilia 2003). They are arguably “*everything* about the prison and post release experience” or “*all* of corrections” (Petersilia 2004). Reentry programs and initiatives

vary considerably by jurisdiction<sup>2</sup> and charges. Reentry services are provided by criminal justice system (CJS) actors (ex. probation officers and judges) and non-legal/social service-oriented actors, including drug treatment and mental health counselors, housing specialists, employment specialists, service coordinators, etc. (Petersilia 2003; Petersilia 2004; Travis and Visser 2005; La Vigne, Davies, Palmer, and Halberstadt 2008).

Prisoner reentry policy and services have changed dramatically over the past 50+ years. Until the mid-1900s, prisoner reentry practices were dominated by what Simon (1993) calls “industrial parole” where people were released from prison if employment could be obtained and were supervised in the community by a parole officer. In response to post-industrial economic conditions and significant increases in mass incarceration and parole, parole officers’ supervision focus shifted from reintegrating parolees into the community to monitoring and managing offenders; parole officers’ emphasis of rule enforcement versus therapeutic rehabilitation has varied over time (Simon 1993). Listwan, Cullen, & Latessa (2006) argue that departure from reintegration practices of the “industrial parole” model combined with mass incarceration has resulted in a “reentry crisis” requiring reform via implementation of evidence-based correctional practices and development of efficacious reentry programs.<sup>3</sup> In 2004, President Bush highlighted prisoner reentry as

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<sup>2</sup> For example, social services are more readily available in urban counties (Belanger and Stone 2008).

<sup>3</sup> Listwan et al. 2006 advocate for reforming prison reentry programs according to Gendreau, Little, and Goggin’s (1996) risk-needs-responsivity “principles of effective intervention”. These principles advocate for relying on actuarial-based assessment instruments over service providers’ discretion or clinical judgment, matching client

a major issue during his State of the Union Address, and in response hundreds of millions of Second Chance dollars have been spent to develop new reentry programs in the United States (Petersilia 2004).

Reentry programs and community supervision have mixed success in their ability to significantly reduce recidivism or increase reintegration. For example, increased supervision does not impact recidivism rates among high- or low-risk offenders on community supervision (Georgiou 2014; Hyatt and Barnes 2014), but parolees who take a substance abuse class while incarcerated and work fulltime are more likely to be successful, defined by discharge from parole by 3 years after release (Bahr, Harris, Fisher, & Armstrong 2010). While reentry success is generally defined according to recidivism, other measures of success such as acquiring a GED and maintaining gainful employment are also indicators of successful reentry outcomes (Listwan et al. 2006).

Most people who enter into probation and other reentry fields do so because they want to work with people, which is in tension with the predominant managerialist approach in corrections; current training and practices do not support service provider-client relationship building, which is an important component of effective service provision (Annison, Eadie, & Knight 2008; Knight 2007). Emotional support from service providers promotes building human capital (i.e., individual capacities) and reconstruction of self-identities and narratives, which contributes to desistance. Strong relationships with service providers can also help clients mobilize human capital (Burnett & McNeill 2005).

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needs to service, or matching service styles to client characteristics such as learning styles or predispositions (Also see Cullen and Gendreau 2000).

Despite the large body of research on collateral consequences of punishment and barriers to prisoner reentry, criminal justice officials believe such consequences and barriers impact only a few offenders and in relatively small ways (Goulette, Reitler, Frank, Flesher, & Travis 2014). It is unclear how non-CJ RSPs perceive collateral consequences and barriers to reentry. It also remains unclear how CJ and non-CJ service providers' perceptions impact service provision during reentry.

### **Discretion**

Although reentry services frequently are conducted in highly bureaucratic settings, it is a mistake to think of corrections and social service organizations to be hyper-procedural realities where frontline workers lack individual agency and influence. Through service provision, prisoner reentry experiences and outcomes are mutually constructed by people returning from prison and service providers who run programs and interpret and apply policies on a daily basis. According to Lipsky (1980), front-line service providers act as informal policy makers, creating policy in action, through policy interpretation and discretionary decisions, which are influenced by resources, cultural norms, and personal preference and opinions.

Although bureaucratic organizations have written policies and goals that reflect the ideals of the organization, street-level bureaucrats (SLBs) are public servants who frequently interact with the recipients of those services and use discretion and other coping mechanisms to manage their large caseloads despite inadequate resources and vague or competing guidelines. Such workers' discretion and other coping mechanisms greatly impact how services are implemented, resulting in agency policy distinct from the formal policy (Lipsky 1980). SLBs serve as gatekeepers to services and opportunities (both positive and negative). Additionally, service providers and



middle managers interpret and administer organizational policy and change (Kras, Rudes, & Taxman 2015). As a result, discretion actually creates law in action; SLBs serve as informal policy makers on an individual basis with individual decisions and by creating agency behavior (Maynard-Moody & Musheno 2003).

Scholars have expanded the concept of street-level bureaucrats to include non-legal professionals such as language interpreters (Berk-Seligson 2002), treatment counselors (Nolan 2003), and pretrial release caseworkers (Castellano 2009), resulting in what Smith and Lipsky call “new street-level bureaucrats” (1993) and Castellano (2009) terms “the new satellite of control”.<sup>4</sup> Satellites of control in prisoner reentry are non-government reentry service providers (RSPs) who work for private organizations in collaboration with government agencies, frequently as an extension of the CJS. Non-legal caseworkers are more likely to abide by a treatment orientation and “are empowered to exercise discretion ‘beyond the workgroup’ in ways that mediate traditional courtroom practices and challenge the lawful authority of court officials,” (Castellano 2009: 432).

Discretion and other coping mechanisms can help reconcile the conflicting rules and reality of work environments (Lipsky 1980; Maynard-Moody & Musheno 2003; Watkins-Hayes 2009; Castellano 2011). Idealistic bureaucrats who have goals that are incompatible with the actual nature of bureaucracy must rationalize their failure to help everyone who approaches them for services, change their goals and objectives (i.e. lower their expectations or switch discretionary toolkits), or be

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<sup>4</sup> These “new street-level bureaucrats” or “new satellites of control” are the non-legal actors increasingly working as extensions of the expanding carceral state (Simon 2007).

perpetually confronted with their failure to meet them. Street-level bureaucrats attempt to ration or restrict services via red-tape (ex. lines, paperwork, waiting periods/lists, etc.), routines, specialized units for problem cases, referrals and rubberstamping, and favoritism and discrimination based on who the street-level bureaucrats believe are likely to succeed. Service providers also use discretion to navigate role conflict (Biddle 1986) and role ambiguity (Rizzo, House, and Lirtzman 1970) that often result from competing organizational needs, policy, and/or goals. In corrections, role conflict and ambiguity often arise from competing rehabilitative and punishment/compliance/risk-management goals (Kras et al. 2015; Taxman and Belenko 2012; Andrews and Bonta 2010).

Discretionary toolkits correspond with professional identities (e.g., social worker and rule enforcer) and provide strategies for action to help SLBs navigate unsettled situations and conflict (Watkins-Hayes 2009; Swidler 1986). In addition to helping street-level bureaucrats regulate their workflow, these strategies enable SLBs to cope with their inability to help all potential clients. The limited resources and heavy workload that these SLBs face, however, exacerbates role conflict (helper vs. controller) because SLBs must ration services and minimize disputes by those who are denied help. The coping mechanisms used by street-level bureaucrats help displace negative responses from unhappy clients and legitimizes their decisions. SLBs who do not change their goals often burn out and quit (Lipsky 1980; Watkins-Hayes 2009).

Social and professional identities influence goals, objectives, and in turn discretionary decisions. How these street-level bureaucrats think about themselves as individuals and professionals changes how they relate to clients and the social context: “[SLBs] generate perceptions of clients, the agency, and their work that help them create methodical frameworks for doing their jobs, and these frameworks feature toolkits that offer caseworkers the practical resources to reconcile ‘who

they are' with what they believe the institution expects of them" (Watkins-Hayes 2009: 15).

Identified roles and associated cultural toolkits used to reconcile expectations include rule enforcers/efficiency engineers who enforce policy strictly, social workers who attempt to tailor support when implementing policy to help clients, and bureaucratic survivalists who invest minimally in clients or the system so that they may avoid conflict (Watkins-Hayes 2009).

Like other street-level bureaucrats, reentry service providers often work within environments of chronic resource shortages, vague and often conflicting agency expectations, and hard-to-measure performance outcomes. These environments likely condition the way service providers perceive problems and frame solutions and what influences their discretionary decisions, available services, and client outcomes; however, the literature does not adequately explore street-level RSPs. They have complex work environments, experiences, roles and goals, and perceptions about clients, service provision, and laws and policy. This research expands our conceptual understanding of reentry service providers' role adaptations, bridging sociolegal and criminological theories.

### **Legal Consciousness**

Just as Lipsky (1980) recognizes that SLBs' perceptions influence discretionary decisions and in turn policy, sociolegal scholars recognize that how people think about informal and formal rules influences law in action. Socioloegal scholars have termed how people think about law as "legal consciousness" (Sarat 1990; Ewick and Silbey 1991; Ewick and Silbey 1998). Legal consciousness includes assumptions about the nature and operation of law, experience with law, and those perceptions' influences on *if* and *how* people engage law (Ewick and Silbey 1998).

Ewick and Silbey find in their research of law in everyday life that people generally have three types of legal consciousness: Before the Law legal consciousness is characterized as law being distant, abstract, benign, or unimportant. Against the Law legal consciousness alternatively understands law to be everywhere and oppressive. With the Law legal consciousness understands law to be everywhere, but unlike Against the Law, With the Law legal consciousness sees law as a set of rules or tools to be used.

Much of what is known about legal consciousness comes from the study of ordinary citizens' daily lives or interactions with bureaucratic systems (Sarat 1990; Ewick and Silbey 1998; Cowan 2004). There is a small body of literature that also looks at legal consciousness among Street-Level Bureaucrats (Cooper 1995; Shdaimah 2009). Cooper (1995) found that government employees at welfare offices display polyvocal legal consciousness similar to welfare clients (Sarat 1990), making "it difficult to depict municipal actors as part of a single interpretive community" (Cooper 1995: 511).

Law is a social construct produced and reproduced via social actions including conversations (Ewick and Silbey 1998). Legal consciousness therefore influences legality or the power of law: "legality is a social structure actively and constantly produced in what people say and in what they do" (Ewick and Silbey 1998: 23). For example, workers' understanding of rights has influenced employment law and work place safety laws through litigation and other ways of mobilizing the law (Albiston 2005). Additionally, people's perceptions of a law, system, or organization's process fairness influences their perceptions of its legitimacy (Tyler 1990) making them more inclined to adhere to formal and informal rules.

Considerable theorizing and research has addressed why people obey or resist law and policy, including perceptions of legitimacy. Instrumental explanations for why people obey law align with deterrence literature that argues people comply with laws due to external factors: "...people are viewed as shaping their behavior to respond to changes in the tangible, immediate incentives and penalties associated with following the law..." (Tyler 1990:3). In addition to following informal and formal rules for instrumental reasons (i.e. compliance due to incentives and penalties), people obey or disregard rules for normative reasons. According to normative perspectives, people obey law either because obeying the law complies with their sense of morality—-independent of the instrumental outcomes of their actions or the authority of the actor enforcing laws—or because they feel the state and law "has the right to dictate behavior" (Tyler 1990:4). Compliance with law for moral or instrumental reasons can work against the state if the public does not agree with the law or believes violating the law will be in their self-interests. Compliance rooted in a belief that the state has a legitimate right to dictate behavior provides states the most effective way of controlling the public because it allows them discretionary authority; therefore, it is important to understand what provides institutions and decision-making bodies with legitimacy.

In order for modern legal systems to maintain legitimacy, they must be organized through formal-rational reasons that are often reduced into generalizable, abstract principles. Codified laws are proactive (as opposed to retroactive) without consideration of substantive or value rationale (Weber 1954). To maintain legitimacy, cases and people must be processed through the legal system the same way—with the same rules applied to them in the same manner no matter what substantive or

extralegal differences exist. Laws in modern formal rational legal systems that are made and enforced through the accepted legal process are considered legitimate (Weber 1954). When governments fail to provide what is expected of them (i.e. to simultaneously be many considerably different things) through acceptable means, a crisis develops which calls the authority's legitimacy into question (Habermas 1973; 1981).

Contemporary scholars, such as Tom Tyler, build on Weber's theory that people in modern societies will more likely consider law to be legitimate if laws and legal decisions are made through formal-rational legal procedures but also emphasize the importance of whether people feel the procedures are *fair*: "people will be concerned with whether they receive fair outcomes [what the decisions are], arrived at through a fair procedure [how decisions are made], rather than with the favorability of the outcomes" (Tyler 1988; 1990: 5). People want justice, and authorities maintain legitimacy by behaving "justly". In essence, law must possess order *and* justice in order for it to appear legitimate—This is the duality of law's nature.

What is considered just is arguable. Proponents of procedural justice hold that people care about the fairness of procedures independent of favorability or justness of outcome. People who are treated in a procedurally-just manner by authorities are more likely to feel the interaction was fair and to internalize the norms and values consistent with the authority's legitimacy (Tyler 1990). Fair procedures for deriving outcomes, however, may not produce fair outcomes from a distributive justice perspective. According to proponents of distributive justice, people care about if the outcomes of proceedings are considered fair: "people would like things to come out fairly... they would like to receive the level of punishment they feel they deserve" independent of

favorability of outcome or process (Tyler 1990: 6). For instance, although it may be procedurally just to return to prison all persons who fail to pay legal financial obligations, it may conflict with distributive justice sensibilities to hold poor and rich offenders to the same financial standard.

No person is believed to *be* any type of legal consciousness or to possess only one consciousness or justice orientation (Ewick and Silbey 1998). Legal consciousness is complex, contradictory, and changes dynamically<sup>5</sup>; respondents can switch legal consciousness mid-sentence (McCann 2006). This fluidity of consciousness relates to the hegemonic nature of law and makes it possible for law to maintain legitimacy at the individual level despite perceptions of unfairness. Due to plurality of legal consciousness, people rarely become aware of the inconsistencies and contradictions between their experiences and understandings of law: “Law’s basic legitimacy remains unquestioned, as our legal consciousness seems capable of expanding and transmorphing at a moment’s notice” (Calavita 2010: 46).

Legal consciousness is contextual and contingent on individual positionality. Berrey, Hoffman, and Nielsen (2012) found that perceptions of justice are “situated,” that is contextual and relational: “...people’s accounts of fairness are bounded up in the institutions and structural advantages and disadvantages they encounter in actual legal disputes” (Berrey et al. 2012:3). Sociolegal scholars must therefore contextualize their research to better understand variation across individuals, relationships, social positions, labels, and institutional settings.

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<sup>5</sup> According to McCann (2006), “If each person is constituted by multiple selves, as post-modern theorists insist, it is hardly surprising that legal consciousness is plural, dynamic, complex” (xiii).

### **Gaps in the Literature and Current Study**

Literature on the legal consciousness of service providers who work in criminal justice and social service organizations is lacking, and it is unclear how workers' legal consciousness impacts legality. Research on prisoner reentry service providers contributes great insight into how workers' perceptions of law, policy, and fairness influence services and RSPs' work experiences. This research provides insight into RSPs' influences on constructing "prisoner reentry" by exploring RSPs' legal consciousness and discretion. More specifically, this research explores 1) how service providers think about law, policy, justice, and fairness, 2) what factors impact how service providers think about and act on law and policy, and 3) how the ways service providers think about law and policy relate to how they experience and conduct their work.



### **Chapter 3**

## **METHODOLOGY**

This research utilizes grounded theory to explore how prisoner reentry service providers experience their work and influence services, with a particular focus on legal consciousness. For this project, I collected data via interview and observations (general and via job shadowing) between 2013-2016, and I conducted data analysis throughout data collection (Strauss & Corbin 1990; Corbin & Strauss 2008). I modified the driving research question and interview guide during the research process to account for emerging themes so that additional information could be gathered in subsequent interviews.

At the outset of this project, I broadly asked “How do RSPs experience and influence prisoner reentry efforts?” During the pilot project/first stage of research, 10 service providers were interviewed, and observations of prisoner reentry coalitions, programs, and workgroup meetings began. During the initial open coding phase, I identified themes in the data such as discretion, roles, goals, policy, perceptions of law and fairness, etc. (Strauss & Corbin 1990; Corbin & Strauss 2008). Then during the subsequent axial coding stage, I refined the research question in order to contextualize the identified themes and focus on RSPs’ legal consciousness and how it relates to RSPs’ experiences and how they conduct their work: “How does the legal consciousness of prisoner reentry service providers relate to how they experience and conduct their work?” I further refined my research question during the final selective coding stage to specifically explore how service providers’ subjective perspective or

positionality relates to legal consciousness and subsequent work experiences and prisoner reentry efforts. This research question was broken down further into three driving questions:

1. How do prisoner reentry service providers perceive law, justice, fairness, and law's legitimacy?
2. Is there contextual variation in service providers' legal consciousness, and if so, which factors impact when and how service providers invoke various forms of consciousness?
3. How do prison reentry service providers' understandings of justice, fairness, and law's legitimacy impact how they conduct their work and distribute services?

### **Data Collection**

I conducted in-depth interviews (35), job shadowing (120+ hours) with RSPs, and field observations of pre- and post-release treatment and reentry assistance programs and service locations (140+) in the State of Delaware between 2013-2016. I conducted in-depth interviews and job shadowing with a variety of service providers involved in providing services to persons transitioning from prison to the community, including probation officers<sup>6</sup>, treatment providers, housing and employment specialists, educators, and peer-mentors (See Table 3.1 Participant Characteristics and Figure 3.1: Participant Areas of Specialization below for sample details). Observations

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<sup>6</sup> The term probation officer is favored over parole officer in Delaware. Most people in Delaware returning from prison are sentenced to serve a period of probation following their release.

of reentry programs and service locations include support groups, court sessions, organizational and case management meetings, service centers and offices.

### Study Site Description

Delaware is an ideal site for exploration of RSPs' legal consciousness and discretionary decisions: Delaware is a small state with a unified jail-prison system and centralized prison and community corrections department, currently involved in reforming prisoner reentry services across agencies. Delaware is racially, economically, and culturally diverse with rural, suburban, and urban areas including Wilmington, Delaware in New Castle County, and Dover, the state capital located in Kent County.

As of 2016, there are approximately 952,000 people living in Delaware (United States Census Bureau, 2016), including 5,745 people incarcerated in a DOC prisons, 959 incarcerated in DOC work-release facilities, and 16,082 people living in the community under the supervision of the DOC Bureau of Community Corrections (Delaware DOC, 2016). As of 2015, DOC employed 261 probation officers and 1,710 correctional officers (Delaware DOC, 2016). Recidivism among people released from Delaware prisons is high: At three-year follow-up of the 2011 prison release cohort, 77.9% had been rearrested, 74.5% had been reconvicted, and 69.7% were recommitted to incarceration (Delaware Criminal Justice Council 2015).

Social service, judicial, and corrections systems are modest; however, Delaware is actively pursuing a variety of progressive reentry projects such as reentry problem solving courts, work release, step-down drug treatment programs and tiered supervision, evidence-based programming and assessment tools, and wrap-around

reentry services that involve RSPs from criminal justice and social service agencies, private contractors, and non-profits organizations. For example, in 2009 Delaware Governor Markell ordered DOC, DOE, DSHA, DHSS, and DOL to collaborate on a prisoner reentry initiative aimed at reducing recidivism in the state. As a result, they collaborated to develop the “Individual Assessment, Discharge and Planning Team” (I-ADAPT) comprehensive reentry plan for people exiting state prisons. As such, Delaware provides an ideal location to observe and interview a wide range of RSPs operating in a criminal justice system that is increasingly expanding its role in reentry services and outsourcing reentry services to non-CJS agencies and non-government organizations (Castellano 2011).

#### Access and Recruitment Strategy

Delaware is also an ideal site for this study due to practical geographic and economic constraints, and because of my background knowledge of corrections and reentry in Delaware and unique access. The contacts I had cultivated through prior teaching experience within Delaware Department of Corrections facilities and my existing security clearances to enter state prisons and work release centers and the federal residential reentry center in Delaware facilitated access and recruitment for this research project.

I identified local reentry programs and potential service providers via online research, public advertisements, reentry service fairs, listservs/mailling lists, and personal inquiries. I also spoke with colleagues, mentors, and acquaintances involved in corrections, public health and safety, and reentry issues. These leads connected me

with a wide variety of services and service providers, adding to the richness of the project's data.

I recruited research participants for interviews and job shadowing through both purposive and snowball-sampling methods. For this project, I define a Reentry Service Provider as any service provider who provides or denies services to someone who has been incarcerated and can influence reintegration and/or recidivism. To recruit RSPs to participate in interviews and job shadowing, I distributed recruitment letters and brochures (See Appendix B: Recruitment Materials) through existing primary contacts and reentry organization meetings, bulletins, and mailing lists. I also relied on personal and professional introductions, word-of-mouth recruitment by colleagues, leads from participants, and happenstance meetings with service providers at organizational events (ex. meetings), public forums (ex. presentations about reentry issue), and when entering and exiting prisons.

Participation in interviews and job shadowing was voluntary, and I informed each of the research participants of their rights and my obligations to them as a researcher (See Appendix C: IRB Approval and Participant Consent Form). Not all observed service providers are counted as formal participants in this project. Approximately 65-100 other RSPs were observed in the course of job shadowing with formal research participants and while conducting observations of reentry programs, service provision, organizational meetings, and public forums. Recruitment of respondents continued throughout data collection and analysis so that additional persons who could contribute to emerging theory could be interviewed (Miles and Huberman 1994; Creswell 2007). In total I formally interviewed 35 service providers for this project, and I formally job shadowed with 12 RSPs.

There is no one story, identity, or caricature to represent reentry service providers; they are a diverse and in a sense boundless set of people. The service providers interviewed for this project were similarly a diverse group of people with a wide range of backgrounds, work environments, goals, and perspectives. To reflect the interdisciplinary nature of reentry services in Delaware, I made efforts to include participants from a heterogeneous sample of service providers (See Table 3.1 Participant Characteristics for details).

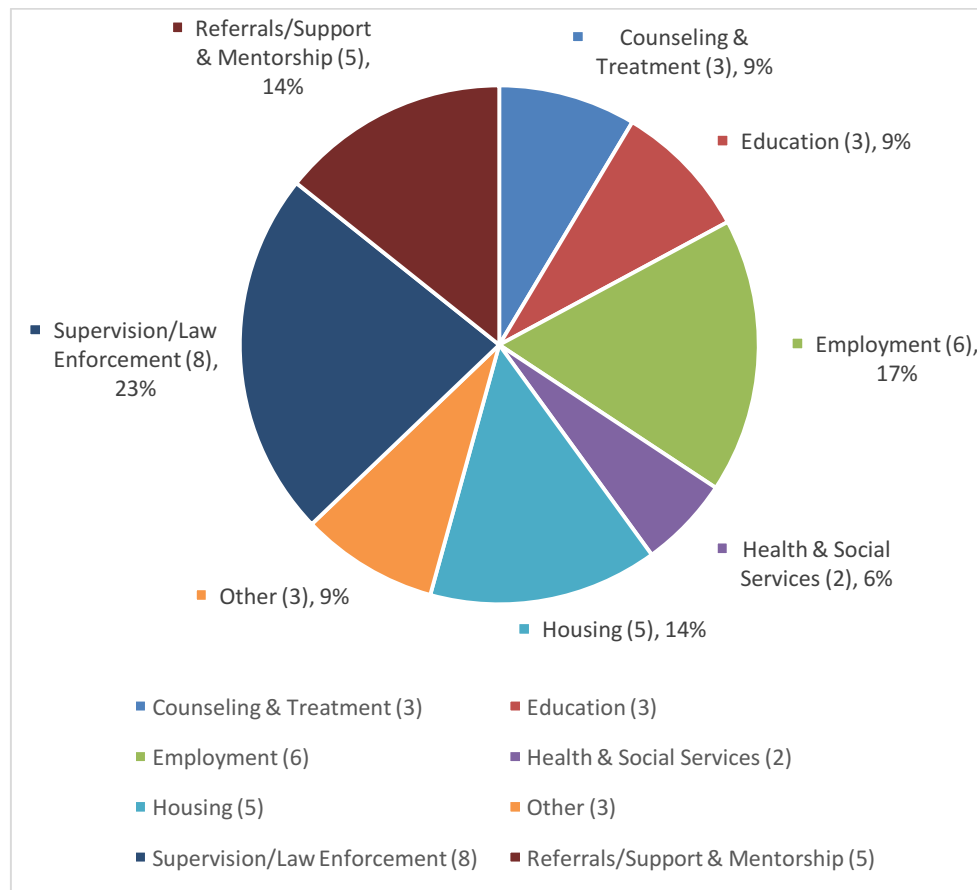
Table 3.1 Participant Characteristics

<b>Agency Type</b>		
	Government	17
	501c3	13
	Volunteer/Unaffiliated	5
<b>Sex</b>		
	Male	13
	Female	22
<b>Race</b>		
	African-American/Black	15
	Caucasian/White	18
	Other	2
<b>Criminal Record</b>		
	Yes, prior felony conviction	6
	No, no prior felony conviction	29
<b>Total</b>		<b>35</b>

Reflective of the variation in interdisciplinary nature of reentry services, participating reentry service providers include counseling and treatment providers (9%), educators (9%), employment specialists (17%), health and social service providers (6%), housing specialists (14%), supervision/law enforcement (23%),

referrals/support and mentorship (14%), and other services (9%) (See Figure 3.1: Participant Areas of Specialization).

Figure 3.1 Participant Areas of Specialization



Many of the service providers had years of experience working in their field while others were new to the workforce or had recently started a new line of work. The educational backgrounds of service providers varied greatly, ranging from those who had recently obtained a G.E.D. to RSPs with Ph.Ds. Some RSPs also possessed

law degrees, drug counseling certifications, and/or training in Motivational Interviewing and other Cognitive Based Therapies.

RSPs work for a wide variety of organizations (ex. Government, non-profit, independent volunteer), and there is considerable variety in intent on working with formerly incarcerated people, and pathways to working in prisoner reentry. Government employees made up 49% of participants compared to 37% who worked for nonprofit organizations and 14% were unaffiliated or volunteers of informal groups. Of the 35 participants in this project, 37% were male and 63% were female; 43% were African-American/Black, 51% were Caucasian/White, and 6% identified as multiracial or did not identify with a racial group; and 17% have a felony record compared to 83% of participants who do not.

My affiliations with the University of Delaware's Center for Drug and Health Studies (CDHS) was especially helpful in connecting me with the State's reentry initiative as well as providing introductions to service workers. These contacts early on (along with my security clearances) made it possible for me to attend organizational meetings and in-prison workshops and classes, job shadow with RSPs in state and federal correctional facilities and probation offices, and in turn to meet a large number of service providers from a wide range of organizations. If it were not for the access and support I received early on from frontline and ranking personnel in state, federal, and community organizations, much of my observations and interviews would not have been possible. Although some of my observations took place in public forums (ex. open courtrooms, public meetings), most occurred in reserved public spaces, private organizations, or restricted-access government facilities.



## Participant Interviews

In-depth interviews are particularly useful for studying legal culture and how individuals “employ culture to justify their understandings of the role of law” (Kostiner 2003: 332). I conducted in-depth, semi-structured interviews of 35 RSPs who work with soon-to-be-released and previously incarcerated persons. Interviews took between 1-3 hours (averaging 1.5 hours) and included open-ended questions about respondents’ personal experiences as reentry professionals, clients, and services. Questions focused on perceptions of fairness and justice, discretionary decisions, and reentry services. Question phrasing and ordering varied to accommodate the interviewee’s area of knowledge and experiences and to facilitate a more conversational interview (Berg and Lune 2012). Additionally, I organized interview questions into Tier 1 and Tier 2 questions to assist in pragmatic facilitation of the Interview Guide if faced with time constraints. Semi-structured interviews ensured that the key research topics were discussed while also allowing the respondent to help guide the interview so that new themes and concepts not initially included in the interview guide could be explored (Patton 2002). I continued interviews until reaching saturation (Strauss and Corbin 1990; Corbin and Strauss 2008). I did not define key terms such as law, rules, fair, just/justice, rights, reentry, etc. for participants so they could define these terms themselves through their responses. This cultural approach to law and society reflects the approach taken by other sociolegal scholars (e.g. Ewick and Silbey 1998; Kostiner 2003).

When permitted, I audio recorded interviews to facilitate verbatim transcription for accurate quotes. Of the 35 interviews, 28 were conducted in person and recorded, 6 were conducted in person and not recorded, and 1 was conducted over the phone and not recorded. Reasons for not recording interviews included respondent

preference as well as my inability to take recording devices into correctional facilities. I transcribed interview recordings verbatim and subsequently deleted the audio recordings. I de-identified interview transcripts and observation journal notes, and I assigned each participant a pseudonym.

### Participant Job Shadowing

I also observed RSPs through job shadowing. Job shadowing provided opportunities to build rapport with RSPs, ask follow up questions to interviews, seek clarification about statements made during interviews, and ask RSPs to explain how they conduct their work and make discretionary decisions in real-time. Job shadowing observations also provided additional observations of reentry service provision locations and aided in additional participant recruitment. Most importantly, job shadowing allowed me to gain a deeper understanding of RSPs' work experiences than interviews and general site observations could provide. While working long hours with RSPs, walking through the rain without umbrellas between secured buildings, and eating at desks in windowless offices while reviewing case files as the phone keeps ringing, I truly started to feel what service providers tried to convey during interviews.

I job shadowed 12 of the 35 interview participants for a total of 120 hours. Selection of service providers for additional job shadowing was dependent on interviewees' current job assignment, willingness to participate, and perceived potential usefulness of observations. I conducted job shadowing of government agents (ex. probation officers, housing and labor reentry specialists, residential reentry specialists) and RSPs from community organizations. Job shadowing observations lasted between 1.5-6 hours a day, and in some instances, I found myself observing

reentry programs, meetings, or other service provision activities at the invitation of multiple research participants. In these instances, I would typically observe as unobtrusively as possible and follow-up with the various research participants in a more private setting to gauge their perceptions of the engagement.

### Site Observations

In addition to observations via job shadowing of participant service providers, I collected data by observing reentry service providers in public and multi-organizational settings. These site observations provided data for analysis and helped recruit participants.

I conducted site observations at key reentry service provision locations, including the Delaware Superior Court's and Federal Court's Reentry Court Programs, Violation of Probation (VOP) Court hearings, the Wilmington Achievement Center, I-ADAPT steering committee and case management meetings, I-ADAPT pre-release transitional planning workshops, Kent County Partnership for Reentry (KCPR) meetings and events, the federal Residential Reentry Center (RRC), the Federal reentry court, and community resource centers. (See Appendix D: Site Observation Information for more details on each observation site.) Existing security clearances to enter state prisons and work release centers and the federal residential reentry center in Delaware facilitated data collection, as providers in Delaware frequently start building rapport and referring clients to services 6-9 months before they are released from prison. Although some site locations were identified at the outset of the project (ex. VOP hearings, in-prison workshops), additional observation locations were included throughout data collection according to participant insights and developing

opportunities (ex. Federal reentry court, case management meetings). Site observations continued until saturation was reached (140+ hours).

Techniques for recording data during observations was utilized pragmatically. I typically made short notes to myself when possible, particularly when the setting obscured my note taking or when other people in the setting were writing, and collected printed materials when available to help with detail recall. Immediately after observations, I would sit in my car and audio-record observations, questions, and reflections from the observation session. I later transcribed the audio-recordings for concurrent analysis. Bracketing techniques were used in an effort to differentiate between field observations of RSPs and reentry service provision sites and my subjective interpretations of observations, inner musings and questions, and self-reflections (Tufford and Newman 2012; Gearing 2004).

### **Data Analysis**

I transcribed recorded interviews verbatim and uploaded them into NVivo (a qualitative data analysis software program) along with field notes and interview summary sheets. Data analysis occurred as suggested by Strauss and Corbin (1990) and Corbin and Strauss (2008) in three phases of coding: open, axial, and selective. Codes were identified both deductively with some codes being derived from previous literature and inductively from interview data. I conducted data analysis throughout data collection and refined the driving research question and interview guide to account for emerging themes and gather additional information in subsequent interviews.

During the open coding phase of grounded theory studies, researchers examine data for prominent categories of information and continue interviewing until saturation

of categories occurs. Within each open code category, subcategories or properties representing various perspectives are identified and dimensionalized along a continuum. Once categories or themes are established through open coding, researchers use inductive and deductive thinking to understand how open-coded categories and properties relate.

Preliminary analyses of data derived from the 2013 pilot study interviews constituted the start of the open coding phase of this project. Pilot study questions focused on how RSPs perceive prisoner reentry policy and services and how RSPs experience their work. Prominent themes discussed by RSPs included RSPs' perspectives of their clients, their clients' needs, causes for recidivism, available services, and respondents' experiences as RSPs. Additionally, preliminary analysis uncovered themes of worthiness and blameworthiness; RSPs' competing goals/interests, professional roles (social worker vs. law enforcer), and pluralistic legal consciousness and perceptions of justice; and RSPs influencing legality as SLBs (i.e. influencing the reality of law as determined through individual discretionary decisions and actions). Each theme was dimensionalized along a continuum. Preliminary findings were primarily derived via inductive analysis of interview data followed by subsequent deductive reasoning and association to existing literature. For instance, themes of RSPs' perspectives of justice and law were derived via inductive analysis of interview data, associated with existing literatures on legal consciousness and procedural and distributive justice, and understood through deductive reasoning influenced by the literature and this project's original data.

I then refined the project's research questions, and modified the interview guide to focus data collections on the themes identified through open coding,

particularly on how RSPs' legal consciousness relates to how RSPs experience and conduct their work. Additional data were then collected via additional interviews and observations, including job shadowing, for analysis during the axial and selective coding phases.

During the axial-coding phase, I focused on context and intervening conditions that affect RSP's perspectives as well as consequences in order to create a coding paradigm or theoretical model that portrays the interrelationship between and among the thematic axial coding categories. In particular, I collected data on RSPs' demographics, identity/role, perceptions of clients and work, and legal consciousness including perceptions of justice and law's legitimacy to explore how each relates—to confirm/disprove the assumptions derived from the open-coding phase of analysis and allow for further modification of the interview guide and purposive observation sampling to obtain saturation before moving on to the final coding phase.

I further refined the research question during the selective coding stage to specifically explore how service providers' subjective perspective or positionality relates to legal consciousness and subsequent work experiences and prisoner reentry efforts. Relationships were explored using constant comparative methods (Strauss & Corbin 1990; Corbin & Strauss 2008) and demographic characteristics of RSPs (ex. sex, race, agency type, role type, felony status) to determine their influence on RSPs' perceptions, experiences, and actions. As in previous coding phases, both inductive and deductive reasoning were utilized. In the final selective-coding phase, I explored how each of the other categories relates to legal consciousness in order to understand the causal conditions that influence that phenomenon (Strauss and Corbin 1990; Corbin and Strauss 2008; Cresswell 1998).

## Chapter 4

### AN IN-DEPTH LOOK AT PRISONER REENTRY AND SERVICE PROVIDERS' WORK EXPERIENCES

**“A lot of people who aren’t in this reentry world don’t really understand what it is like for our guys coming home. They just don’t understand... I had a senator sit in on our Work Force Development group on Tuesday, and one of our guys asked a question, ‘What is the biggest challenges to writing a resume?’, and one of my guys said ‘Well, I never had a job’ and another said ‘my work history is poor’ and another said ‘navigating a computer’ so at the end the senator and I were talking and he was like ‘wow, I never thought about people not having a job’. I said, ‘you never heard that?’ that’s every day around here. But his circle, he is a Republican senator, nice guy, nice guy, uh, I, I applaud the guy for coming to see what we do here, but for him to never hear of someone never having a job in their life, that they’ve never worked, that is kinda contrasting, like on this end we have this guy who has never had a job and on this end we have a senator who never heard of someone said they never had a job to put on a resume. So, he got an eye opener a little bit. Just having some sort of understanding that reentry is bigger than just coming home, or people who don’t really understand the mindset. It’s not just about getting them a job ‘oh you get them a job, they gonna be good.’ Nananana, that’s not the case. It’s a lot more than that.”**

–Trey, Peer Support Specialist

As Trey explains, it is very difficult for someone who has not spent a considerable amount of time in the reentry field to understand how complicated prisoner reentry and reentry services are. In order for reentry service providers to effectively provide services to their clients, they need to understand their clients and service networks. Often times however RSPs and other policy makers work in small niches of the field and are unfamiliar with clients’ lived experiences including interactions with RSPs, other service organizations, and barriers to reentry. Reentry service providers and other reentry policy makers are a diverse group of people

representing many different individual backgrounds, organizational types, and cultural toolkits. Related to the wide backgrounds and orientations of service organizations, prisoner reentry has many different definitions (discussed below), and service providers have competing tasks and goals.

Observation and interview data from this project supports the inclusion of Reentry Service Providers in the conceptual category of Street-Level Bureaucrats (Lipsky 1980). Like social workers, law enforcement, teachers, etc. who work with the general population (Maynard-Moody & Musheno 2003), service providers who work with persons returning from prison often act as informal policy makers via interpretation of policy and use of discretion. The occupational landscape that RSPs operate in generally include vast need, inadequate resources, complicated bureaucracy and policies, varying degrees of discretion and flexibility in work approaches, and frequently unachievable, vague, and/or conflicting goals and directives.

Reentry service providers are embedded in a large range of organizations, backgrounds, and positions of power and privilege. As expected, this diverse group brought various goals, perspectives, philosophies/orientations, and cultural toolkits (Swidler 1986). The lenses, frameworks, languages, and labels they use to describe the same concept, person, or experience were quite varied.

CJ-oriented RSPs typically understand reentry through a narrow lens, one that limits reentry to basic release from prison and a probationary period following release. RSPs and service organizations aligned with a CJ/Corrections/Control orientation, tend to conceptualize their work and prisoner reentry barriers in terms of individual actors choosing to violate the law and/or terms of their supervision due to criminological thinking, laziness, and social networks. These RSPs focus on



supervising and monitoring clients to hold them accountable for their actions and instill discipline and obedience to law. Although lowering recidivism is a goal, CJ/Corrections/Control-oriented RSPs tend to prioritize public safety, which is viewed as important for the community and community building, organizational- and self-preservation, and compliance with law and policy over individual client well-being. The CJ/Corrections/Control orientation aligns with Watkins-Hayes's rule enforcer.

Conversely, social justice/social work/treatment-oriented RSPs tend to view reentry more holistically, considering reentry to begin upon incarceration or well before release and to include the narrow view of CJ-oriented RSPs (actual release and probation) but with emphasis on recovery/stabilization and ideally social reintegration post-release. Crime and recidivism is considered a side-effect of other problems, not simply something clients choose (ex. "They didn't come out trying to scheme to then get away with something, they just gasp and sometimes give up" Bobby). These RSPs tend to prioritize client well-being and community building as a means to achieve public safety. RSPs with a social justice/social work/treatment-orientation and are aligned with Watkins-Hayes's social worker role. Although compliance with law and policy is a goal of treatment-oriented RSPs as well, law and rule violation are more likely to be viewed as a symptom or side effect of a larger problem needing to be addressed through treatment and help via therapy and other resources, including love and empathy.

This chapter provides descriptive information relating to prisoner reentry service providers' work experiences in order to ground subsequent theoretical chapters and provide context for interview and observation data. In particular, this chapter will discuss competing understandings of prisoner reentry among service providers, reentry

service organizations and work environments, service providers' tasks and goals, and RSP-client interactions. RSPs' cultural toolkits (Swidler 1986) including language, discretion, and rationale are influenced by their environments, organizational cultures and resources, and reentry workgroups.

### **Service Providers' Perspectives on Prisoner Reentry**

“One has to ask what reentry look like? I don't know. **What is reentry? It is a myth, a philosophy with no practical application.** They can't describe it because it doesn't exist. It's just something people think about and talk about because there is money out there for it. But I am optimistic that someone will eventually look at the serious problem of training them [formerly incarcerated people] to run their own businesses, because nobody is going to hire them. Let's face it. If you can't get a job in the most menial job market, cleaning, where else are you going to get employment? Can't get a job scrubbing toilets. If they are running background checks... **What can you do but hope and pray for the best?... So why is there all the talk about reentry when there aren't any successes? What does reentry look like? No one can tell you because it doesn't exist.** [Is there a better name that you would call it?] “Pre-entry”. We give folks the help that is needed to keep them from having any contact with the CJS at all. Reentry we've already lost because they've already had negative contact with the system.”

—Dwayne, Community-based Reentry Coordinator

The vocabulary academics use is not always compatible with the language used in the field. Reentry has different meanings among reentry service organizations. Additionally, goals and definitions for success (for returning individuals and service providers) in the reentry realm are ill defined and at times contradictory, and there is no clear beginning or end to prisoner reentry.

The service providers who I identified and who had self-identified as reentry service providers enough to participate in my project did not all agree on the definition of prisoner reentry. For instance, early in the project while trying to recruit probation officers to participate in the project, I was confused by officers telling me they had

former prisoners on their caseload but that they are not involved with prisoner reentry. Among the probation officers, including those who supervised people who had previously been incarcerated, prisoner reentry referred to specialized programs (i.e., reentry court or I-ADAPT) actively trying to reduce recidivism. The probation officers identified their efforts as being integral in maintaining public safety by supervising and holding people on their caseloads accountable. Most of the probation officers I spoke with hoped that people on their caseload would behave/be compliant, not recidivate, and ultimately be a contributing member of society as a result of their engagement with the criminal justice system and their supervision/case management. But prisoner reentry was associated with assistance, entitlements, social services, and treatment services available for eligible clients participating in specific programs provided by someone else.

The more I observed reentry services and spoke with service providers, the wider and more varied my understanding of prisoner reentry became.

“...those are really the five pillars: corrections, labor, education, housing, health and social services... all those professionals, they’ll all say theirs is the most important. It is very interrelated... It is kinda interesting to hear there are ‘reentry officers’, well, it is kinda all reentry.”

—Tina, Reentry Services Planner

As Tina explains, reentry is broad and inter-penetrating in terms of both needs and programs. When understood through a holistic and humanistic lens, almost everything is related to prisoner reentry. From this broad, holistic understanding of prisoner reentry, I define a Reentry Service Provider as any service provider who provides or denies services to someone who has been incarcerated and can influence reintegration and/or recidivism. Therefore, to capture this, I spoke with and encountered people

from a wide range of backgrounds and organizations (See Chart 1: Participant Areas of Specialization).

In addition to definitional differences, RSPs I spoke with did not share an understanding of when prisoner reentry began or ended. Some RSPs, particularly those aligned with CJ organizations and supervision/control tasks, view prisoner reentry to begin on the day of release and reentry services to be those that help returning persons upon and after release. In this vein, some RSPs put an expiration on prisoner reentry at completion of sentence and community supervision or around three years from release. Other RSPs, especially those involved in social and treatment services, believe reentry begins on the first day of incarceration for everyone who will eventually be released and reentry services are any services (pre- and post-release) that will assist an individual in surviving crime free, remaining un-incarcerated, and being a contributing member of society<sup>7</sup>. RSPs who use this holistic understanding of reentry often argue that prisoner reentry is a phase or process<sup>8</sup> but one that never ends because convicted felons never fully reintegrated into the community due to never losing the stigma of being a convicted criminal.

Many service providers also struggled with how to label their clients (ex. clients, citizens, program participants, patients, probationers, offenders, criminals, (ex)felons, friends, etc.):

“Ugh. **Once a felon in DE, right now, always a felon...** You are never an ex-felon in Delaware. Certain states though, some states you can get an

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<sup>7</sup> See Petersilia (2003)

<sup>8</sup> See Travis and Visher (2005)

expungement. Delaware you can get a pardon, but you can't get an expungement in Delaware... **I would use 'formerly incarcerated'. I wouldn't use ex-felon, because there is no ex-felon.** Some people use it, but it's like 'oh shit. I'm not an ex-felon. I'm always going to be a felon'. There is no expungement for it. So, I wouldn't use that, I never use 'ex-felon'. When I realized, until legislation changes, you always going to be a felon because you can't get rid of it. Even if it is a pardon, it's still, you know, it is still on there. Even if the government says they are going to forgive your crime, you are still a felon...."

—Trey, Peer Support Specialist

RSPs also disagree regarding perspectives on the primary causes of crime and recidivism, what clients need to live crime free and reintegrate into society, what the goals of RSPs and clients should be, and how those goals should be achieved.

Overall reentry service providers share a desire to improve public safety as well as communal and individual wellbeing by providing services, whether they be sought resources or unwanted supervision. Many service providers, especially those involved in reentry initiatives, identify reducing recidivism as a goal while others work to meet people's basic needs to prevent relapse or give people a chance to improve their situation through legal/pro-social means; the word "recidivism" is common terminology in CJ circles and unpronounceable and/or unheard of in some community-based organizations primarily providing social services and support. Whether or not service providers used the reentry lingo and framed their efforts in how they related to recidivism, all identified that people coming out of prison are very likely to return to prison, there are many barriers that exist that contribute to people violating probation and/or committing new crimes and returning to prison, and this is a problem.

## **Reentry Service Organizations and Work Environments**

### **Types of Service Organizations**

Almost half of the respondents I spoke with worked directly for government agencies including criminal justice organizations and social service departments.<sup>9</sup> The State agencies are collaborating on a reentry initiative enacted by Governor Markell's order in 2009, which strives to provide individualized transitional plans coupled with removing barriers to reentry and communication between the participating departments to improve coordination and delivery of services in order to reduce recidivism. Although the departments and divisions still run independently, the I-ADAPT teams provide collaborative case management assisted by shared information systems and regular meetings among service providers. In addition to increasing collaboration across government entities, there are a number of collaborations that occur involving private organizations and individuals.

Reentry service providers who do not work directly for a government agency frequently are engaged with the government via employment, contract, collaboration, and/or an MOU.<sup>10</sup> Examples include case workers, workforce development trainers,

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<sup>9</sup> Criminal justice organizations include State Department of Corrections, Delaware Superior Court, Federal Bureau of Prisons, and Federal Court and Probation and Parole. Social service organizations include Department of Health and Social Services, Department of Education, Delaware State Housing Authority, and Department of Labor.

<sup>10</sup> Although not paid by government agencies, volunteers often work with DOC and other government organizations to provide services to people returning from prison. While private citizens and organizations have considerable autonomy in assisting people who have already been released into the community, RSPs who wish to reach within the walls (i.e., in-reach services) to help prepare people for release or wish to work with instead of against the criminal justice system enter into agreements to follow the agencies rules. Collaborating with government organizations can guarantee

and other frontline RSPs who work for private organizations contracted by a state or federal correctional department to operate a program/facility. There are also many RSPs who work for or operate small and mid-size organizations that independently provide housing, job skills training, and counseling services; they frequently rely on government agencies for access to potential clients (i.e., in-reach to provide services and line up post-release services), a stream of clients, office space, and/or other resources.

Private citizens also participate in constructing prisoner reentry and reentry services, independently and in partnership with other groups, as volunteers and by how they approach and frame non-reentry jobs and activities. For example, one service provider I spoke with provides pro-bono legal services in his retirement and recruits local churches to sponsor people who are returning from prison. Another RSP uses his current job as a computer lab technician in a public housing community center. Even though his official job duties do not include prisoner reentry-specific tasks, he uses his position to help others struggling to stay out of the CJS. To build rapport and encourage his services, he uses his credentials of experiencing reentry personally, “walking the walk”, getting a job, and pursuing his dream of being a lawyer. He helps people learn to use computers, Word and Excel, and the Internet; acquire legal identification so they can apply for assistance, get a job, open a bank

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access to clients and resources, but it also can restrict private citizens and organizations from conducting services how they see fit. Additionally, because volunteers and organizations allowed in-reach privileges and who are contracted with government agencies are in a sense sanctioned by the system they are restricted in how they can speak and carry themselves if they wish to maintain such access to clients and resources.

account, and pursue their aspirations. Even though his job description does not instruct him to assist people returning from prison or work to reduce recidivism and crime, and even though people with felony convictions (within the past 2-5 years, depending on charge) are not allowed to live in the housing community, he uses the resources available to him to provide services to those in need because he wants others with limited options to be able to succeed.

Another reentry service provider who identifies as a lay speaker, a farmer, a teacher, and an advocate for those in need. She is involved with multiple prisoner reentry organizations and activities to help the homeless. She also regularly attends political forums to encourage change and opportunities for second chances, provides odd-job employment to people fresh out of prison who are needing to restart their work history, and gives fresh vegetables from her farm away to those in need. Over the years, she has recruited her congregation to host events and provide essential services for formerly incarcerated and homeless people. On a large scale, the work of one individual can seem trivial compared to all the need, but sometimes these individual acts of kindness and independent service providers can mean a world of difference for an individual and the community.

While some organizational policies compound existing stigma and disadvantage and prevent convicted felons from accessing services, other organizations target convicted felons and specifically people returning from prison as their primary clientele. DOC may increase unwanted services such as enhanced supervision and drug/GPS monitoring for clients deemed high risk, high needs, and/or needing to learn accountability and to follow rules. Some organizations advertised they provide services to people returning from prison by incorporating “reentry”,



“Second Chance”, or other cues in their organization’s title, tag line, or mission statement. Others had open policies but chose not to advertise that their clients included or were completely comprised of convicted felons because they did not want their organization or clients to be stigmatized and/or because they did not view the felon characteristic to be of great importance to their mission.

### Work Environments

RSPs’ work environments include prisons, work release facilities, offices, board rooms, clients’ homes, their own homes, their cars, on the side of the road, in court, out on the basketball courts, in computer labs, at the library, or a combination of all of the above. The day-to-day activities of most reentry service providers are quite varied, especially for probation officers, case managers and reentry coordinators, peer and reentry specialists, and any other RSPs that provide wraparound services including in an office facility, in a prison or work-release center, at the courthouse, and in the community.

Many of the environments are very restrictive, including probation offices, courthouses, work release facilities, and prisons requiring RSPs to submit to background investigations and regular security screenings. To go to work or to provide in-reach at these facilities requires service providers go through security, submit to screening including a pat down, wand, removal of jackets and boots, and inspection of all personal items being brought into the facility. In addition to strict dress codes that seem to have roots in security, safety, and puritan concerns (Comfort 2008), RSPs are often prevented from carrying cell phones, laptops, cameras, tobacco and other drugs, pens with springs in them, spiral notebooks, bubble gum, knives, hoop earrings, glass containers, mace or other weapons into their workplace. These screening

processes and restrictive environments are particularly true in prisons, but it is also the case at some probation offices and courthouses, although approved RSPs can obtain permission to bring restricted items (ex. Laptops) into a facility and trusted persons can enter some facilities without going through screening, often through a side entrance away from clients entering the building and waiting for assistance.

Although many RSPs work exclusively or occasionally in these types of restrictive environments, other RSPs work exclusively or occasionally in very casual environments that do not emphasize security, screening, and control and instead emphasize openness, trust, and achieving safety and wellbeing through treating people with respect. Some of the service providers conduct their work in public spaces including in the library and community centers where security cameras and occasional security personnel are visible but relatively non-invasive. A few of the community-based service providers have clients/returning persons over to their house for meetings or to pick resources up, and some live in sober group-homes with their clients to provide peer-support, general assistance or informal case management.

#### Unclear or unobtainable performance measures

Reentry providers work within a web of policies and laws that are often times unclear, unobtainable, or in conflict with one another. To optimize work efforts, RSPs must decide upon which clients to focus their time and other resources. In addition to clients competing with one another for limited assistance, RSPs must also weigh employer, funders, clients', or constituents' interests and demands. RSPs must also balance their own goals and priorities with competing needs or expectations from their employer, funders, clients, or constituents.

RSPs expressed frustration with what they viewed as unrealistic goals, especially when the goals were not funded efforts:

“Changes are slow, and unfortunately the way that things are going right now... The governor did an executive order saying we had to reduce recidivism by 50% within the next 5 years... That’s nice. I don’t know what that means because of the fact that you really haven’t done a [baseline] recidivism study.”

—Justin, Community Corrections Service Provider

It is impossible to determine if Justin’s reentry program reduces recidivism without knowing what the baseline recidivism rate for their clientele was before the new reentry initiative began. Even with a baseline recidivism rate, performance measurements based on recidivism are problematic because of conflicting measures of recidivism (i.e., re-offending, re-arrest, re-conviction, re-incarceration), and unless careful control measures are included in program evaluations, recidivism data may be misleading. Additionally, recidivism measures do not take into account many RSPs’ efforts to help clients find stability and remain crime-free and un-incarcerated.

Although reduction of recidivism may be a performance measure for a particular program, individual service providers are also evaluated on their ability to provide services intended to improve reentry efforts for individual clients (ex. Teach pro-social norms, provide housing assistance, etc.), protect the public’s and organization’s well-being, process and complete paperwork, maintain records, interact with clients and their families. RSPs working within criminal justice organizations reported that drug busts, catching clients violating curfew, and collaborations with law enforcement investigations were applauded while maintaining positive rapport with clients and the community, providing job leads, and helping clients reconnect with family members was looked down on or dismissed. Conflicting goals for RSPs also

contributes to complex work environments that result in RSPs using discretion to navigate expectations and limitations. Performance measures greatly influence how they focus their efforts and carry out their day-to-day tasks.

Despite organizational performance measures (ex. focus on recidivism reduction, contact counts, or some other form of bureaucratic bean counting) some RSPs evaluated their own work through alternate or additional means:

“I don’t really care if it shows we have 100% reduction of recidivism... We are impacting people’s lives, and it is bringing about changes.”

—Justin, Community Corrections Service Provider

Although Justin is responsible for and supportive of efforts to reduce recidivism, he does not think recidivism reduction should be the sole measure of a meaningful or successful reentry program. Alternate measures of reentry program success include helping clients obtain basic necessities (e.g., food and clothing), reconnecting clients with pro-social family and community, helping clients know their options and their rights, mentoring, reducing domestic violence, improving client self-esteem, and facilitating individuals to ‘give back’ or ‘pay it forward’.

Resources: Reentry service programs as catch-all bureaucracies

Although most RSPs interviewed for this project specialize in a particular service type (ex. housing assistance, supervision, or drug treatment), most RSPs interviewed work in catch all bureaucracies—a unique subset of bureaucracy that, despite limited aims or goals, is challenged to address complex problems from a wide range of issues (Watkins-Hayes 2009). Because RSPs’ clients face more than one inter-related issue, RSPs must address other issues, often outside of their area of specialization. For example, someone focused on helping clients gain employment

may also become knowledgeable about and help clients with driver's licenses issues, which may be the result of delinquent child support payments, as well as obtaining other legal documentation required by employers (ex. Social security card). Similarly, employment service providers must also take into account and sometimes address multiple and layered client needs:

“I was tasked with making a list of any programs or things out there that would fit into reentry. I said ‘**You almost have to put it all in there because it is so interwoven with a lot of other just basic human needs things**’... With reentry you also need to think about dental work, and you might be like ‘whoa’, but, you think if there is any substance abuse and then that might set in and then they have a problem with their teeth, then they have problems smiling, then they have problem interviewing at a job, and, so, the drug abuse is linked into the decay of the teeth which is linked into the self-esteem and job interviews and soft skills... So if you really tease it out, you can really get far into the weeds...”

–Tina, Reentry Services Planner

Tina highlights that service providers need to approach clients holistically. In order to help a client become (and remain) gainfully employed, service providers must look beyond simple soft-skills training programs; the individual must be willing to work, have skills desired by employers, be physically capable of working, and must not have unresolved life circumstances that impede work.<sup>11</sup> Not only do all of these issues need to be addressed in order to get clients employed and empower them to remain

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<sup>11</sup> Some of the RSPs interviewed for this project discussed barriers to reentry and concentrated disadvantage at great lengths while others gave a nod to them but minimized their importance in comparison to self-control and responsibility. Life circumstances that can impede work acknowledged by some RSPs include a partner that harasses the client (ex. A partner that harasses the ex-felon at work in order to get them fired, unstable childcare options, and/or unaddressed mental health issues or criminological thinking patterns.

employed, they all need to be addressed in tandem:

“It is kinda like the Big Bang Theory; it kinda has to pop at once cause it is so inter-related. You need a house to live in, but you need a job to pay for the house but you need the education to get the job to get the payments to get the house, to get the clothing, to get the food....”

—Tina, Reentry Services Planner

If service providers only focus on one or two aspects of clients’ needs, their program may be more effective for relatively stable clients, but clients who face the greatest levels of concentrated disadvantage will not fully benefit from the program. To help clients facing multiple and complex life challenges, service providers must expand their areas of expertise and provide assistance or referrals to address client needs that influence but are non-central to the organizations mission. It is incredibly difficult to address reentry clients’ needs, especially when they face many compounding barriers and service providers typically report being under-resourced.

*“We take what we have, and we live in the tent for now.”*

RSPs frequently face resource shortages, staffing limitations, overwhelming amounts of policy and paperwork, and uncertainty if and when funding for their program or organization would come. These environments condition the way RSPs perceive problems and frame solutions.

For example, Beth works to reduce homelessness among persons transitioning from prison to the community. Although she and others in her work group want to reduce barriers to housing for ex-prisoners and has made headway in reducing some barriers through policy revisions, there are still not enough resources available—additional services to help ex-prisoners are needed, but Beth’s organization has been

charged with tackling ex-prisoner homelessness without any additional funding:

“What I think is needed, and I don’t know where it should come from... because there seems to be no money for it, but case managers... basically transition coordinators who know about housing on the outside and best practices... **That’s the piece that we just don’t have, that we don’t have money to do. [Our reentry program] is revenue neutral.**”<sup>12</sup>

—Beth, Housing service provider

Similar to Beth’s challenges to provide housing services to ex-prisoners without adequate funding, Justin too spoke about the challenges of developing and implementing reentry services and a transition program to reduce recidivism among probationers who were formerly imprisoned:

“What do you need to do to be successful on probation? Let them build [a transition plan] during the course of those 7 months so that when they come out they have a document that has all those things that they can refer back to. So, that is one of the things we are playing with—**until we find some money** and we can do classes. I’m a firm believer though that we can do a lot to make it a lot easier, because **once the money comes**, and this is what I said from day 1: What we try to do is **build a very robust foundation. If I have no money, I can put a tent on that foundation** and... if we get money, I can build a 50-story building on top of that with the resources, but we take what we have, and we live in the tent for now, and then we will build a cabin and then build a ranch.... And that is kinda how we’ve approached this.”

—Justin, Community Corrections Service Provider

*“We can share the burden and the blessing”*

Getting by with just a little in the form of resources is a way of life among RSPs. In the following quote, Mary describes the reentry service efforts of a

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<sup>12</sup> Bolded formatting of interviewee quotes has been added by the author for emphasis. Italicized text in interviewee quotes indicates emphasis from respondents.

community-based coalition:

“Each of these organizations has been doing all that they can do by themselves for so long that **they are eminently qualified to do everything with nothing**, and we are trying to bring them all together and encourage other faith-based community organizations to join in with us to be able to provide needed assistance in whatever capacity it may be to suit what the client needs. Uh, **there is no money involved**. It is all donated time and items, **but ... we can share the burden and the blessing.**”

—Mary, (Ex)Prisoner Advocate & Community Organizer

The organizations Mary described face chronic resource shortages and financial uncertainty. As has been the case since Lipsky described SLBs in the 1970s, there continues to be more people needing services from RSPs than they are capable of providing. Funding for community-based reentry service programs is often derived from small donations, occasional grants, and competitive contracts with government agencies. Reentry programs housed within government agencies also rely on competitive grants and donations. Service providers report that it is difficult to plan or invest in clients’ or the program’s own future when they are so focused on trying to keep the doors open and the lights on. To reduce financial pressures, some organizations collaborate by sharing office space, taking on clients from other organizations experiencing critical financial shortages, and even participating in joint fund-raising activities. Unfortunately, when funding is based on client counts and provided services, collaborative efforts among programs and providers can deteriorate as they compete over clients; in these cases, organizations compete to provide services that directly result in payment from funding organizations while outsourcing non-central supportive needs to other agencies whose funding is not numbers based or who are known for not denying services to those in needs (ex. Emergency rooms).



## Discretion and Policy

RSPs serve as gatekeepers to services and opportunities (both positive and negative), and their discretion creates policy. Also, like other SLBs who use discretion and other coping mechanisms to reconcile rules, resources, organizational culture, and personal biases/preferences (Lipsky 1980; Maynard-Moody & Musheno 2003; Watkins-Hayes 2009; Castellano 2011), RSPs frequently referred to the discretion they had in their day-to-day work activities. Most felt discretion was a necessary tool for navigating the complex needs of clients, competing approaches of their organizations intended to bring about change in behavior, and competing interests.

For example, RSPs who assisted people returning to the community in finding employment expressed that they screen people before referring them to job interviews or even vocational training. RSPs stated they used discretion in giving these types of opportunities because they want to get the most “bang for your buck.” RSPs want to use existing funds and opportunities for clients they felt would benefit the most and make the most of the opportunity and need to ensure referred clients do not burn the RSP’s bridges. RSPs may send their best clients for employment opportunities because they needed to ensure organizations will continue taking clients in the future; if an RSP refers a client to an employer and the client does not work out, that could hurt the chances of the employer interviewing future referrals from the RSP.

Discretion also help RSPs maximize the number of people who can receive services and time services as close to release as possible:

“There are long waitlists ... I have to be objective, so the process is ‘Write me a letter.’ I have to look to see what you have going on, how much time you have left, and run everyone that way, because playing favoritism will get me in a lot of trouble someday. It is difficult at times because I know based on looking at lists that there are probably another 15 guys that won’t be accepted

that will be released between the times of the flagger trainings, and that is a missed opportunity... I take it seriously, and I try to really consider each person.”

–Eric, In-Prison Educator

Eric wants to provide as many incarcerated people with education about occupational training, but he also wants to provide it close to release so the training is fresh in their minds and the certifications will last for a longer period post-release. Eligibility policies and waitlists can help Eric avoid seeming unfair or playing favorites in admitting students into his courses; however, they can also result in difficulties enrolling people into courses they can complete before being transferred to another institution or released to the community. Eric generally admits people into courses on a first come first serve basis as long as they meet the eligibility requirements; however, he will also move people up and down the list to accommodate their completing the course before release while not taking the opportunity from someone who is being released sooner.

Discretion also helps RSPs avoid liability issues or public scrutiny. For example, Beth shared that their organization (and many others) screen out potential residences and clients because of resource limitations and perceptions about ex-offenders:

“The people who are actually prohibited by [the rules] are pretty small, but because of [our organization] being responsible for the safety and peaceful enjoyment of the other folks, we screen out *a lot* of people... **People decide to serve people they think will not create any kind of negative image for them**, for their group... A lot of tax payers already don’t want to pay for [public housing]; it is already under attack; people think we are drug havens, places where criminals are and lots of lazy people who aren’t working, so **to change that image, we are very diligent...**”

–Beth, Housing Service Provider

Similarly, Justin points out that social service providers, employers, and housing facilities screen out ex-offenders because of concerns about public perception, stigma, and money:

“A lot of people will give an offender an opportunity, **but they don’t want to be known as the offender program** because of the competitiveness of business. It could be disastrous... **That guy’s business will dry right up.**”

—Justin, Community Corrections Service Provider

Beth’s and Justin’s statements highlight that discretionary decisions and policies which are unfavorable toward ex-offenders are not necessarily the result of RSPs’ personal prejudice or dislike for ex-offenders or particular types of ex-felons. Well intentioned RSPs who want to help ex-felons frequently discriminate against people with criminal records or specific types of charges. RSPs frequently argued that discretion was necessary for them to conduct their work, sustain the program or organization, and continue providing services to people in need—even if that meant denying services to some for the benefit of others.

RSPs frequently face many, often conflicting policies or goals and use discretion to navigate conflicts. For instance, an RSP who works at a work release center brought up that participants are supposed to obtain prior approval for all stops while out of the work release center, including going to the store or stopping for food, but sometimes program staff learn that a participant goes somewhere without permission:

“[I]t’ll be reported to me, and I’ll want to bring him in because there are accountability issues there, so **I’ll bring him in to teach a lesson.** It depends on the client, the history, have they done some shady stuff in the past where this probably isn’t the first time and they just got caught this time, or is it somebody who was hungry, missed breakfast, and just wanted to grab a sandwich. If it is someone we’ve never had issues with, 99% chance they are

telling the truth, and we tell them ‘you can’t do that, don’t do it again, I’ll document but this is a verbal warning’. **I have the discretion to do that, but it really depends on the individual.**”

—Ruth, Residential Reentry Service Worker

As Ruth points out, RSPs frequently try to use rule violations as opportunities as teaching moments, but RSPs must first decide why the person violated the rule and what response will most likely bring about positive change in future behavior. RSPs are much more likely to respond leniently if they determine the rule violator is telling the truth, not usually a problem, and/or had a justifiable reason.

Similarly, Phillip from Probation discussed that officers have discretion in how to manage individual cases on their caseload:

“If someone is on supervision and they have a few what we call technical violations... **the officer has the discretion to either counsel that person and send them on their way and try to bring them back into compliance, or they can staff it with their supervisor to write it up as a violation...** They also can, if someone has a condition to participate in drug testing, **the officer has some discretion on whether or not they do the testing here in the office with an instant test or if they refer the person to a treatment program and have the treatment program do it** (we would pay the treatment program to do it for us.). **They also have a little discretion in how often they see someone in the field or how many office contacts they have.** We don’t have a set contact standard that says if someone is a moderate risk case you must see that person X number of times in the field and X number in the office, **so they have discretion how frequently they get out to see people as well.**”

—Phillip, Probation Officer

These were just a few examples RSPs gave me regarding when and how discretion is used to carry out work responsibilities. Other RSPs also discussed the discretion they have in determining who to refer to job interviews, for education assistance funding, or how long to keep someone in the office during a contact visit. Discretionary decisions that impact clients/program participants can be as small as

letting someone leave group early to feed their parking meter and avoid a parking ticket or making them wait in the waiting room because they did not comply with an earlier order.

Many discretionary decisions are made impromptu by officers based on a large variety of factors such as client history, resource and time pressures, RSP's mood, or client attitude, but some must be reviewed by a supervisor, judge, or other gate keeper:

“...If someone has a technical violation or a new offense, **[Probation Officers] have discretion on how they respond to that, but they have to work out what they want to ask for from the person or the judge with their supervisor. We try to use incremental sanctions...** if we have a technical violation, do some counseling, and if there is no correction followed by another technical of the same variety or something different, then we are asking to put the person on location monitoring. If they continue to exhibit noncompliant behavior, then we can ask to send them over to the [work release center] as another bump up in sanctions, and then if the noncompliance continues from there, **then we will go straight back to the judge.** The first two we can typically do with a waiver, we can tell the person ‘you are in violation, we are inclined to write to the judge and ask for a sanction, but **if you are willing to acknowledge you are in violation,** you can go on to home confinement with location monitoring for 60 days and avoid a hearing with the judge and then **we will continue to work with you without going back to the judge. [Is it like plea bargaining<sup>13</sup> when you are already on supervision?] Yeah, that’s a good analogy.** And so, many people that know they have done something wrong will take the waiver for the modification, and they sign a waiver form indicating that they have a right to a hearing and an attorney but they have done something that violates the terms of supervision and they are willing to address it with their officer. And **even if they do that, we have to send it to the judge and get the judge’s approval,** so we write a memo and send it over to the judge. **But the officer has the discretion to try and work that out with the offender and the officer’s supervisor before sending it to the judge to review.”**

—Phillip, Probation Officer

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<sup>13</sup> CJ and treatment organizations often referred to these agreements with clients as “going on contract” or “putting them on contract”.

In this example of probation officers' discretion in handling a technical violation, officers have great discretion in whether or not to address a particular behavior and how they wish to do so, although their discretion is bounded by their supervisor's discretion as well as the judge's. Discretionary use of graduated sanctions and POs' involvement in the process of talking to clients about their behavior and how to address it can facilitate communication between RSPs and clients, and if both parties and a supervisor agree on the disciplinary action, it can reduce the amount of time the judge has to spend with the case. RSPs refer to the plea-bargain like waivers for modification as "putting [a client] on contract" or the client "going on contract". Probation officers' discretion in the contract process is very similar to prosecutorial discretion in courtroom workgroups (Eisenstein and Jacob 1977)

Not all RSPs felt discretion was a particular positive aspect of reentry work:

**"The biggest barrier is policy, #1. Policy isn't so bad, it is just so... discretionary. And with laws, I think history has shown, when you give too much discretion to people, their personal stuff gets into it. You say 'ex-offender,' 'ex-con,' that 'ex' is negative, so you are asking a person to use their discretion on something that already has a negative connotation. So that 'discretion' kind of goes out the door unless they are in it for helping... So, I think it should be a little more cut and dry. Yes, it may hurt a few people, but if it were cut and dry, at least the person can know that they can do this..."**

—Sean, Peer Support Specialist

Sean works for a housing community blocks from one of the areas men's prisons providing soft skills training, computer classes, and help to people trying to obtain legal identification, public assistance benefits, and/or employment. Few of the official residents were formerly incarcerated due to the housing organization's felon bans, but some ex-prisoners defy the ban and live in the housing community with family or friends. He is available to help any of the housing community's residents and said he

will welcome anyone to his computer lab, even if they do not live in the housing complex or are not on the housing lease, and he has discretion regarding what he teaches in his classes, how much hands-on assistance he provides people, etc., but Sean does not have resources to give those in need. Because of Sean's position working in the community without many resources, he faces the same red tape that returning citizens face when trying to get their lives in order after release from prison. The amount of discretion other RSPs have in carrying out their jobs makes it difficult for him to tell ex-prisoners who come to him for help what to expect, what resources are available for them, or what to do to obtain legal documentation or public assistance. As a result, Sean believes the amount of discretion RSPs have should be reduced so that returning persons are treated more uniformly and individual RSP's opinions or prejudices do not impact service outcomes.

### Reentry Workgroups

Reentry services are increasingly being provided through team-case management approaches and use of collaborative reentry workgroups, similar to traditional courtroom workgroups comprised of judges, prosecutors, and criminal defense attorneys (Eisenstein and Jacob 1977). As Phillip describes above, probation officers have discretion in how they respond to client infractions and are encouraged to use a range of graduated sanctions, but decisions to modify terms of probation (ex. requiring additional drug counseling, GPS monitoring) are reviewed by supervisors and ultimately a judge. In this example, the probation officer, probation supervisor, and judge function as a reentry workgroup, and probation officer negotiations with clients when "putting clients on contract" save the workgroup time, especially the Courts. Probation officer discretion in reentry workgroups is comparable to

prosecutorial discretion in traditional courtroom workgroups (Eisenstein and Jacob 1977).

Similarly, in recognition that people returning from prison have vast needs that no one service provider or even organization can adequately address, reentry service provision is increasingly being conducted through collaborative reentry workgroups. Reentry workgroups frequently include small team case-management approaches to providing services to clients within a single organization as well as large, multi-agency collaborative workgroups that include representatives from DOC, DHSS, DOE, DOL, multiple housing organizations, and various community-based treatment providers. Formerly incarcerated service providers and/or clients also participate in collaborative reentry workgroups. Some but not all reentry workgroups include Court membership. DOC is heavily involved with multiple reentry workgroups, including multiagency collaborations that include community input. Although reentry workgroups are time consuming for DOC personnel, they continue to pursue collaborations to connect clients with rehabilitative services and reintegration resources so DOC can focus on supervision and management of clients.<sup>14</sup>

By working as part of a reentry workgroup, RSPs increase information gathering and sharing among RSPs and expand the resources that are available to clients. Additionally, working in a collaborative workgroup, especially that includes RSPs of different backgrounds and orientations, exposes RSPs to additional tools for

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<sup>14</sup> Whereas the courtroom workgroup developed in response to under-resourcing of public defenders, reentry workgroups have developed in response to under-resourcing of DOC, which has resulted in a focus on surveillance and management of probationers and parolees (See Simon 2007; Annison, Eadie, & Knight 2008; Knight 2007).



their discretionary toolkits, including different terminology to use, new ways of thinking about client needs and service provision, and a broader understanding of reentry issues in general. Although reentry workgroups allow for a broader range of perspectives to be expressed and utilized, RSPs highly critical of DOC in particular struggle to gain equal membership, access, and consideration.

Multi-agency reentry workgroups in the state have led to greater understanding and collaboration among service providers and identification of barriers to reentry and barriers to implementation of reentry best practices. As a result, partnering agencies develop MOUs and modifications to organizational policies and procedures to reduce barriers and streamline services. RSPs are better able to refer clients to appropriate services at other organizations and explain to clients what to expect or why they may not receive services.

Increased communication through collaborative workgroups seems to reduce but not eliminate RSP and client frustration with organizational policy and practices because there is greater understanding to what they are and why they exist. However, collaborative workgroups do not eliminate frustration and conflict, in part due to ongoing limited resources and disagreement over ideal approaches to behavior modification and reentry. Power struggles between RSPs and service organizations also exist, especially if organizations are fighting for resources (ex. Grant money, clients) or when punishment/control tactics are used that conflict with treatment plans and vice versa.

### **Job Titles and Tasks: Supervision and Control, Social Services, and Administrative Tasks**

There are many services available to people coming out of prison, but they are not always desired or accessible. Most people leaving prison are under some form of supervision and therefore are required to engage probation services, including reporting to an officer, drug testing, curfew monitoring, cognitive-based therapy programs, counseling, GPS monitoring, or support groups. Although these services are mandated and often not desired by the person on supervision, they are often at the subject's own expense and considered a better alternative to re-incarceration by the subject and service providers.

In addition to CJ-specific services, people returning from prison have vast needs, including basic human needs for survival such as food, clothing, shelter, health care as well as job skills training, education, transportation, and employment. Services such as emergency shelters and transitional housing, soup kitchens, and resource centers help meet the basic needs of community members, including formerly incarcerated people; however, services are not always easily accessible. Many people need help finding out what services are available to them and navigating the interweaving services and bureaucracies, and many need emotional support. These services are commonly under-resourced, inconsistent, and inaccessible to those in need, especially formerly incarcerated people. Despite enhanced need for basic human services, people with felony convictions returning from prison are frequently denied. For example, people with felony convictions are not allowed in public housing for a set period of time, depending on the conviction and individual Public Housing Authority's policy. Also, people with sex offenses on their criminal record are often barred from community centers where resources and trainings are available.

Reentry service providers work in a wide range of job titles<sup>15</sup>. As part of their work, RSPs are responsible for numerous tasks and strive for a variety of different goals. RSPs generally must balance competing tasks and goals while trying to conduct their work.

“I wear many hats for different organizations, and sometimes they cross into each other... It would be very difficult for me to define the lines because there is a lot of cross over.”

—Mary, (Ex)Prisoner Advocate & Community Organizer

Mary volunteers for multiple organizations, and although they each operate independently and have their own missions, she often finds herself representing multiple groups while conducting her work. Even for those who work for just one organization and occupy just one formal role, RSPs wear multiple hats and are responsible for numerous tasks. Common tasks conducted by RSPs include completing paperwork, monitoring/supervising a clients’ progress, and helping identify and meet clients’ reentry needs. Although tasks and services can be generally categorized as social services, supervision and accountability, and administrative tasks, they are all interrelated:

“It all connects because it is a web. You pluck this one and everything else is going to resonate.”

—Michael, Social Service Provider

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<sup>15</sup> Titles include administrator, grant writer, program/service planner, peer-support, advocate, service coordinator, community organizer, correctional officer, probation officer, supervisor, legal aid/lawyer, resource provider (ex. Food, water, clothing), financial manager, educator, skills trainer, housing coordinator, workforce development specialist, minister, psychologist, case manager, human service worker, mentor, art therapist, reentry coordinator, reentry navigator, judge, drug counselor, sex offender treatment clinician, computer technician and skills trainer and security officer.

### “Doing Paper”: Supervision and Accountability Tasks

Monitoring and supervision of clients is a common task for many if not all RSPs. Involved with monitoring and supervising clients includes conducting office visits, pat downs, urine screens, home inspections, verification of employment, case research, data entry and report writing<sup>16</sup>, court appearances and testimony, curfew checks, etc. RSPs often frame supervision and sanctioning of clients for rule violation as providing clients with structure in their lives to help them adapt to living in the community and within society’s rules:

“They call this ‘doing paper’ when they are on supervision versus ‘doing time’. A lot of them will say doing time is a lot easier than doing paper, because when you are doing time, someone tells you when to get up, when to shower, what to eat. Everything is mapped out for you. But when you are doing paper, it is really up to you. So the irony is, they need structure. [Probation and reentry court] is a form of structure. And they know they need structure to survive out here. But when we try to give them structure, they can’t adapt to this structure. And for some reason they wind out going back to that because being institutionalized is what works for them. But many will acknowledge that they need structure.”

—Phillip, Probation Officer

To provide structure and help clients adapt to living in the community, RSPs like Phillip supervise clients and monitor their progress and/or behavior to ensure clients follow rules and are held accountable for their actions (and inactions). When clients are not behaving in accordance with policy or an RSP’s expectations, RSPs may increase monitoring, verbally address the behavior, and/or use a variety of sanctions.

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<sup>16</sup> Tasks like data entry and report writing are administrative in nature but align with supervision and accountability aims so long as these tasks assist RSPs in providing better services (as deemed by the RSP and organizations) opposed to diminishing services by overwhelming RSPs and/or refocusing interactions between RSPs and clients from clients’ needs to policy and paperwork demands.

Some RSPs, like Clara who is a sworn probation officer, are authorized to use physical force:

“If you are in the field and someone resists or they take off and run, obviously you are trying to capture them. If they start a fight. I mentioned that one month we had 3 out of 4 weeks with physical altercations in the office and parking lot. It’s just a, there is a use of force model they have to follow and if you are being met with resistance, physical resistance, then obviously, you need to act on that. That’s really the only time, or unless they are walking someone handcuffed to the holding cell.”

—Clara, Probation Officer

Physical force among other sanctions are authorized for probation officers and other RSPs in instances where clients are resistant, try to run from the RSP or escape custody (a particular concern among RSPs who work with people in work-release), or present a danger to the RSP, self, or another person.

Rule enforcement is not just a task for some RSPs; it can be an identity:

“[M]e and [my shift mate] are known as the real sticklers. We go by the book. We’ve been here longer, we know the book, we know the consequences, and we are also older. [Coworker] has a lot of experience in this field, and we discuss how it all works. We are sticklers. You are here for a reason. The rules are here for a reason. And not a negotiation.”

—Patti, Residential Reentry Service Worker

Patti takes pride in being a “real stickler” and for enforcing rules, holding clients accountable, and following the policy book. Aligned with Watkins-Hayes’s rule enforcers, she identifies rule enforcement as beneficial because it necessary for teaching people to follow the law and because there can be consequences for not following the rules (for clients, herself, or the organization). Rule enforcement, monitoring and supervision of clients, however is one of many tasks that makes reentry work complicated.

Patti works in a residential treatment facility, and monitoring/supervising clients is a large part of her job description, but she is also heavily involved in social services as well:

“We all pitch in since it is a small house and small staff. We all do different things. I also am what we are calling for now ‘an employment coordinator’... We all have to do everything you know, monitoring clients, checking them in, pocket searching. I can only pat female clients. Signing them in, breathalyzing, UAs [Urine analyses], room searching, feeding them, answering questions if they need social services, medical services... I do have to do write ups if they aren’t accountable for their time (That is our biggest issue), if they are insolent, which I haven’t really written anyone up for that, or contraband... and if a client comes in and feels comfortable enough talking, we do mini-social work sessions too. The emphasis here is a lot of motivational interviewing which is a learning process for us as well. So, we try to do the open-ended questions, develop a plan, encourage and affirm as much as we possibly can.”

—Patti, Residential Reentry Service Worker

Patti’s organization has a small staff, and everyone is expected to pitch in to help other RSPs in the program. She is responsible for monitoring/supervising program participants and holding them accountable as well as assisting case managers meet clients’ reentry needs/ transition plans. Although she is responsible for providing treatment and supervision services along with general administrative assignments, Patti engages with more rule enforcement-oriented tasks. Nonetheless, she spends a considerable part of their day talking with clients, answering questions, giving directions and guidance, inquiring about treatment efforts, and verifying clients are following rules.

RSPs (ex. Educators, housing specialists, workforce development specialists, etc.) who work outside of law enforcement and formal/traditional CJS organizations and institutions also engage in supervision and accountability tasks. For instance, educators and Workforce Development (WFD) specialists hold students accountable

for their attendance, behavior in class, completion of assignments, and compliance with the law and terms of probation, especially for clients who are on Level 4 Home Confinement/Work-Release Confinement probation. Other RSPs like housing specialists engage in supervision and accountability by screening clients and verifying documentation, searching clients as they enter a secured area and holding clients to the terms of the program or contract with the client.

“I can help. It’s OK to have difficulties”: Social Services Tasks

“In general, we collect database notes, form a file, give out assessments, **try to figure out what is it that we need to help the clients with** in here. The assessments include the BASICS skills to see if you need to refer them to educational programs, **what kind of job help they need** as far as careers. Our duties are basically to put some structure in their life and **guide them in the right direction and hope that they have a positive transition back into society** after years of incarceration... We do transitional skills courses.... We have parenting courses for people with children... **We try to help out as much as possible**... We meet once a week with each person, and we do case sessions about their educational process, their jobs and program plans as far as group sessions they attended week prior. Physical and mental issues they have and their families have, and we touch on that in the case notes.”

—Olivia, Residential Reentry Service Worker

Olivia is a case manager at a residential treatment and reentry facility who oversees approximately 15 cases of residents plus case management for approximately 15 more clients who live in the community but are on home confinement. Olivia works closely with probation officers to oversee that clients obey program and probation rules, but she is particularly responsible for evaluating clients’ treatment needs, connecting clients with education and treatment services, and assisting clients transition from the residential program to the community. Although Olivia works in a CJ environment, she aligns with Watkins-Hayes’s social workers and focuses on *helping* her clients by providing support and referring them for additional services.

But before RSPs like Olivia can provide services, they typically must complete some form of intake paperwork and assessment to determine what level of services is appropriate for individual clients. Then, RSPs typically have to identify whether or not clients have legal identification, which clients often lose possession of due to incarceration or housing instability. Identification is a huge challenge for people exiting prison, and in turn for service providers working with them:

“So, you can’t work unless you have an ID. So generally, like in DE, even if you are a Delawarean, if you don’t have your birth certificate and social security card, you can’t get a state ID or driver’s license so you can’t work. You have to go to vital statistics to get a birth certificate, and that costs about \$25. And then you have to go to social security to try and get your social security card, and then you can go on to motor vehicles to get your ID before you can work.”

–Bobby, Residential Reentry Service Worker

To streamline services and in hopes of reducing recidivism, the state started a program to help people returning from prison obtain their state IDs, birth certificates, and social security cards:

“That is part of what I like about this team, that we are providing those basics, the birth certificates and social security cards. I mean, that is crucial. When I moved here from out of state, I had the hardest time. Two pieces of mail, my old license, my birth certificate and social security card, and because my last names didn’t match on all of my documents, I had to bring in my marriage certificate. It is a challenge, so for them to have those documents walking out of prison, that is amazing. And it’s free of charge.”

–Nikki, Housing Coordinator

Nikki empathizes with how hard it is for people coming out of prison to obtain legal identification. She herself struggled to find all the necessary documentation and go through the bureaucratic process even though she has not experienced incarceration or housing instability and is educated and familiar with working within bureaucracy.



Poor education is a challenge for reentry clients and service provision. Many reentry clients have poor training and education or do not have a formal work history:

“Our program is based on a 7th grade reading level. We hope for a HS diploma or GED, but we accept people who do not. We test for a 7th grade reading level and math. We are more concerned with the reading level than the math, and we hope they are close to 7th grade.”

—Beverly, Workforce Development Specialist

Beverly is an employment specialist who works with previously and currently incarcerated people. Unfortunately, many students, especially younger men and women who attend her program, cannot do math or read at a 7th grade level. This makes training and eventually employing her clients extremely difficult. Dwayne and others echoed this challenge:

“Many of them may not be able to read or write. They may not feel comfortable asking. They may rather masquerade pretending they can when they can’t. The way you’ll find out is that you won’t see the eyes moving back and forth. Guys who can’t read will be like ‘I don’t feel like that right now’. So, guys like me are trained to pick up on that kind of attitude or front and say ‘hey if you need help reading, I can help. It’s OK to have difficulties.’ If you don’t have that kind of compassion for those that feel shame...”

—Dwayne, Community-based Reentry Coordinator

Reentry service is a difficult task in general, but especially when clients cannot read and write and are too ashamed to admit it and ask for help. Those who cannot read may ask for help from another client<sup>17</sup> or feign disinterest in help/services. RSPs often interpret disinterest or refusal for services as the client not wanting help, but RSPs familiar with telltale signs of illiteracy and who have time to help clients one-on-one

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<sup>17</sup> For example, a Spanish-speaker had a bilingual incarcerated man translate paperwork to him because the service provider was giving information to a large group of English speakers and organizational materials are not available in Spanish.

are more likely to identify clients' refusing to participate or complete tasks as an inability, not laziness or resistance to assistance. Even among those who want help and work with an RSP willing and able to teach reading and writing, clients frequently do not pursue education because they are preoccupied with day-to-day survival and employment.

Obtaining work is difficult in general, but RSPs particularly struggle to help clients with low educational attainment and short if not nonexistent (legal) work histories. As Trey said at the introduction to this chapter, a lot of people he works with have poor work history, and some have no legal work history prior to incarceration. Trey can train his clients how to write a resume and interview well, but because of their lack of legal work experience, there is very little to include on his clients resumes, and they rarely receive interviews. Low education and lack of computer skills also limits Trey's ability to find his clients employment.

Most RSPs that I spoke with reported that their clients, especially older clients who were incarcerated for 5+ years often struggle with using computers, the Internet, and smart phones:

“We help them understand general computer things, email, research, being able to find what you need for your job because that information is most important. I'm always amazed at how many don't understand how email works, and that is how employers are contacting people. We are now spending some time helping some of the older ex-offenders who are getting out how to use smartphones because they don't know.”

—Beverly, Workforce Development Specialist

In order to prepare her clients for the workforce, she must first teach them to use technology. It is not enough to tell clients to have professional voicemail messages and email addresses; she must also teach her clients how to set up voicemail

recordings and email accounts, and sometimes to do that, she must first teach them how to use a computer or cell phone.

Whether in a computer skills class geared towards previously incarcerated people or teaching computer skills one-on-one during a case management session, RSPs often try to intertwine technology lessons with other reentry services.

“I teach computer class, beginning, help them learn how to navigate computers... Resume preparation, how to use a computer to surf the Internet because a lot of application are online, so they do a lot of applications here... I help them with [employment] online. You can get your social security card like that, just go up there and fill out, it is pretty easy. Most of everything I do is online. ‘Your birth certificate? What state? Here, fill out this paperwork and send it.’ Everything is online. All you have to do is fill out the form, send a picture and that check...”

—Sean, Peer Support Specialist

Sean teaches structured and unstructured lessons on how to use computers, including the Internet, Word, and Excel. In the process, he helps people acquire legal documentation they need to get employment, develop a resume, and build general computer literacy skills that will help clients with employment and upward mobility. Most RSPs are not dedicated to computer skills training and must make it a part of their other tasks or put the onus of learning how to complete computer-based tasks on the client<sup>18</sup> or other clients. One of the programs had a small computer lab for clients to use in relation to employment and education; however, a number of the clients had never used a computer before (often due to recent release following a long period of incarceration), and the program staff rarely had a few minutes to assist clients with computer-related issues because it pulled them away from the front office,

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<sup>18</sup> Sometimes RSPs complete computer-based tasks for clients who are banned from using the Internet or computers in general due to Internet-based crime.

supervision/monitoring roles, and case management information system they used for case notes. The staff encouraged clients to assist each other but would answer basic questions if they could do so quickly and referred clients to local computer literacy courses. On occasion, I worked with clients of the program to set up email accounts, build resumes, search for and apply to jobs, plan bus routes to new jobs and school, etc. The task of teaching people to use computers and the Internet was complicated by buggy equipment and strict filters and content blockers. For in-depth computer instruction, clients are often referred to DOL or a community program at the library.

Client needs and service challenges are compounded by clients' mental health and substance abuse disorders. Many RSPs work in mental health fields, are trained substance abuse counselors, and/or are in recovery/receiving mental health treatment themselves, but all RSPs engage with clients with mental health and substance abuse histories (even if that engagement is denial of services):

**“Most people are incarcerated because of drugs.** Burglary as it relates to drugs. Stealing to get my stuff. You have dealing, using, burglary. It is bad. Because before the drug users, before they steal from who they know first, from in the house, from who you know, and then outside. One of the things in therapy is, **‘how do you know a drug user is lying? They open their mouth.’** **And again, it is addiction, there are no boundaries. They don’t care who it is or what it is... I have a lot of compassion for these people. They made mistakes, a lot of them have mental health components, a lot of them have substance use disorders, addictions, and I know how difficult that is to deal with and get over without the right support systems. No one grows up saying ‘I want to be a homeless addict and rob people’s houses so I can buy my heroin’. No one grows up saying they want to do that. So cycle of addiction, mental health, stuff like that... Someone coming off drugs and alcohol can’t think for like a month.** I don’t care what kind of program, what you are saying to them, it ain’t going in, it ain’t going through. It ain’t happening. And then they have to commit to it. You don’t recover, you are in recovery. It’s a path, a journey, to nowhere. You are just going somewhere.”

–Michael, Social Service Provider

In order to help people returning from prison get on and stay on their feet, RSPs must help address clients' mental health and substance abuse disorders. This is done through formal drug treatment, informal support, and utilization of motivational interviewing techniques and cognitive-based therapies. Mental health and substance abuse assistance is often considered a necessary first step to helping clients, because these disorders left unaddressed can undermine other services and client efforts:

**“Often they have little skills, but the bigger part... you have to change that cognition. Once you start changing that, they have a better chance of sustaining. Getting a job, that is helpful for you to help to sustain, but getting the job, having a job doesn't change the way you think, how you make decisions, how you make choices. And that is where we missed it big time on this [corrections] end for a long period of time... There are some that just aren't ready to make those changes... You are going to have to violate people, you are going to have to structure stuff.”**

—Justin, Community Corrections Service Provider

Justin's sentiment that changing how people think in order to make behavioral change sustainable is common among RSPs, including those more involved with supervisory/control tasks. Evidence-based cognitive-based therapy is becoming more utilized in CJ and community-based programs and is often paired with criminal justice sanctions:

**“...if you don't have any social values over laid in the ethical values then it's like, if the purpose is to get the money, then the easier way is for me to do this to get the money. But then what you are doing is taking a risk, and the risk is that you going to get caught, shot, killed, but a lot of them are willing to take that risk. So you have to penetrate and get through that. That's the difficult piece of this. How do you get through that?”**

—Justin, Community Corrections Service Provider

**“They might come home and think they have another run in them: ‘I'm gonna come home, and I'm gonna grab this pack and hit the block and make this 10K and get out of the game real fast’, but it never happens that way. So that is a negative thinking behavior, a criminogenic thinking behavior that we have to attack... because what happens is, once you go to jail, everyone's in there trying to figure out a better way to do it again... It's a warehouse of**

criminals. So everybody is like ‘last time I got booked on that block, so I’m going to this block, and I’m not going to talk on my cell phone as much, I’m just gonna keep throwing that away every week and get a new phone because I got caught on the cell phone last time, so **I’m gonna do it differently.**’ ...

**Without attacking that belief or their belief system and attitude and behaviors, then nothing else really matters** because you can get them the job but then that check is going to go towards a pack [drugs]."

–Trey, Peer Support Specialist

In addition to providing clients with resources and support to help them improve their lives and remain out of prison, RSPs also often work at length to change clients’ thinking patterns. As highlighted by Trey and Justin, having access to resources is only a part of the equation. The other part of the equation is addressing criminological thinking patterns or values that encourage crime. Although many clients want a job and to leave crime behind, others are less committed to changing their lives or do not know how to because of how they think about the world and evaluate opportunities. If a client is going to work to satisfy a stipulation of probation, there is no certainty that he/she will continue doing so after completing probation or preventing the client from staying in the game while also working a 9-5. RSPs try to pair clients with services and address clients’ thinking patterns to maximize how services and RSPs’ efforts help clients stay out of the CJS.

“I had the experience of somebody, she had a background, but I got someone to hire her... the person found she was a good employee and promoted her, which is where they went wrong. They promoted her and were actually paying for her to go back to school, taking courses, and the woman had 2 kids, but the woman actually called the law on herself. She was succeeding, but she called and said she was feeling like she was going to hurt herself. I’ve seen it before: I’m succeeding and so I’m going to mess this up. I guess it is self-hate, self-doubt. A lot of people call it ‘I just want to stay in my mess’. Like skinny people who see themselves as fat. It is the self-image. It is self-destructive. Like a woman who marries the same type of man over and over in the same pattern... And so that is why I’m a little leery about sending people to go to work, because I got burned royally.”

–Rose, Volunteer Human Needs Service Provider

Understanding and addressing clients' thinking patterns is important for RSPs. Not only do clients' thinking patterns impact the clients directly, unaddressed criminological thinking or other unaddressed mental health and substance abuse disorders can indirectly harm RSPs. If an RSP vouches for a client or the client completes a program and then causes trouble for an employer, school, or housing community, this can burn bridges for the RSP too.

“The paperwork is just out of control”: Indirect Services and Administrative Tasks

A considerable portion of many RSPs' days goes to indirect services and administrative tasks. An unfortunately common part of RSPs day-to-day work activities is made up of paperwork.

“An average day starts off with pretty much administrative things, the filing... When we get audited, they go through the files, so the files have to be up, everything has to be signed correctly... There is A LOT of paperwork generated with passes and proof of where they went and getting the passes for the day and making sure they are signed and the case manager knows where they are going.”

—Patti, Residential Reentry Service Worker

Documentation of services, clients' behaviors and assessments, and expense reports are a cornerstone of many RSPs tasks. In some organizations, RSPs must document all client interactions and information in a paper file and a digital information management system, or RSPs are responsible for inputting paper documents into digital file management systems. Documentation can include every time an RSP speaks with a client, makes contact with another service provider about the client, calls a client's place of employment to verify he/she is at work, the number of pills in a client's medicine bottle, when the client checked his/her cigarettes in/out, if a client does something noteworthy (whether good or bad, but especially bad), etc.

Documentation is typically reviewed and audited, sometimes by multiple individuals and/or organizations.

RSPs frequently reported frustrations from the amount of paperwork they were responsible for completing, often stating that it distracted from “real work”.

“I have a RIDICULOUS amount of paperwork that most people probably have no idea about. I never realized. I mean, look at my office... The paperwork is just out of control. [What percentage of your time would you say you spend on paperwork?] In a 40-hour week, I’d say at least 30. [No kidding?]. Yes [Wow.] Yes. [So  $\frac{3}{4}$  of your work is documenting...] Yes. Documenting, looking through files, making sure every sentencing order, because when a sentencing order is put into the system by the courts, it is entered into CJIS and we will get the file, and  $\frac{1}{2}$  the time they don’t match, and you have to go back and fix it... Because if you miss a case, they aren’t going to blame the courts; they are going to ask why you didn’t find this: “They are supposed to be on for XYZ but you only have them on for X and Y. Where is Z?”. [Is that because of additional court orders?] Yeah, special petitions, if we ever have to violate, we are supposed to violate every case, and if we are missing a case, well, it is our fault.”

—Karen, Probation Officer

Karen works as a probation officer with a specialized caseload of clients who are participating in an intensive reentry program. In addition to providing enhanced supervision for each client and accountability via graduated sanctions, she works with the Courts and treatment staff in hopes of making supervision and treatment efforts complimentary instead of traditional probation practices where rule violation was met with violation of probation, which often sabotages treatment efforts. Her clients and the reentry program require a lot of one-on-one attention, but documentation, file research, and administrative work associated with her work takes up 75% of her work hours. Karen is frustrated by the amount of paperwork she is required to do and would rather spend a larger portion of her workday interacting directly with clients and helping them work through barriers to reentry.



Frustration among RSPs was often compounded by heavy workloads, redundancy of documentation, and work tasks that prevent them from providing direct services or their dreaded paperwork (ex. Attending meetings or Court). Even RSPs who worked for small NGOs experience large amounts of paperwork in order to operate. Many frontline RSPs also were responsible for administration of their organizations, including creation and distribution of service information, paying office expenses, submitting payroll, applying for grants, and counting and evaluating service calls and deliverables, etc.

### **Interactions between RSPs and Clients**

“I hope you have received a positive aspect of the prison from what I’ve said, but there is an aspect that is not positive. There is an aspect of knowing, for me after working in the prison system for 7-8 years, that there is a dynamic of manipulation and theft and skirting the system and trying to, the sense of power exists among inmates if they understand that they have communication or rapport with people that others do not.... How much of the time in this hour is he using to learn who I am, learning how he can utilize me to his advantage. That is a real dynamic in prison... It really doesn’t matter who you are as long as you’re not incarcerated, you can be taken advantage of.”

—Eric, In-Prison Educator

Although Eric is an educator who primarily aligns with the treatment/social work-orientation of corrections and behavioral modification, he takes efforts to guard himself and his personal information from incarcerated clients because he is concerned that information will be used to manipulate him or could be used to imply favor between him and individual clients. Karen also takes care to guard her personal information and be detached from and suspicious of those she supervises:

“I think having Level V [prison] and having Level IV [work-release] [experience as a CO] is amazing to come into this job [probation officer]... You see these individuals while they are incarcerated, and you hear the stories

that they are talking about, you see their behaviors, and you automatically become judgmental or you classify everyone as the same, and you can't do that in probation... It's a completely different mindset because you just classify everyone as the same person because that's all you see while you are inside. You are just around criminals all day... So, it can hinder how you approach things at first going into the community, but I think it's good too because you've seen a lot, you've heard a lot, so you are more aware of the real stuff going on out there... I know I have to have my guard up, especially going out into the field. And some people coming right from college don't have that hands-on experience yet. Or coming from the treatment side before coming to probation, sometimes you don't have that real, like, some of these people are really bad. So, I think that [experience as a CO] is some of a benefit for me."

—Karen, Probation Officer

Beverly also has concerns about maintaining some privacy from her clients, however, she places great emphasis on breaking down barriers between herself and clients so that they feel accepted at their program and gain more help from participating:

**"There is a general challenge that they all face, but they all come with individual barriers, and we spend an awful amount of time creating individual plans.** This is what you need to do, and this is how we are going to go about doing it. And they know that we are connected, even when they aren't in the classroom here with us. They call here and talk with both of us. They call us at home. **We had one gentleman who said till he came to our program, he didn't have one person who cared about what was happening to him day to day. Can you imagine? Maybe there were, but he didn't feel it, and if he doesn't feel it or think it, it doesn't exist.** [That's his reality] Absolutely. It is. It is very rewarding, it is very tiring, and it is extremely time consuming, because you are doing that individually for an entire class."

—Beverly, Workforce Development Specialist

As Beverly points out, many reentry clients do not have strong social networks and often come from troubled families leaving them feel alone, unloved, and unimportant to anyone. In order to help her clients, Beverly strives to make their program warm and welcoming in hopes of making clients feel welcome, important, and loved because she believes this feeling loved and like you have a place in the world and positive

relations is a necessary component of helping her clients improve their employment opportunities, their reentry experiences, and ultimately their lives and communities.

RSPs work hard to overcome barriers to providing services and to improve rapport with clients:

“One thing that I know about guys coming home is that they don’t trust the system. They aren’t going to walk out of jail and come to an office complex like this, because it is intimidating to guys who have lack of education, lack of self-esteem—they just don’t feel comfortable in these settings, but if we were in a projects setting, a house in public housing, they’d feel real comfortable with us cause they’d get to know us. Often times we’ve had relationships with the guys and they come to trust us, but it is hard to convince a guy to feel comfortable in certain settings because they feel intimidated.”

—Dwayne, Community-based Reentry Coordinator

Before RSPs even speak with a client, he/she may have been discouraged from seeking services because of the organizational environment or because services are in an unfamiliar setting. If a client feels intimidated or unwanted, he/she may leave without receiving services (if refusing services is an option) or he/she may engage services against their will, which can contribute to negative rapport between clients and RSPs.

Some RSPs blame poor treatment of clients in the CJS and/or society in general or poor socialization as a contributing cause of poor rapport between clients and RSPs:

**“A lot of the guys inside are afraid to join because they are afraid they are going to be tracked. [What do you mean? Can you expand on that?] OK, if I sign up for this program, when I get out, then they’ll know where I am and what I do and who I do it with and they will be like binoculars in a van across the street [Even more so than regular probation?] Yeah, well, even still... But point being the system has made them so paranoid that they don’t want to accept what they Need. They just want to live in a tent in the woods away from humans, ya know, opposed to getting food stamps and a place to stay and a job. They just don’t want to have anything to do with the world**

**because they are so scared and bittered from their treatment and mental health issues**, which if they didn't come with them, they have them when they leave.”

—Mary, (Ex)Prisoner Advocate & Community Organizer

Mary works for multiple NGOs and is an advocate for formerly and currently incarcerated men and women. Through letter writing and conversations with her “friends” (i.e., clients), she has heard of the poor living conditions in prisons and feels incarceration is psychologically, emotionally, and spiritually damaging. Her clients typically have a distrust of the CJS in part due to their treatment while incarcerated, and that distrust bleeds over to other government organizations and representatives. Although she believes her clients’ have good reasons to be cautious of CJS programs and personnel, she also encourages clients to engage programming and services, including GOs, that she trusts through collaborations.

Many perceive relationships between CJ/control-oriented RSPs as unnecessarily antagonistic in the community post-release:

“I’ve seen POs antagonize guys over nothing, overzealous supervision of guys that they could form a better and stronger bond with them if they had a bit more patience. If you have a negative misunderstanding of the individual, then quite naturally he’s going to have a negative response. Often times they don’t get to know the guys that they are dealing with, they just come in and ‘Raw raw raw. You gotta do this.’ And you have a 20 something [year old] probation officer telling a 40 something year old man what to do—That isn’t gonna work... They [clients on probation] know they need to follow rules and regulations—that’s a fact of life. Once you get caught in the CJS, there is no way around it: you have to follow the rules and regulations, but I think it has to do with how you deliver it. It’s just like at a restaurant, you don’t care who waits on you, but you aren’t going to be receptive if the person is abrupt and just like “there’s the menu”. Delivery is important. And it dictates whether or not there is going to be a positive or negative outcome.”

—Dwayne, Community-based Reentry Coordinator

RSPs' services, particularly supervision/control, are not always wanted by clients, and relationships between RSPs and clients can be antagonistic (in both directions), especially if the client does not respect and feel respected by the RSP. As Dwayne states, delivery is important. RSPs are generally more effective at meeting criminal justice/control- and social justice/treatment-goals when they have good rapport with clients.

To improve rapport between RSPs and clients and place clients at the center of reentry efforts, many RSPs are trained to use Motivational Interviewing (MI) techniques during interactions with clients:

“The federal system now is going through training for strategic techniques for reducing recidivism, it has to do with motivational interviewing where they recognize the importance of the relationship and then that in and of itself can reduce recidivism”

–Bobby, Residential Reentry Service Worker

Although MI is particularly prevalent among federal RSPs, many working for state government organizations and NGOs utilize MI as well to build rapport with clients and identify needs, risks, and possible solutions with clients. This emotional support (considered a service by those who perform the work but not by all RSPs), is another common part of RSPs' work.

Because reentry needs, risks, and possible solutions are frequently interconnected, RSPs who work in more specialized areas of reentry services (ex. Housing specialists, mental health counselor, etc.) frequently use MI and a holistic approach to their work as well. Take Nikki for example:

**“There was no intake paperwork or information created with this position, it is a brand-new position, so I had to figure out how can I ask questions and keep it simple, not to overwhelm the person? I go to meet with them to assess what the basic needs of someone is, finances, if they have any disability/social security, any family or friends willing to help them, if they**

are working, or any other income they may be receiving, and then for employment or education. A lot of the people I am working with, some people have been in prison for 10 years, and a lot of times they acquire skills while in the prison by working in the kitchen or cleaning, so kind of find out what skills and abilities they have to help them with the employment process, see if they want to go back to school, finding out their educational goals, and then the other component is health, finding out if they are medically able to work, or if they could apply for SS/Disability, and finding out about their mental health... A lot of the time if they've had a substance abuse issue or if they have been incarcerated over a long period of time, their supports are very limited, a lot of guilt and shame with calling friends or family for help—even after they've done 9 months of treatment, even after they've been incarcerated for 5 years and they feel as though they have been rehabilitated, there is a lot of guilt and shame with calling for help... **I ask all these questions to kind of get more information. And then finding out their housing goals.** Talking about short term and long term goals, so even if you get out and have to go to a shelter just to have a safe place to stay, a warm place to stay, that doesn't mean that we can't work towards long-term housing goals so that you can get into your own apartment or own your own home... Legally [pointing and referring to intake form], this refers to where they can live, if there are any restrictions. Where their probation is going to be so that I'm not setting them up to fail with the probation office being way across town. **It is a lot to consider.** Sometimes people get intimidated when you go in with a stack of papers, they get all nervous like 'Oh god, I don't want to have to tell my life story all over again.'”

—Nikki, Housing Coordinator

Nikki specializes in coordinating housing for some of Delaware's most difficult to house, even if that means a temporary shelter. In order to develop and execute housing plans for clients that will contribute to them staying out of prison, Nikki must identify the client's housing needs and goals, financial situation, transportation limitations, employment, mental health condition, risks (of the client losing housing or recidivating) and legal considerations.

In addition to the housing concerns of a typical housing specialist, Nikki must be particularly aware of her clients' legal limitations, particularly if they are a registered sex offender (due to limited housing options stemming from restrictive statutes/housing policies and stigma), have restraining orders to avoid particular

people or places, and/or if they have financial legal obligations (ex. Child support arrears, restitution, court fees, etc.) that limit clients' housing options, have a history of substance abuse or mental health disorders, and/or have been charged with a crime involving drugs or violence. Getting a client into housing is one thing, but Nikki must also consider whether or not the housing plan is sustainable. To facilitate this objective, she has engaged in network building, attending agency and community meetings, in-reach, motivational interviewing, and holistic case management, leveraging agency grant resources and referrals, and coordinating services with other agencies and community groups.

Although Nikki is a housing specialist, she informally works on clients' holistic needs, including family dynamics and financial planning, but she refers out to specialists when she has access to RSPs who may be able to assist the client and the housing plan. Along the way, Nikki often provides informal guidance (i.e., interpersonal skills training and dispute resolution) to clients to help them navigate paperwork and bureaucracy, mend family relationships and housing options, and maintain positive interpersonal relationships in the home and community.

“A lot of the men... don't have the social skills to say they are angry about what you did. It'll come out angrily, aggressive, so we work on giving them the skills they will need in the workplace and socially when they are interacting with people and the problem-solving piece, making better decisions, thinking through an argument. How do I have an argument with you without reaching out and touching you? There is a way to do that. As I am getting angry, what do I do with that? What are my thoughts and how do I work through all that?”

—Beverly, Workforce Development Specialist

Similar to Nikki, Beverly feels that many of her clients lack social skills necessary for interacting with people, especially if the client is under strain. RSPs work with clients to help them identify the causes of their frustration and try to provide clients with

resources for solving their problems without yelling or resorting to violence or crime. They also provide guidance about how clients should interact with employers, customers, coworkers, family members, and neighbors in order maintain positive and sustainable relationships.

Despite being trained in MI and other techniques for working with clients, many RSPs struggle to build rapport with clients to facilitate communication and service provision:

“A lot of people don’t want to come into probation and chat with their officer because they don’t like us. But we have a lot of people who come in and it is like they feel comfortable with us, they want to tell you everything, they want to tell you how great they are doing or ‘Look, this is what I’m going through. I need you to help me.’”

–Karen, Probation Officer

Karen works for Probation, and although she personally is treatment oriented and wants to build in-depth relationships with her clients so she can help them improve their lives while also abiding by the terms of their community supervision, her clients do not typically talk with her in-depth about their personal problems that are impacting their reintegration back into their communities. As Karen notes, probationers generally do not view their POs as allies and do not want to share personal details with POs. This is in part due to the role of POs in supervising clients, POs’ focus on punishment and control over providing treatment and social services, and a culture of antagonism and distrust that exists between probationers and Probation. Some clients do not share this apprehension of speaking with their PO about their personal life, and Karen has found that consistently being upfront, honest, and professional yet casual with her clients helps build rapport so that clients stop viewing her as an obstacle and instead as a resource.



Bobby devised a creative way of breaking through the rapport barrier he saw between his clients, himself, and other CJ personnel and RSPs:

“A couple weeks ago when we first moved in, the creek across the road was a huge mess, and we have the community police officer, and I asked him to come in because I want the residents to see police officers in a different way, and there were, that primarily is what they try to do is link up with the community, and I told him, it would be great if we can clean up that creek, and within a week he said ‘I got a city dump truck for you, and they are going to wave the fees’. He and two of his partners came out and there were 15 residents, myself, staff from here, 3 sworn police officers, 5 inmates from the prison work, a correctional officer. And we were down in that nasty creek. I mean police officers and residents joking next to one another. The one fellow, he was a team leader and we were handing stuff up to him and he was joking, I’ve never been driven by a police officer in this kind of vehicle. It was fun. We had a pizza party in the back, and so we pulled over 10,000lbs of debris, and uh, the [neighborhood] residents love it, and they came out and thanked us, so it made good relations all the way around.”

—Bobby, Residential Reentry Service Worker

By organizing a community service event between his program’s clients, the law enforcement personnel they frequently work with, and the local community, Bobby was able to reduce flooding in the neighborhood, improve the program’s relations with their neighbors, improve the image (and self-esteem) of his clients, and improve rapport between his clients and law enforcement personnel. By working side-by-side, the program clients and law enforcement personnel had the opportunity to build positive rapport, come to see each other as people, and experience working on the same side of an issue instead of seeming to work against each other.

Similar events organized by RSPs and reentry programs include hosting resource fairs to the public and opening up program events and facilities to the community. For example, one of the community-based reentry programs with a dedicated building opens their peer-support group meetings to any community

members working to desist from crime and allows community members no matter reentry status or official enrollment in the program to use the program's computers for school and employment related activities. Also, sometimes RSPs organize social events for clients and community members to attend as a way of giving clients alcohol and drug free recreational options, build community among clients so they can provide each other peer support, and/or orchestrate community events to help integrate clients with the community and help change the image of clients (in their own minds and in the community's).

### **Chapter Conclusion**

Prisoner reentry is a broad field with a wide variety of service providers and organizations, especially when understood through a holistic lens that includes social and treatment services. At the core of reentry organizations' and RSPs' missions and actions is improving well-being of clients while protecting society, typically by trying to reduce recidivism through treatment or supervision services. Often with inadequate resources, more demand than the organization can handle, unclear or conflicting goals and directives, and inter- and intra-organizational bureaucracy, concerns over litigation, etc. RSPs are tasked with accomplishing in months what complimentary social institutions failed to do in years for society's most disadvantaged. The clients RSPs work with and the arena they work in is starkly different than the day-to-day work lives of most Americans because of severe stigma and concentrated disadvantage. RSPs work to assist clients through release from prison and reintegration into general society and/or try to help, "correct", or at least supervise clients who may or may not want their help.

In large part, due to their different perspectives and cultural toolkits, RSPs often struggle to communicate with one another because they do not share similar terms or definitions. RSPs also do not always agree on what clients need or should receive, in large part because RSPs from CJ/Corrections/Control organizations have different priorities than Social Service/Treatment organizations. (See Table 4.1: RSPs' Roles, Views of Reentry, Barriers and Clients' Needs, and Primary Goals by Orientation, CJ/Corrections/Control and Social Justice/Social Work/Treatment).

CJ-oriented RSPs are similar to Watkins-Hayes's rule enforcers. They typically use a narrow, traditional understanding of prisoner reentry while social justice-oriented RSPs typically use a broader, holistic understanding of prisoner reentry, which includes improving client well-being and reintegration. While CJ-oriented RSPs highlight criminological thinking, laziness, and criminal social networks as barriers to reentry likely to cause recidivism, social justice-oriented RSPs tend to conceptualize their work and prisoner reentry barriers in terms of individual and social needs that cause or significantly contribute to clients purposely or unintentionally violating the law and/or terms of their community supervision. Social service/Treatment/Help-oriented service providers are aligned with Watkins-Hayes's social workers, and they generally believe that concentrated disadvantage and how laws/policies are constructed contribute to recidivism. CJ-oriented personnel on the other hand typically view these as excuses for clients' criminal choices. CJ- and social justice-oriented service providers are interested in lowering recidivism, but Social service/Treatment/Help-oriented RSPs tend to prioritize providing assistive services to clients to improve client well-being over monitoring clients and modifying behavior through punishments and sanctions.

Table 4.1: RSPs' Roles, Views of Reentry, Barriers and Clients' Needs, and Primary Goals by Orientation, CJ/Corrections/Control and Social Justice/Social Work/Treatment

<b>Orientation</b>	<b>CJ/Corrections/Control</b>	<b>Social Justice/Social Work/Treatment</b>
<b>Role*</b>	<b>Rule enforcer</b>	<b>Social worker</b>
<b>View of Reentry</b>	<ul style="list-style-type: none"> <li>• Narrow view</li> <li>• Release from prison period/process</li> </ul>	<ul style="list-style-type: none"> <li>• Holistic view</li> <li>• Preparation, transition from prison, recovery/stabilization, reintegration</li> </ul>
<b>Barriers to Reentry</b>	<ul style="list-style-type: none"> <li>• Criminological thinking</li> <li>• Laziness</li> <li>• Social networks</li> </ul>	<ul style="list-style-type: none"> <li>• Concentrated disadvantage</li> <li>• Problematic rules/policies</li> </ul>
<b>Clients' Needs</b>	<ul style="list-style-type: none"> <li>• Supervision/Control</li> <li>• Discipline/Accountability</li> </ul>	<ul style="list-style-type: none"> <li>• Treatment/Help</li> <li>• Love/Empathy</li> <li>• Resources</li> </ul>
<b>Primary Goals</b>	<ul style="list-style-type: none"> <li>• Public safety → Community building</li> <li>• Organizational and self-preservation</li> <li>• Compliance w/ law/policy</li> <li>• Client well-being</li> </ul>	<ul style="list-style-type: none"> <li>• Community building → Public safety</li> <li>• Organizational and self-preservation</li> <li>• Client well-being</li> <li>• Compliance w/ law/policy</li> </ul>

\*See Watkins-Hayes (2009)

Unlike rule enforcers in Watkins-Hayes' research, which she also refers to as efficiency engineers, rule enforcers among RSPs are also referred to as law enforcers who engage in law enforcement or police work; however, in the prisoner reentry context, strict rule enforcement does not result in efficiency. Enforcement of rules often results in considerable paperwork, follow-up court appearances, disgruntled clients and family members, and extended engagement with problematic clients, resulting in additional resource expenditures. Enforcement of rules does not

necessarily reduce demand for services; instead, rule enforcement extends or delays service provision. For instance, probation officers and judges in VOP hearings and reentry court flow people down or completely take someone off probation because the person was deemed lazy and therefore a waste of resources and effort. It was not that these RSPs did not want to enforce the rules but that they felt like their enforcement of rules/ability to make change was lost on the probationer. In multiple instances when probationers have gotten a slap on the wrist, flowed down for being “a pain in the ass” or lazy, or infractions ignored completely, RSPs made statements that implied they felt they had done all they could do with what tools were available to them and that the best thing to do was give the probationer more rope to hang himself with—stating that the probationer would be back eventually, that police would catch them for something more serious, they would serve time for their new crime, and maybe then they would be ready to make a change. Among reentry service providers, efficiency engineers are more like Watkins-Hayes’ (2009) bureaucratic survivalists who strive to “go with the flow”, minimize conflict and engagement with problematic clients, avoid anything politically controversial, and keep their heads down until they are able to retire or move on to another position or career.

RSPs generally wear multiple hats at a time and are responsible for the corresponding tasks and goals. RSPs taking on multiple roles is often due to limited resources. For example, probation officers work on housing plans with clients because the in-house housing coordinator position was terminated because grant funding ran out. RSPs also frequently must complete unassigned tasks as an intermediary step or supporting effort to provide primary services. For example, workforce development specialists often provide banking information and help clients obtain legal

identification to facilitate employment. Additionally, RSPs frequently wear multiple hats (ex. educator and security) due to the work environment setup. For example, similar to correctional officers, prison educators must check doors are locked and pen and other materials are secured.

Despite RSPs oscillating between rule enforcer and social worker roles (and corresponding control vs treatment orientations) and most providers generally wanting similar outcomes, RSPs that identify mostly as rule enforcers typically work in corrections-focused (i.e. supervision and punishment-focused) organizations, and RSPs that identify mostly as social workers typically work for treatment-focused (i.e., rehabilitation-focused) organizations. This division is likely due to a combination of self-selection, organizational hiring practices, and professional socialization. Service providers frequently reported that co-workers who were atypically oriented for their organization quickly found other employment or adopted the professional role and corresponding goals and terminology of the organizational culture.

These various hats RSPs wear may be complimentary or competing and influence the interactions RSPs have with clients. Criminal justice personnel generally have more distant, hierarchical relationships with clients that focus on supervision and accountability, which contributes to antagonistic relationships between RSPs and clients. Social service personnel are more likely to have more personable interactions similar to other areas of social work and focus on helping clients through providing assistive services and treatment. These differences are in part due to the services being provided, whether or not the services are desired or mandated, and the organization's resources and culture, including policy and orientation. Interactions with clients are also influenced by individual RSPs' demeanor, approach, and discretion. Although

RSPs do not share similar approaches and understandings of prisoner reentry and reentry services, increased collaboration among RSPs from different organizations and orientations can improve communication and services. RSPs who work in reentry workgroups tend to use a holistic understanding of client reentry experiences and barriers and collaborate to make RSPs' services complimentary instead of unintentionally sabotaging one another's efforts.

## **Chapter 5**

### **SERVICE PROVIDERS' LEGAL CONSCIOUSNESS**

Like other street-level bureaucrats, reentry service providers operate in a complex web of local, state, and federal laws. Additionally, reentry providers typically work for organizations that are highly bureaucratized and have numerous policies and procedures. When reentry service providers are not busy navigating the laws and policies of their own organizations and the government, they are often struggling to navigate another organization's rules and policies. Law and policy are a particularly salient part of prisoner reentry. How RSPs understand and engage law and policy influences their work experiences and reentry services. Specifically, RSPs' orientation towards law, perceptions of reentry-specific law and policies, and broad understandings of law's role in society influence RSPs' discretionary decisions and how they feel about the work they conduct.

Similar to the tripartite model of legal consciousness identified by Ewick and Silbey (1998), this chapter will demonstrate RSP perceptions of law and policy as they pertain to prisoner reentry. These include those who view law and policy as being an adversarial and restrictive entity that is ever present yet out of their control (Against the Law), those who see law and policy as being a set of rules that apply evenly to everyone and can be used and changed through legal means (With the Law), and those who do not think much about law and policy or feel that they are distant and abstract entities and have little bearing on day-to-day lived realities (Before the Law). RSPs oscillated between these general conceptualizations, but I show that RSPs' default



orientation or tendency to oscillate to various legal consciousness perspectives is influenced by their positionality.

There is significant disparity between formal laws and policies and how they are conducted in reality. Policy in action does not always occur how policy makers intend or may result in unintended consequences. In reality, reentry practices are not always reflective of reentry policy, and reentry policy is often constructed without full understanding of the complexities of reentry. For instance, policy does not account for informal reentry workgroups, and sparse attention is paid to the growing use of non-CJS organizations serving as extensions of CJ surveillance and control mechanisms (i.e., satellites of control) (Castellano 2009). Additionally, there is a dialectic relationship between service providers' legal consciousness and perceptions of gaps between law on the books and policy in action.

RSPs' perceptions of risk including those relating to safety, liability, reputation, and resources influence their legal consciousness. When there are concerns about risk, RSPs express With the Law legal consciousness with rules and law they believe serve to protect them but Against the Law legal consciousness regarding others' potential use of law against them. Policy and contracts are used as tools by service providers (i.e., With the Law) to defend against potential unfair uses of law against them. RSPs particularly worry about litigation, threats to revenue, and tarnished reputations and social capital. Balancing of clients' needs and rights with RSPs' needs and responsibilities often results in exclusionary social service policies and expansions of supervision/control efforts; service providers do due diligence beyond what is required by policy to prevent risk, even if doing so violates clients' rights.

## Law and Policy

By its very definition, prisoner reentry is constructed by law in the sense that people would not have been prisoners incarcerated and released from a prison if it were not for the legal system. Similarly, clients in the community—felons—are legally defined as people who were convicted through the CJS of breaking laws. Formally labeled felons by the criminal justice system, reentry clients are permanently stigmatized and legally disenfranchised. Law proactively discriminates against convicted felons (ex. Food stamp bans) and by allowing people and organizations to categorically discriminate against people convicted of a felony. Reentry services are sometimes legally mandated, whereas in other situations, RSPs are mandated by law to deny services to people because of felony status.

“There’s just so many barriers... They have gone completely off the deep end and labeled everyone the same no matter what, and it’s unconstitutional, but nobody will fight it because ‘we want to be tough on crime’ and ‘we want to protect our children’ and kinda issues that are their platform. And the rules are made so vaguely written that it is all encompassing.”

—Mary, (Ex)Prisoner Advocate & Community Organizer

Mary works closely with people returning to the community from the prison in her county. In addition to providing referrals, tangible goods (ex. Clothes, furniture, bicycles), Mary provides emotional support and works to help returning persons stabilize. In the process of trying to help her clients<sup>19</sup> find employment and sustainable independent housing, she has learned about the barriers of reentry primarily from the perspective of a person going through reentry. Although she herself does not have a felony record or history of incarceration, learning about prisoner reentry from her clients and working as an outsider trying to navigate the CJ and social service systems

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<sup>19</sup> Mary usually refers to her clients as her “friends” or “guys”.

contributes to her being distrustful of the system's ability or intention to help remove barriers to reentry and in turn reduce recidivism. She frames reentry and barriers to reentry in a broader political narrative in which the system is unconstitutionally disenfranchising large segments of society in the name of being tough on crime and protecting children. Rules are restrictive and all-encompassing because of the numbers of rules but also because of the vagueness in the rules' construction.

Sam shares a similar perspective on the quantity and effect of collateral sanctions:

“They had that you couldn’t be a barber or hair dresser if you had a burglary conviction. Now maybe if you have burglary convictions, we don’t want you being a plumber or electrician, but you see what I am saying. Or maybe we don’t want to give you a CPA license if you’ve been convicted of multiple counts of embezzlement and fraud, so [laughs] maybe the drunk driving incidence is not so relevant. Of course, if you are a lawyer like me, it is all relevant, because if you don’t obey the law you can’t [practice law]. And then there are a bunch of collateral consequences that are federal: You can’t have Section 8 housing; you can’t get a student loan—those are a problem. And there is obviously work being done on those at the federal level, and I think people in the community here are aware of them. I don’t know how organized the effort around that is, although I expect that given the bipartisan nature of support for undoing some of the mass incarceration stuff, we are going to see more appeals of that at the federal level. [Do you think we will see it as much as the Delaware state level?] Mostly it is controlled at the federal level, we don’t control student loans. What we do control is things like driver’s licenses...”

—Sam, Reentry Services Planner

Like Mary, Sam identifies legal barriers to reentry that she feels are problems, including restrictions to education assistance, public housing, employment opportunities, and drivers’ licenses. Although she identifies many laws as problems, given her position working at the state and local level, Sam focuses on the possibility of changing local laws to remove barriers and work around federal law that is out of her control.

The barriers to reentry that clients returning from prison face can become barriers to RSPs professionals succeeding at their goals and job tasks. The layers of policy and bureaucracy that providers work with can lead to frustration with the system, their clients, and/or themselves.

“I didn’t expect the tremendous layers of bureaucracy. I didn’t expect all the rules and regulations that sometimes hold people back. I didn’t expect at all that these guys, that the focus of my employer on rent... Not to be a complainer, it is a brand-new program so there are a lot of things, and there are a lot I didn’t know. There is just a lot of procedures that are necessary that I learn. It really almost seems endless.”

–Bobby, Residential Reentry Service Worker

Bobby has worked in corrections for years as a probation officer and supervisor and previously felt he had a good understanding of the barriers to reentry and how related bureaucratic processes can be navigated. But since transitioning to a residential treatment program, he has become overwhelmed with the level of bureaucracy, the number of policies, and the focus of policy makers. Similar to an Against the Law orientation (Ewick & Silbey 1998), he frames the rules and regulations as endless, restrictive, and holding people back. In the process he expresses frustration with his organization and the system.

In order to serve clients and survive in the field, RSPs learn how to navigate the web of law and bureaucracy. For example, Nikki works to help clients who are leaving prison find sustainable housing. She must consider her clients’ legal classification (i.e., felony, type of felony conviction) when developing a housing plan:

“Legally [pointing and referring to intake form], this refers to where they can live, if there are any restrictions. Where their probation is going to be so that I’m not setting them up to fail with the probation office being way across town. [That is a lot of things to consider] It is a lot to consider... At [the prison], a few of the guys were upset because they felt public housing is only available for women and they felt like every time they went there, they had to sneak to

live there. But that isn't the case. They can be added as part of the family to the application, but their barrier would be legal, people who have a felony, you can't live there in section 8. [So, they see women living there and they can't, so they think it is a sex thing but it is actually a criminal record thing?] Yeah, it is their criminal record. So, they feel, what about us, what are our options? That's where I come in, I try to help them brainstorm to figure out how to live independently or try to get their girlfriend into an apartment that they can both live in."

–Nikki, Housing Coordinator

Nikki works with incarcerated and recently released men and women to develop sustainable housing plans to prevent homelessness and reduce recidivism. Because of their incarceration, related legal costs, poor credit, and personal debts that accrued before and during their incarceration, most of her clients do not have money for down payments. Because of their legal status, lack of transportation, and poor work histories, they often struggle to find and keep gainful employment. Some of her clients can get help from family, but many come from impoverished families or have poor relations with their families. Unfortunately for her clients and for Nikki, despite being in great financial need, people with felony convictions are barred from living in public housing. Some clients who want to move in with family cannot because of laws or policies preventing them from residing in the premises, even if they are just staying there and not a lease holder. In addition to having to explain other organizations' policies to her clients, Nikki tries to find workarounds to housing restrictions, including helping families relocate to "felon-friendly" housing and matching clients together as potential roommates so they can share deposit and rent costs. When all else fails, she has access to grant money to assist with down payments, emergency shelter (ex., overnight hotel room), or miscellaneous expenses to facilitate housing (ex. Money for a home phone line to support home confinement requirements).

Nikki feels the rules and legal restrictions are barriers to reentry, empathizing with many of her clients, especially young mothers trying to develop a housing plan so they could get their children back. In Nikki's example, unlike the quote from Bobby, instead of focusing on the frustration, she directs her energy into finding creative solutions. This ability to work "With the Law" (Ewick and Silbey 1998) is likely supported by working for an organization that supports her mission, has some resources, and as part of a work group that puts her in communication and collaboration with other organizations, including those responsible for the restrictions she and her clients must work around.

Many RSPs are sympathetic to their clients about the incredible number of rules and barriers to reentry, but in order to carry out their work, they have to enforce rules:

"I'm kinda battling with that now. The rules versus their background and then your emotional ties. You really have to balance the three, so it is tough, because **sometimes the rules [are] against how you feel at times so you have to disassociate or desensitize yourself.** It is crazy... **In society, there are rules to society, so you can't do what you want when you want.** I just deal with it as it comes and think at the end of the day that **I did what I'm supposed to do to help this person... The rules here are not so tough on you. You just need to be compliant.** You can't bring phones in here. **You have to follow societal rules...** You have clients here who just disregard what you tell them and the rules, and you can't do that—**that is why you were in prison and got you where you are now, because you wanted to do what you wanted to do.** That's not logical. That's not life. It is something as simple as what you learn in pre-school: You have to follow the rules! It is the smallest rules, and **some of them when they don't abide by the rules,** it is like "damn, you just want to do what you want to do" and **you realize 'oh no, this person really does have issues with following rules and conforming to social norms.'** It's a problem. **It's like defiant disorder.** 'I can't follow that rule, because I don't want to'."

—Olivia, Residential Reentry Service Worker

Olivia comes from a treatment background and is required as a case manager to balance treatment and supervision tasks with clients. Competing orientations, treatment and control, are also complimentary as in this instance where Olivia aims at helping her clients by enforcing rules in hopes that they will learn to follow rules and be able to live crime free in the community. In this sense, violation of rules, not rules themselves, are viewed as a barrier to reentry, especially among clients Olivia views as having oppositional defiance disorder. Olivia states that all she can do is what she is supposed to do (i.e., enforce rules), because people need to be compliant and follow societal rules (i.e., be With the Law).

Even RSPs who believe it is imperative that their clients learn to follow rules (With the Law) also recognize laws and policies can be oppressive and impede RSPs and clients from achieving client rehabilitation and reintegration (i.e., Against the Law). For example, RSPs intent on providing clients services that will result in tangible deliverables or opportunities to establish themselves in the community and live crime-free struggle to help clients effectively navigate the web of barriers:

**“There is just an *unbelievable* amount of rules... to the extent that it does make reentry difficult. I mean they can’t—family reunification, there are very limited passes, and family support, they seem to limit it. And I know why, at the tail end of a sentence, they’re technically still inmates, but if we, I think we need to have some confidence that this transition idea is helpful... **We are often boxed in by our regulation...**”**

—Bobby, Residential Reentry Service Worker

Bobby works in a residential facility or halfway house that is charged with helping the program participants transition back into the community through a combination of social service efforts and surveillance and control techniques. Although he and other RSPs who operate the work-release facility and related programming express a desire to help people in their care access services and have greater liberties in order to

facilitate transition to the community, they are also responsible for maintaining control of the people in the facility/program, assuring rule and law compliance among clients, and striving to promote the public welfare and safety. Bobby expresses frustration about not having greater discretionary leeway to effectively balance the competing goals of the program.

Rule enforcement, compliance, and accountability are common themes when talking with RSPs about their work. Although there is general agreement that clients should be required to follow laws and program rules and held accountable if they violate rules, it is not always so clear cut when service providers are trying to balance treatment and punishment tasks and goals as punishment techniques can sabotage clients' reintegration and treatment progress. This in turn sabotages RSPs' efforts and the program/field more broadly.

“I think part of the problem is... the [state work release center] has set a really bad precedent for us, because every time we call somewhere and we call and are like ‘hey we’re a reentry program’ and their like ‘Oh, like the [state work release center]?’ We get that all the time, and we are like ‘no, we’re with the federal government; they are with the state government. We are totally different and separate entity and easy to work with. We do this whole spiel, and I feel like they don’t trust us because they think that it’s like the [state work release center], where if they [the client/employee] come back [to the correctional facility] late from work, they don’t get to go to work the next day, which screws the employer. It doesn’t screw the client; it screws the employer. We never hold back our guys for anything disciplinary. If you got caught for doing whatever, no, you are still going to work.”

—Ruth, Residential Reentry Service Worker

Ruth is not arguing that rules not be enforced but rather that RSPs have discretion and sense in meting out punishment for rule violations. From conversations with employers who have worked with the state work release center, Ruth has gleaned that clients who are late from work are sanctioned by denial of day passes, including those



that release him/her to work. While this is certainly a punishment for someone who needs to earn an income and wants to work, it is not truly a punishment for someone who does not want to work; depending on the circumstance, this punishment could serve as a reward for the client's behavior. Furthermore, by denying the client release the following day(s), preventing him/her to attend work, the employer is left short staffed, which may lead to the client being fired and/or the employer refusing to hire anyone from the state work release center. The state work release center's policy then in turn causes barriers for the clients and RSPs of the federal work release center because people have a tendency to lump corrections agencies, reentry programs, and clients together where the actions of one or two individual people/programs can impact how RSPs carry out their work. Ruth advocates for holding clients accountable without using disciplinary techniques that will negatively impact the employer or the client's employment. She also advocates for RSPs to have greater discretion in punishing people who violate rules.

### **Law on the Books vs Policy in Action**

Much of prisoner reentry is constructed by written laws, formal court decisions, and executive orders, but what happens face-to-face between and among RSPs and clients also plays a critical role in determining what services are available or not to particular clients, whether or not a client returns to prison, and ultimately the construction of the criminal justice system in action:

“That big growth [in probation] that we had in the early 90s was I think driven by the federal sentencing guidelines, so when the guidelines came out, they changed the way that presentence reports were written, and it actually changed how the sentencing hearing were conducted. They became a lot longer than they were before in the pre-guideline days because there were always discussions over whether or not the guidelines were being recommended

correctly to the court by the probation office, and then the court would have to adopt the guidelines before a sentence could be imposed, so there were a lot of arguments over the *right* guidelines, so I think that is what drove the first growth spurt. And then the rest of it has been driven by continued complexity of the guidelines and managing high risk cases.”

—Phillip, Probation Officer

Like many of my respondents, Phillip refers back to the explosion of federal sentencing guidelines in the 1990s. The sentencing guidelines were a top-down form of law creation, but the exact nature of how those sentencing guidelines were understood and applied was created through a back and forth debate among clients (and legal representation if so lucky) and RSPs (especially probation officers). Disparities between law on the books versus policy in action can contribute to Against the Law orientations to reentry policy, especially when RSP discretion or interpretation of policy impedes RSPs from conducting their work:

“I went to attend these [community reentry service provider] meetings, and a PO saw me and said, ‘what are you doing here? You can’t be here; it is a government building, and you are on probation’... **This is a made-up policy** I think ‘cause there are many government buildings like the court house. Anyways, **she said I couldn’t be there, so I left**... Then suddenly at the end of last year, it changed, and all these other people are there saying ‘Why was he ejected? He’s probably best equipped to address a lot of the problems that we are discussing. He was in the system.’ I was the only ex-inmate there, as an observer basically.”

—Jason, Peer Support Specialist

Jason’s experience highlights the difference between law on the books and law in action and how they influence his legal consciousness. Jason is trained in law, and despite feeling the CJS is corrupt, he believes that it can be improved through legal action and engagement with CJS entities. Jason’s With the Law legal consciousness orientation compels him to engage with local reentry coalitions and initiatives, but discrimination due to his felony record evokes his Against the Law legal consciousness that developed considerably while incarcerated and since his release.

Housing restrictions are another prime example of how law on the books and policy in action can deviate, highlighting how problematic reentry policy and practices influence legal consciousness:

“U.S. housing and urban development only have 2 restrictions: sex offenders in section 8 housing and methamphetamine distributors, and so, now they, **the local administrators of Section 8, they can add additional restrictions**, and that is often what happens. So, there is a lot of misconceptions you’ll hear people say ‘Section 8, you can’t have a conviction’... Well that might be the case in some cities, but it wasn’t because of HUD. I’ve seen a speaker from HUD at a reentry conference one time who said ‘We only have 2 restrictions’... but I think the problem is a lot of time is that the local administrators apply more.”

—Bobby, Residential Reentry Service Worker

“...we did get one of the housing laws that was prohibiting... It wasn’t a federal law but a practice of excluding any felon from going [into public housing]... [That law has been changed recently?] Well it is not a law; it was a practice. We encourage them to change the policy, but there are still some things like you have to be off supervision for 5 years before you are eligible to go back on the list, but then we encourage people to put their name on the list, because it might take 5 years to get there before they get to you.”

—Justin, Community Corrections Service Provider

As indicated by Bobby and Justin’s statements, there is great confusion surrounding housing restrictions for convicted felons and public housing. Although the formal policy at the federal level only has two restrictions, local public housing authorities can and frequently do add additional restrictions on who is eligible to live in their residences. There is a lot of misinformation about HUD policies, in large part because of the variation in policy by housing authority, changing policies, and because the informal practices are not necessarily reflected in the organization’s policies, even at the local level. Frustrated by housing policy in practice, Bobby and Justin feel the policies are restrictive and unfair (Against the Law). Because of their positions in the CJS, they are unable to directly influence housing policy, but they have found ways to

work with existing housing authorities and their policies to improve their clients housing outcomes. For example, because there is a long waitlist, RSPs encourage clients to put their name on the waitlist even if they do not currently need housing—because they do not know if they will need it years later when the client’s name moves up the list. This is an example of how Against the Law legal consciousness is transformed into With the Law approaches to circumvent the challenges law and policy present.

Laws and policies of government organizations, such as DOC, are often enforced by RSPs who work for NGOs in the community:

“I know a lot of houses, if someone violates their probation or curfew, they aren’t going to expel them right away; they might put them on a behavioral contract, but it IS breaking the law, so the house has the option to say, first time, no matter how long the member has tenure there, that no you can’t do that and you have to leave. I think that is one of the reasons why a lot of POs are happy when their clients get into [our organization’s houses] because they know the house is going to keep the person accountable.”

—Adam, Housing Provider

“We have a tradition that we don’t do anything that reflects on the whole; members have to be good members of the community as well. So, whenever we have people come in who are on any type of state supervision, we have a rule that they must abide by that. We have asked people to leave our homes before because they were on Level 3 probation but repeatedly violated their curfew... Somebody who’s on just regular Level 3 probation, we aren’t going to call their PO, we are going to hold them accountable in the house and possibly say, they’ve got to go, but if we are hosting them [on Level 4-Home Confinement], that is completely different. If there is a disruption, I AM going to call the PO. I let them know that, because at that point, we’ve signed paperwork stating that we agree to do that. Any breaking of the law is not allowed in [our organization’s houses]. I’ve lived in houses where people have been expelled for driving without a license and for more serious offenses too. We aren’t talking traffic tickets or something little like that, but anything that could reflect poorly on [our organization’s houses] because we don’t want those POs getting the idea that [our organization] is a place you can go and do whatever you want.”

–Amanda, Housing Provider

Adam and Amanda work for a residential sober housing organization, and in a joint interview, the two discussed how their organization, through democratic enforcement of house rules, informally enforces federal and state laws as well as DOC policies. Breaking the law, including violating one's probation curfew, is considered a poor reflection on the entire house and program. Although this can add some work to the probation officer's workload because he/she will need to verify the person's new address and complete paperwork, according to Adam, POs like having their probationers in the program's residences because the program will aid in supervising the probationer and holding him/her accountable. Residents are removed from the program over law and rule violations if the violations are considered major and/or if the house and organization have formally agreed to host the person while they are completing a home confinement sentence with DOC. This is an example of what Castellano calls a "satellite of control" where non-CJ organizations are monitoring clients, reporting to DOC, and enforcing terms of probation. Adam and Amanda, like DOC, also uses graduated sanctions, such as requiring residents to recommit to sobriety and attending a support group such as Alcoholics Anonymous.

The use of 'graduated sanctions' in response to rule violations are increasingly common:

"We have really been pushed to use graduated responses. We've had them for a long time but they really weren't used very much. But graduated responses can be negative and positive. We can give someone a graduated response because they just got a fulltime job, they gave negative urine screens. It's not always a negative. Sometimes we use it as a positive. 'You've been reporting weekly. Now we are going to cut you back to biweekly because you are doing so great.' Or 'Your curfew was 8, now it's 10'. But then we use them in the flipside, in the negative: 'You just gave us all of these positive urine screens, so we are going to up the treatment, we are going to up how often we test you.' So we are really pushing graduated responses and using those first, because you can't just think 'Hey this guy gave us a dirty urine; let's put him in jail.'

That's not going to be beneficial for probation nor the offender, so we try and do at least verbal warnings and then move to a graduated response, and then it is in the violation stage. We want to give you a chance, we want to work with you."

—Karen, Probation Officer

As Karen points out, the increased use of graduated sanctions has not come from a change in policy but instead from a change of position on policy; POs have had the option to use graduated sanctions such as curfew modifications or verbal reprimands, but the cultural norm was to submit violation paperwork and have the person called before the judge at a violation of probation hearing. With the CJS being overwhelmed and a cultural shift temporarily pushing for "kinder, gentler" or smarter policies that emphasize treatment as complimentary to correction's control aims, the POs are being encouraged to utilize less extreme punishments and to reward clients for good behavior.

Not all RSPs think that adding greater discretion into policy and allowing POs more flexibility to punish or reward clients as they see fit is a good thing. Sean who has experienced the receiving end of the CJS and the general public as an 'ex-offender' warns that discretion paired with the stigma felons bear may lead to inconsistent and discriminate treatment of convicted persons:

"From my experience.... And with laws, I think history has shown, when you give too much discretion to people, their personal stuff gets into it. So, as soon as you say 'ex-offender' 'excon', all that ex is negative, so you are asking a person to use their discretion on something that already has a negative connotation. So, that discretion kind of goes out the door unless they are in it for helping... I think it needs to be a little more cut and dry. Yes, it may hurt a few people, but if it was cut and dry, at least the person can know that they can do this... because they meet all of the requirements."

—Sean, Peer Support Specialist

Sean argues that the stigma of being a convicted felon and the broad latitude given to service providers by vague rules and considerable discretion among RSPs is part of why there is such a large difference between law on the books and policy in action. He believes that RSPs see all persons with the ‘ex-offender’ or ‘excon’ label as having a negative connotation, and when they have discretion, that negative connotation will result in overly restrictive application of rules unless the RSP truly wants to help his/her clients.

In addition to policies and laws that are designed as tools for RSPs, there are also rules that are in place to restrict RSPs’ actions. For example, Health Insurance Portability and Accountability Act of 1996 (HIPAA) rules exist to protect patient privacy rights, but HIPAA laws also serve as a barrier to RSPs who work to provide services to people returning from prison by preventing RSPs from obtaining information about a client without his/her permission or other policy allowing sharing of information. Policies also frequently exist at the organizational level to prevent transmitting clients’ information, including social security numbers and birth dates, because doing so can open clients up to identity theft. These laws and policies, however, do not stop sharing of client information. For example: During one inter-agency workgroup meeting I attended, service providers discussed needing to share client information with each other but that client records contained Social Security numbers and State Bureau of Identification numbers, which are not supposed to be emailed; in response to this concern a middle-management service provider dismissed the concern by waving his hand while making a “pssht” sound and stating that his organization emails social security numbers regularly and that it is not an issue as long as no one makes it an issue. Another person stated that their workgroup had found a

way of bypassing automated barriers to disseminating social security numbers electronically by inserting periods or x's intermittently in a person's social security number before emailing documentation. This example shows that even in cases where service providers are technically aware of laws or policies, the rules are sometimes dismissed or carry little weight in impacting service providers' actions because the RSPs do not foresee enforcement of the rules or accountability for anyone who violates the rules. In other words, policies and laws that are viewed as unnecessarily restrictive (i.e., invoking Against the Law legal consciousness) can be dismissed by RSPs as unimportant if enforcement of the rule is deemed unlikely (i.e., Before the Law legal consciousness).

### **Rights**

Rights were a common issue brought up by RSPs, especially when discussing barriers to reentry, reintegration of people back into the community, and when discussing understandings justice or fairness. RSPs sometimes referred to items and services clients are entitled<sup>20</sup> to through programs as rights, but the term was more frequently used to refer to that which is guaranteed under the Constitution (i.e., Constitutional rights) or that which they deemed to be morally correct treatment of individuals (i.e., human rights). RSPs knowledge and perception of American history and reentry policy directly influence how RSPs speak about and understand rights:

“A naive unknowledgeable person first getting a felony, especially if you are taking a plea deal, you don't know that you are losing all of that stuff. It

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<sup>20</sup> For example, all I-ADAPT program participants were entitled to legal identification if eligible and two bus passes from the program, and RSPs sometimes said clients had a right to such entitlements.



doesn't tell you that in the plea, that you lose vote, you lose your right to live in public housing. All that stuff is not given up front. Then when you do come home... In DE, with certain felonies you can't be a barber, a mortician, drive a taxi. I think it is a list of 3 pages that you can't do, and they put it under the guise of 'character'; they say the person is of 'low moral character'... And it is so ambiguous that there is no limit! So, you can catch a crime when you are 20 and at 80 years old still of 'poor moral character'. And when you look at when that stuff started: pre-Jim Crow. So is it remnants of the chain gang... When the 13<sup>th</sup> Amendment came along, then the only way they could keep slavery legal is by felonies, if we keep that on, even when you come home, oh we have a working class forever... below working class because these guys are doing the jobs that the immigrants won't do, and they don't want to do that, so they go do what they know which is stuff that is detrimental to everybody..."

—Sean, Peer Support Specialist

Sean makes an argument that collateral sanctions of felony convictions are a direct descendent or modern version of slavery and Jim Crow. During my observations and interviews with RSPs, we frequently discussed Michelle Alexander's *The New Jim Crow*. Although some RSPs felt that the book's arguments are used as a crutch by some clients who do not want to change and engage with their services, others believe that Alexander hit the nail on the head.

"...A good example was here in DE, the mayoral race: one guy had an expungement for his crime, but the committee for mayor told him 'no'—that he couldn't run because of that crime. He was 16 or something, it was a bad crime, don't take that lightly, it was a murder or something, but he [is] almost 50 now... The expungement people said 'You've done well and we won't hold it against you no more', but the committee says, 'You can't run for public office'. You just robbed the people of a voice because you 5, 10, 12 people believe he is of low moral character. That is for the people to decide. This was the past mayoral race. He did all the debates, and then no. And I asked the mayor about that and he was like 'It was the crime' and I said, 'We can't use that argument because we let him home'. Once you let them out that gate it is supposed to be [wipes hands]. As long as the crime doesn't have anything to do with the job itself, so if he is a bank robber and wants to work as a bank teller, no can't do it, if you are a child molester wanting to work in a daycare center, no. I mean, those are obvious, but if you committed murder and you want to be a civil servant... If the people say we forgive you, let's go. If that is

the case [permanent label of poor moral character restricting rights], then just keep us in [prison], and that is going to cost you more.”

—Sean, Peer Support Specialist

Sean is not 100% opposed to prior criminal records being used to determine potential risk and limitations on individuals’ freedoms; however, he feels that prohibitions are too broadly applied. In the case of elected public servants, Sean feels that the public should decide if someone is qualified and of adequate moral character. By preventing people with felony records from even running for office, the individual and the community he/she represents are disenfranchised.

Many service providers think voting rights should be restored to people released from prison:

“I think we need to restore their voting rights. Otherwise, they’re a group on the outside of society... That kind of collateral consequences doesn’t seem to make sense. If they’ve served their sentence and they’ve done the things they are supposed to do, restricting them from voting for forever seems harsh.”

—Bobby, Residential Reentry Service Worker

Delaware has modified its voting disenfranchisement laws over the past few years, enfranchising many but not all people with felony convictions:

“We just passed the second leg to the constitutional amendment to take off the 5-year waiting period, which still means though that people have to buy their way into voting, so they still have to pay all their fees, costs, and restitution. SO, there are people out there that are advocating really strenuously that your financial means to meet your obligations should not be the test of whether you can vote or not. So, there remains that argument for another day. But I do think there is something really quite emotionally and psychologically important about people being able to participate, and because of the felon voting barrier, there is a tremendous amount of misinformation in the community about what it means. SO, there are a lot of people who believe that if you have ever been in prison you can’t vote. Ever. So, first they don’t know they can, but they also don’t know that if you were in prison for a misdemeanor or pretrial or the drunk tank, that doesn’t mean you can’t vote.”

—Sam, Reentry Services Planner

Although the blanket 5-year voting ban has been removed for most conviction types, some convictions maintain a time-based or life-time ban, and individuals must pay all of the financial legal obligations before their rights are restored, compounding already concentrated disadvantage. In addition to those that are formally disenfranchised by the law, many others are disenfranchised because of misinformation. RSPs often have the same inaccurate assumptions about policy and law as their clients, but those that are aware of the law work to educate others in the community.

In addition to voter disenfranchisement, as Sean pointed out, a felony conviction can result in people not being able to access housing and employment opportunities. Beth, who works in housing, also discussed housing and employment as it relates to rights:

“There is not a right to housing. There is not a right to employment. So, if a person doesn’t have housing or employment, it is hard to get either one without one or the other. ... Even if you were entitled to the housing, which there is no housing right, but even if it was, we’ve got a waiting list that is 2.5 years long, so if you were to put your name on the waiting list the day you got out of prison, you know, it is going to be 2, 2.5 years before you are going to be able to get into housing, and that is if everything goes your way because we have a whole bunch of preferences and other things that help people move on the waiting list, so if you are working or have a disability, you move up on the waiting list, so people who had criminal records probably wouldn’t move as fast on the waiting list because they would more often, because of the stigma, not be working and they may not necessarily have a disability.”

—Beth, Housing service provider

Beth emphasizes that there is no legal right to housing or employment. She also points out that even if people had a right to housing, her organization and the other local housing authorities did not have the space to place them in a home. Additionally, because resources are limited and they try to house people they see as more deserving, less of a risk, and who are working and able to pay rent. Because people also do not

have a right to employment or right to a living wage, people with felony records are unlikely to be able to afford housing and other basic human needs.

### **Risk management: Safety, Liability, Reputation, and Resources**

RSPs also construct policy on the books and law in action during their work activities, sometimes as a direct result of RSPs' perceptions of liability or risk. RSPs report excluding clients deemed risky from social and treatment services while increasing supervision and control services beyond what is required by law or policy. RSPs refer to this as 'doing due diligence'. RSPs are more likely to do such 'due diligence' when concerned about litigation, legal liability, and other potential risks associated with violating or casually applying rules. In essence, 'doing due diligence' is a tool RSPs use to avoid risk, including direct engagement with law.

Risk in the reentry field includes concerns about physical safety, public wellbeing, liability, lawsuit, resources, and reputation. In regards to housing, for instance, RSPs' perceptions of risk impacted housing eligibility decisions. For instance, homeless shelters frequently denied services to clients who have violent or sex convictions or have serious mental health disorders and/or take psychotropic medications because of concerns about victimization (of RSPs, clients, community members) and liability concerns. Similarly, housing entities, especially Public Housing Authorities, ban convicted felons from residing in their facilities for a set period of time, depending on risks associated with convictions. Below, Beth describes how her housing organization determines housing eligibility:

“People think of it as drug havens, places where criminals are and lots of lazy people who aren't working, so to change that image, we are kinda very diligent... Because of the housing authorities being responsible for the safety and peaceful enjoyment of the other folks, we screen out A LOT of people... If

it is a drug or violent class, it is 5 years, but if it is a less violent, not drug related, than it is less time... So, if somebody has a felony history of drugs or weapons or something like that and they come to us and say 'I've been out (usually for at least 2 years because we put your name on the list when you come to us), and I haven't been reconvicted of anything, I've been going to AA, I've been involved in this, I've been working at this job for more than 6 months...' If they present us a bunch of things like that, generally we will consider: This is a stable person who is going to be a good influence on the neighborhood, and they will bring that person into housing, but that person really has to have the, take the initiative and be very strong and confident in their ability to sell themselves as somebody who's really getting their life started over and wants this opportunity."

—Beth, Housing Service Provider

To change the public image of the housing community and to fulfill an obligation to maintain a safe and peaceful community for residents, Beth's organization screens out potential residents who are perceived as likely to cause a disturbance or reflect poorly on the community. In particular, people with felony convictions relating to drugs, sex, violence, and/or weapons face longer exclusion periods than people who have been convicted of property crimes or other offenses. To become redeemed as eligible for housing, clients must provide documented proof they have maintained a crime-free life since their conviction, are gainfully employed, and positively engaging with self-improvement or community activities. It is possible for clients to appeal eligibility denials based on the matrix, but as Beth said, it takes a very ambitious, strong, and confident person who is succeeding at reentry and who knows how to navigate the appeals process to be able to prove their record is not indicative of future safety or nuisance problems.

In addition to being concerned about the safety and well-being of community members, RSPs must consider and balance public perceptions of their organization and reentry initiatives. Beth and other RSPs' service decisions are largely impacted by

RSPs' perceptions of potential backlash from their residents or the public that could impact their operations:

“People decide to serve people they think will not create any kind of negative image for them, for their group... Nonprofits also have housing, and most of them have similar criteria because they have a funding base that they need to basically answer to, and if it is in the paper that your housing had some kind of big crime thing and somebody is reoffending, then you are probably going to have issues... Recently, the neighbors complained because there was so much criminal activity around, and they ended up pulling back on some of their housing that they had in the neighborhood. So, those things influence nonprofits and what they can do because, ya know, everybody kind of looks at it as ‘I can put myself out of business for this small segment or I can serve a broader group’ and so, I guess in the calculus of it all, people decide to serve people in housing they think will not create any kind of negative image for them, for their group... We end up evicting the woman who had the guest on the property because she represents a danger to the safety and peaceful enjoyment of the residents...

A lot of tax payers already don't want to pay for [public housing]; it is already always under attack. People think of it as drug havens, places where criminals are and lots of lazy people who aren't working, so to change that image, we are kinda very diligent... If you don't properly screen people and something happens then the other people in the neighborhood can come back and sue you, so it gives us maybe an overly cautious way of screening people to make sure we don't get sued.”

—Beth, Housing service provider

As described by Beth, many people in the general community do not look favorably on convicted felons, the poor, those who receive government assistance, and public housing and other public assistance programs. Public housing and housing through most nonprofits is reliant on the support of tax payers, donors, and the acceptance and support of their communities. These organizations typically struggle to finance their programs and have waitlists, including people who have no felony record. Restrictive eligibility criteria are a way of RSPs managing the organization's resources and public image, preventing liability issues that may involve a resident who had a felony record,

and providing services to other clients. Felony convictions, especially those for sex offenses, drug-related crimes, and/or violence are used as indicators to RSPs as to which potential residents are more likely to cause future problems for the organization and/or its current clients. Because of these concerns, housing organizations are very diligent and screen out a lot more people than are actually prohibited by the rules.

Rose's organization is also concerned about risk mitigation and takes steps to protect itself:

“We also have covenant agreements... If you are a person who might have been in prison for something that we consider might endanger the rest of the congregation, if you are basically a person that we have to worry about, then you sign an agreement with us that you are going to come to church, but certain things you aren't going to engage in. Say you were a person that had been convicted of stealing, you will sign an agreement saying that you will not, even if someone calls you up to hold the money plate, you are not going to be involved in the finance committee. You aren't going to be engaged in that. If you have been convicted for something involving women, then you aren't going to be on any committee where you would be interacting with them, where there would be a chance of that. And so, this is something that we do. Therefore, everybody can be safe when they come to church because we have that... And so, this is something that we do. Therefore, everybody can be safe when they come to church because we have that. Insurance companies ask, at least ours does, about if you have a policy about protecting children. [Is it specific about what you are protecting them from?] It is in general but it would pertain to offenders. We are looking at what the Catholic church went through... If someone becomes a part of your church you want to treat them with love, but you also got to, if it is known, you have to do due diligence to keep the rest of the folks safe.”

—Rose, Volunteer Human Needs Service Provider

Rose is concerned with safety of the congregation as well as legal concerns. When she or others in the congregation learn about someone's felony record, they require the person to sign a covenant agreement swearing to not engage with activities related to the person's crime. In referring to the Catholic Church's sex abuse scandal, her organization identifies potential risks based on past convictions and takes action to

limit the potential of someone being victimized or the church being held responsible. By having someone sign an agreement, the church attempts to control the individual's behavior as well as release themselves from liability in the public or legal courts which could result in them being sued for money. This motivation to perform "due diligence" is also encouraged by the risk assessment and management of the church's insurance company.

Even RSPs who want to give convicted felons a second chance deny services to convicted felons deemed risky to RSPs' interests or others:

"A lot of people will give an offender an opportunity, but they don't want to be known as the offender program because of the competitiveness of business. It could be disastrous... That guy's business will dry right up."

—Justin, Community Corrections Service Provider

"People ask for a list of companies that hire ex-offenders... You aren't going to find it. Or with housing entities: 'we want a list so we can have it at our disposal'. Who wants to be on that list?! Do you want your non-profit on a billboard advertising that it is for sex offenders? So, it is a Catch-22."

—Tina, Reentry Services Planner

Although some organizations avoid any associations with convicted felons, others want to provide services but quietly to avoid public attention and/or only with people who have convictions that are less stigmatized. As Justin points out, most organizations, especially if they are also working with a non-CJ involved clientele, do not want to be known as an 'offender program' because it could negatively impact their business. This is especially true for sex offenders. People with violent convictions on their records are also frequently denied services because organizations do not want to be at risk of victimization, liability, or reputational damage. RSPs are also concerned about safety and liability issues relating to clients with substance abuse histories or mental health disorders.



Excluding risky clients from services is not an option for all RSPs. For example, DOC is in the business of managing risk, and many social services are mandated by law to provide services or “entitlements” to clients.<sup>21</sup> RSPs who work with clients who are labelled high-risk/high-needs, have mental health or substance abuse disorders, or a history of violence frequently cite safety concerns, and safety and security is a predominant feature of many RSPs’ work environments (ex. Prisons, probation offices, or anywhere in the community for probation and parole officers). To manage risk, RSPs frequently wear safety gear, carry weapons, or work within secure facilities that require clients be screened for weapons before entering the building. Probation officers are required by department policies to be armed in the field, and state POs always wear bullet proof vests that clearly identify them as PROBATION when they are in the field.

“When we are in the field, we are always full gear... Any time we wear a weapon, we wear a bullet proof vest... We go out to [a client’s] house, and [the children] are like ‘oh, police officers’... You can’t just go in there and be rude and ignorant and tough with this family member. That’s not, you aren’t going to build a good rapport, and it’s important to have a good rapport... Again, we deal with their children all the time. They bring their children in here all the time, and I’d never want a child to see—they think we are police officers you see, so I’d never want them to think ‘police officers are mean’ or have that in their head. You want them to think police officers are good, cause that is what I’d want my children [to think]; I wouldn’t want them to think “oh, police officers are trying to put my daddy in jail all the time. Police officers are bad people”. I would never want that.”

—Karen, Probation Officer

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<sup>21</sup> For example, DOE is required to provide education to some people if they meet special needs requirements; “chronic care” clients are provided additional social services compared to most returning persons, including those with mental health issues and substance use disorder.

In part to protect officers, POs are required to be armed when they go into the community on business, and for safety and liability reasons, officers are required to identify themselves as probation officers when armed. To do so, the department policy requires all officers to wear bullet proof vests over their uniforms anytime they work outside of the office. The militarized uniforms may add to the safety of POs, but some RSPs believe they are overall harmful to reentry efforts because they create an antagonistic barrier between POs and probationers. For instance, a PO wearing a PROBATION bullet proof vest when checking on a probationer at work or at their home can result in the probationer being fired or evicted. Additionally, the presence of guns may antagonize probationers who feel oppressed by mandated supervision and control or who suffer from PTSD as a result of experiencing gun violence. However, because of concerns about violence and liability, officers are armed and marked in the field. Aware that their physical appearance can cause fear among community members, especially among children, Karen tries to balance her law enforcement and social work goals and build positive rapport with community members to improve her safety and ability to supervise her caseload.

Safety was a growing concern in the field for Clara to the point she transferred to a supervisory role that kept her out of the field:

“I started getting concerned about my safety going out into the field. I guess things started getting, about 7 years ago, the risks of being out there and the disregard for law enforcement became a lot more noticeable... I think we started to see more gun violence and more prevalence of drugs. We started to see a disregard overall for law enforcement, the badge, the uniform. The presence didn't seem to make a difference anymore... I started to believe that I had a lot to lose if anything happened... If you are in the field and someone resists or they take off and run, obviously, you are trying to capture them. If they start a fight... There is a use-of-force model [probation officers] have to follow, and if you are being met with resistance, physical resistance, then obviously, you need to act on that.”

—Clara, Probation Officer

Clara feels that community supervision has become significantly less safe over the years. In addition to seeing increased gun and drug activity, Clara feels that public perceptions of law enforcement and the social environment RSPs work in while conducting community supervision has deteriorated. Clara transferred to a desk job to protect herself. Although Clara was primarily concerned with her physical safety relating to violence and use of force encounters, other RSPs also express concerns about related liability issues if they used force and were accused of using excessive force. RSPs who are authorized and expected to use force as part of their work typically receive training regarding use-of-force continuums and appropriate levels of use-of-force, but recent local and national use-of-force cases (primarily with police officers) dissected and politicized in the media made some RSPs concerned about their own liability if they used force.

Not all RSPs are authorized or expected to use force to control clients. Most RSPs, generally those that are not sworn officers, call law enforcement if someone becomes hostile, a physical or liability threat, and/or needs to be restrained or forcefully removed from an environment.

“I’ll never expect my staff to put their selves in harm’s way. That door does not lock, I don’t care if you are an inmate or a probation case and you want to leave, if that’s what you want to do, you can go out, you can go out, bye. Like, we’ll call the authorities and let them know you escaped and let them apprehend you at your convenience, but, I’m not going to have anybody in harm’s way because someone is pissed off about something that probably has *nothing* to do with here. If they are that frustrated, it usually has to do with their girlfriend, or their kids, or baby mom, or their employer. It has nothing to do with this place, so I’ll let you vent and let you do what you need to do because you probably don’t have the coping skills to really express it a different way.”

—Ruth, Residential Reentry Service Worker

Although Ruth is responsible for the safety and compliance of incarcerated residents in a community treatment program, her organization does not control exiting the building, although all residents are searched each time they enter the facility. Ruth feels allowing residents to leave the facility without permission and in violation with the program rules residents are to abide by is safer than confronting the absconding person. By reporting the situation to higher ups in the organizational chart and calling the appropriate law enforcement agency responsible for catching people who had absconded, RSPs like Ruth protect their own physical safety while limiting potential liability if any harm should arise from the client absconding. Ruth's statement highlights that sometimes intervention by RSPs may increase risk to clients or others. Similarly, Phillip who works in Probation feels it is important for POs to not over supervise clients, because increased contact with the CJS can interfere with reintegration efforts, increase client strain, and possibly result in negative consequences, such as damaging client-PO rapport or client employability.

RSPs often were concerned about their liability when making non-use-of-force decisions as well. For instance, probation officers struggled with how much rope to give a person on their caseload who was complying with rules and gainfully employed but still involved in criminal networks and violent relationships. Officers expressed distress regarding whether or not to submit a violation of probation for their clients who "were trying" but posed a threat to the community in some manner. If officers let someone remain in the community and something happened, would they be held responsible and would they be able to live with the 'what if they'd violated the person' question? Or, if they violated the person, would that dismantle the reentry and self-improvement efforts the client (and RSPs) already completed?

RSPs whose discretionary decisions and day-to-day actions are subject to review and audit processes, including in cases where the RSP feels that their decision could open them up to litigation, poor public relations, or other conflict, frequently err on the cautious side of a decision. RSPs, even those who champion the treatment/social work side of their jobs and greatly want to help a client receive assistance, frequently screen clients out and serve as gatekeepers, preventing the client from receiving a service or the case at least being escalated to the next decision maker.

Discretionary decisions based on reentry professionals' perceptions may result in unequal attention given to an ex-felon's or groups needs based on race, gender, family status, barriers to reentry (ex. housing, civic, employment, etc.), criminal record, mental health status, etc. In turn, some individuals' ability to reenter society successfully may be diminished, contributing further to systematic disadvantage.

On top of all of the safety and liability concerns RSPs balance for their organization, communities, and clients' wellbeing, RSPs are also concerned about protecting themselves from getting into trouble with their own organizations and commit a considerable portion of their work hours to satisfying documentation requirements and administrative tasks. Although this documentation and these tasks can be seen as beneficial by serving as tools, RSPs also complete documentation and other tasks to avoid getting in trouble with their own employers:

“Subsistence is a horrible part of all our jobs... Getting them to bring in their paystubs, calculate it, bring in the money order, bring in copies of the receipts and their bills... It is soooo much distress and frustration... After a while I tell them, **I have to have copies of this stuff cause I'm gonna be getting audited. Just like you have to follow rules, I have to follow rules, and they aren't going to ask you where your phone bill is, they are going to ask me...** Because it is my responsibility to make sure they are in your chart. So, when I explain it to them that way, they are more understanding that I am just

doing my job, I'm not doing it to be a private investigator or see where all your funds are. I'm just doing it to do my job. That makes my job a lot harder..."

—Ruth, Residential Reentry Service Worker

Ruth hates having to explain and collect subsistence fees from her clients because it is time consuming and frequently results in clients becoming angry at the policies, their situation, and her. But, because it is her job and she does not want to get in trouble and have additional work to do later if subsistence paperwork is not completed, she does it anyway. In the process, she tries to explain to her clients that she is just doing her job, that it is not something she wants to do to antagonize them, which helps, but the frustration still makes her job difficult.

Documentation has an added bonus, besides just as a protective tool in case of audit; documentation can also help RSPs make a case or substantiate the RSPs' actions, including denial of services, provision of resources, expulsion from a program, violation of probation, etc.:

"Everything HAS TO BE documented. Documenting is like the biggest part of our job because if anything ever happens and go right back into our caseload and be like 'OK, oh, well everything was documented' so we always have to get approval. We don't do anything without getting approval."

—Karen, Probation Officer

Karen's consistent documentation is important to her because it protects her from accusations of not following policy. Additionally, receiving approval for some decisions (ex. Day passes, rewards, etc.) prevents her from being held responsible or liable if anything bad happens. Although paperwork is typically complained about and seen as endless and distracting from client interactions, documentation and other forms of paperwork are useful tools to RSPs.

"I just document everything, I want my staff to document everything. This is a program where you've got to be compliant. And you can fail out of this program, so if I have enough documentation to show you are presenting as an

issue and are disruptive to the environment and effecting other clients who are trying to do better, you can no longer be here.”

—Ruth, Residential Reentry Service Worker

In the case Ruth describes, although she is a program administrator in charge of a residential facility, she is not able to kick clients from the program without approval from her employer and agency they contract with. In order to obtain approval, she and her colleagues collect a substantial file of documentation as evidence for why the person should be removed from the program.

Similarly, Olivia spoke with me about a client that used to be in her program but was recently kicked out for repeatedly breaking rules of the program and the law. The client was incarcerated in a work-release facility and allowed to obtain a license to operate a registered and insured vehicle with permission; however, the client did not ask for permission from the work release facility to travel to and from the DMV to obtain his license nor did he ask for permission to drive. Some of the program staff suspected he was getting unauthorized rides until one day he received mail at the work-release facility from the DMV, which stated that he had passed his driving test. The client went to the DMV without permission and took his driving test, which is not problematic except that he said he was going somewhere else and instead went to take the driving test. Olivia said the client denied doing any of this and it took 2 months of documentation and multiple right ups before he was removed from the program. Olivia blamed a combination of bad policy and RSP error that led to how long it took for the program to follow policy and collect enough documentation to have him removed. Service providers do not always write up the reports they are supposed to because they do not have time, do not feel like it, or because they do not want to write up someone who they generally have positive interactions with because they do not want it to interfere with the relationship/rapport they have established or for the person

to hold it against them. Also, sometimes the required reports are written, but reports and documentation are riddled with errors, typos, wrong codes, etc. make the reports look unprofessional and sloppy. Such typos and mistakes can result in decision reviewers (ex. Supervisors, BOP, judges, etc.) being less likely to follow the RSPs' and program's recommendations to remove someone from the program.

Policy and procedures can help protect individual RSPs from accusations of indiscretion, conflict of interest, or unfairly favoring some clients over others. For instance, RSPs frequently follow and/or refer to policies to justify their actions as fair:

“You have to be consistent about it or it will be ‘Why doesn’t he have to do it, why do I have to do it?’ and that is one of the questions they’ll ask, is everyone doing this or is it just on me. It is very important to be fair and firm and consistent and not harass somebody, so we are starting to do it for everybody. But it is time consuming, and depending on how many people we have on staff, and we are like a skeleton crew, it is challenging if we have a bunch of guys coming back from the same program because they have to wait in the lobby while we do it, but it’s not too cumbersome especially once we have it down and they know what to expect.”

—Patti, Residential Reentry Service Worker

As stated by Patti, clients will question the legitimacy of an RSPs' actions if RSPs do not follow policies consistently. By applying the rules consistently, RSPs avoid substantiated accusations of unwarranted differential treatment and favoritism or harassment. (An added bonus of consistency, according to Patti, is efficiency.)

Phillip also sees his organization's policies as protecting him and other RSPs from accusations of conflicts of interest and liability concerns:

“There are some clear ethical conflicts, like we can’t, the attorneys that frequently come through federal court, we can’t make referrals for them for people we have in pretrial who don’t have representation yet. They will ask, and we know who the good lawyers are, but we can’t tell you who the good lawyers are, we can’t recommend one person over another or refer, like if we had someone on supervision looking for a house and another person flipping houses, we can’t recommend one to the other, but if they find out about each



other independently then great, but I don't think we could refer them... I think that it would be seen as though we are vouching for—if we send person A to person B, it seems as though we are vouching for person B, and if person B decides they want to resort to identify theft because person A has restored their identity and person A's identity is a good one to steal, we can't be on the hook for that, so that is an area we have to avoid.”

—Phillip, Probation Officer

By following his organization's policy to not make recommendations for businesses or other for-pay services, Phillip protects himself from appearing to have an ethical conflict, and he protects himself from liability if anything happens. Not only does he avoid recommending lawyers to his clients, even though he knows which are the good ones for them to have on their defense, and even though a recommendation from Phillip could help the client, he avoids making referrals in case there is a dispute over services or the client victimizes someone.

### **Chapter Conclusion**

Law and policy are a salient part of prisoner reentry and RSPs' work. Prisoner reentry and clients in the field are legally defined and formally marked by the CJS, and much of prisoner reentry is constructed by federal, state, and local laws, organizational policies, and interpretations of such rules. RSPs noted there is great discrepancies between formal law and policy as it is written (i.e., law on the books) and informal rules and actual applications of law and policy (i.e., law in action). Interpretation of complex rules and built in discretion allow for disparities in application of rules and service outcomes.

Prisoner reentry policy as it is constructed through application and experiences with law frequently bars clients perceived as risky from receiving desired social services while increasing supervision and control services. RSPs work to reduce risk including potential physical harm of self, society, and client; damaged public

image/reputation; and limited opportunities for self, organization, or clients. RSPs are also very concerned with litigation and legal financial liability. Concerns about risk and risk mitigation efforts greatly influence the services RSPs provide, both through the formal policies RSPs follow and use as tools while conducting their work and through informal interpretations of rules and risk. RSPs refer to expansion of exclusionary policies and expansion of control policies to mitigate risk as ‘doing due diligence’.

RSPs frequently brought up law and policy during interviews and while conducting their work, both during service provision and client interactions as well as during meetings and informal discussions with colleagues. In line with a With the Law legal consciousness orientation, law and policy was commonly discussed as a very real thing that constrains and allows action and provides for a fair ruleset that everyone is required to abide by. When acting from this perspective, RSPs frequently rationalized action/inaction and outcomes according to established rules. RSPs frequently invoke a With the Law legal consciousness when addressing client or system failures, stressing that individual actors are responsible for outcomes, and that clients, service providers, and advocates must engage the system according to the established laws, policies, and norms if they want to access services, assist clients, and/or make changes to the system. Law and policy through this perspective is a tool used by RSPs.

RSPs also understand law and policy as a tool used by others, and in those instances, they often have an Against the Law understanding or relationship with rules and the CJS:

“The Attorney General for the state of Delaware who you would think is in charge of law and anybody breaking the law in the state would be a major issue

with him to want to correct this... That was my thought until I gave him all the information he needed to prosecute a CO for some horrible awful wrong doing, dates, places, names, times, things he could have very easily verified on the computer with some computer geek (which puts it out of my control) and I got back the 'DOC is my client' [and then he wouldn't take it any further]. No, I've gone to the FBI, oh yeah you can send us information but we aren't really going to do it.... It infuriates me that the system is about CYA [cover your ass] and that is what they do. If you thought for one moment that you are a law-abiding citizen and the good guys are going to do the right thing, that's not necessarily the truth. They will cover it up but not fix it. To me DOC is like the Catholic Church, no malice intended but they will take a child predator priest and move him to a different parish and that is how they correct him and that's what DOC does."

—Mary, (Ex)Prisoner Advocate & Community Organizer

Although RSPs sometimes describe law and policy as a fair set of rules that structure social interactions and opportunities, when working with clients to maneuver others' rules, RSPs, particularly those who work in non-government organizations, often take on an Against the Law perspective, as is common among their clients, and have an antagonistic understanding of law. From this perspective, collateral sanctions are viewed as unfair and restrictive policies that are intended to punish convicted felons beyond their formal sentence and serve to create an underclass. Similarly, RSPs are viewed as agents of control who create policy in action in an ever expanding carceral state that includes social service agencies (Simon 2007).

At times, RSPs seem to have a very distant relationship to law, similar to what Ewick and Silbey (1998) refer to as Before the Law. In some instances, RSPs displayed a Before the Law legal consciousness orientation in that they were aware of the law but discussed it as something that was far beyond their reach. In other occasions, RSPs seemed to have a Before the Law legal consciousness because, although service providers acknowledged rules, they brushed standing law and policy aside, arguing that the rules did not matter in general or in a particular situation

because enforcement was very unlikely or conflicting rules or resource considerations made following the rules impractical. In instances where service providers are aware of but disagree with or wish to avoid laws or policies, the rules are sometimes dismissed or circumvented because the RSPs do not foresee enforcement of the rules and are willing to take the chance of being caught.

RSPs rights consciousness influenced their perception of law and policy and the services they provided. Many felt that current policies violate convicted felons' rights, in essence arguing that people's rights are unalienable and not subject to legal decree by a legal system, and that laws and policies should be changed to reflect the rights of people returning from prison after serving their sentence. Some RSPs understand mass felonization and incarceration, collateral sanctions, and collateral consequences as the New Jim Crow designed to disenfranchise and subjugate large segments of society, and modern efforts to change disenfranchisement and general CJS policy is often seen as an extension of the Civil Rights Movement.

As other research on legal consciousness has found, RSPs' legal consciousness is complex, fluid, and situated according to RSPs' positionality and general perspectives. RSPs maintain conflicting perspectives of law (ex. Viewing law both as an oppressive tool of others and believing they like anyone else can change law through legal means), and RSPs oscillate between which rules, risk concerns, goals, and perspectives of law, policy, and rights they prioritize. In addition to having to consider many layers of conflicting rules, RSPs also work to balance the rights, responsibilities, and risks of large caseloads of clients, themselves, their organizations, and the community. RSPs work to minimize internal and external conflicts and risks while also aligning their actions and service outcomes with rules they feel are useful

and in line with their perceptions of law and fairness. RSPs are particularly likely to comply with rules and hold clients to the same expectation when the RSP's work is likely to be verified or reviewed by a supervisor, review board, the media, or the general public.

## **Chapter 6**

### **JUSTICE DISSONANCE AND LEGITIMACY**

Calls for fair and just reentry policy and practices were common, however, RSPs expressed competing understandings of justice and fairness. In particular, RSPs commonly utilized procedural justice and distributive justice narratives. Procedural justice rhetoric equates justice and fairness with process equality, meaning justice is achieved via equal application of rules and standardization of procedures by which outcomes are arrived at independent of favorability of outcome (Tyler 1990). Through a procedural justice framework, RSPs view policies and law as fair and just and any associated governing body as legitimate if laws and policies are made and applied through formal-rational procedures. Conversely, distributive justice is based on the perceived fairness of outcomes and achievement of desired or preferable results. Through a distributive justice framework, RSPs view policies and law as fair if they achieve outcomes that are desirable or perceived as morally right (Tyler 1988). Procedural justice and distributive justice narratives are often competing narratives: Application of standardized procedures for deriving outcomes that treat all people alike may not produce fair outcomes from a distributive justice perspective; procedural justice based on formal rational (Weber 1954) can mask distributive injustices and substantive inequalities (Crenshaw 1988). RSPs possess both procedural justice and distributive justice narratives in their cultural toolkits (Swidler 1986), which RSPs use to conduct their work and can result in what I term “justice dissonance”. Justice

dissonance influences RSPs' discretionary decisions and it can negatively impact RSPs' work experiences, perceptions of legitimacy, and well-being.

### **Justice and Fairness**

While RSPs advocate for fair and just laws and applications, RSPs frequently do not agree on what is fair or just and how to carry out their job functions according to law and policy in a fair or just manner. In line with procedural justice, RSPs generally support equal application of rules to all persons returning from prison as fair and just. However, RSPs typically recognize that procedural justice in practice does not always result in ideal reentry outcomes and can compound existing forms of disadvantage. For instance, although it may be procedurally just to return to prison all persons who fail to pay legal financial obligations, equal re-incarceration in these circumstances does not take into account previous conduct, risk concerns, and client efforts to engage in self-improvement (ex. Workforce Development training, drug treatment), or potential harms to the community if the person is reincarcerated (ex. Children of client will be put in foster care if he/she is incarcerated). Additionally, some RSPs feel it is unfair to hold poor and rich offenders to the same standard despite disparate abilities to pay.

To account for the complexities and variation in cases, RSPs also advocate for practices that reduce substantive inequalities and adhere to distributive justice sentiments; RSPs call for laws, policies, and practices to take individual-circumstances into consideration in order to maximize positive outcomes for client and community well-being. Procedural and distributive justice narratives frequently come into direct conflict in reentry practices when procedurally just application of laws and policies result in compounding existing disadvantage. RSPs' position, access to resources,

competing goals, and perspectives influence when and how they utilize various justice narratives.

### “Rules are Rules”: Procedural Justice

Although RSPs have discretion in their jobs, there are some instances where they must follow policy and do not feel they have the power to use discretion. Some actions are taken because the RSP complies for the sake of following rules or to “cover your ass.” For instance, one of the RSP interviewed who works for a program under multiple organizations and associated policies explained it like this:

“There are certain policies we *have* to do. Subsistence, we *have* to do. We can’t just say ‘Oh, we know you have a lot going on, just pay it next week’. No, we *have* to collect the money when we have to collect it. Those are things that we’ll get a deficiency for. They come down and do audits, they find we weren’t following the policy, they give us a deficiency which is like ‘make sure you follow this next time,’ but you get a repeat deficiency, and you lose money.”

—Ruth, Residential Reentry Service Worker

Similarly, a case manager at a work release facility discussed the need to treat all clients and all cases alike to avoid being accused of playing favorites and so that clients knew how policy would be interpreted and what to expect from RSPs:

“A lot of the clients will try to instigate situations, like if they don’t get their way on something, they’ll try to instigate situations with you. “This is crazy...!” And after a while you just want to say “please shut up” but you can’t say that, so you have to maintain that professionalism 24/7, and it is hard because it can get disrespectful. And it’s like, come on, this is not that serious. This is just something. **Just like I have to follow rules, you have to follow rules.** Most days I would say that it is not that serious, it is just not that serious of an environment, it is just petty complaining and whining.”

—Patti, Residential Reentry Service Worker



Through interviews with RSPs and while observing RSPs interact with clients, it was common for people to bring up the substantial number of rules that apply to people returning from prison, especially while they are still under control of the state, and it was not uncommon for RSPs to agree with client frustrations with rules but for the RSP to shrug their shoulders and state “Rules are rules”. In line with Watkins-Hayes’s rule enforcers and social workers, it is very common for RSPs to justify actions by referring to formal policies and procedural justice, especially among RSPs who identify as rule enforcers or doing police work versus social workers who do social work.

RSPs frequently are required to enforce rules and court orders that they have no role in creating. Since RSPs work at the back-end of the CJS, they are at the mercy of the policies and actions of service providers who work closer to the front-end of the CJS (ex. Police officers, prosecutors, judges, legislators—even Bureau of Prisons policies and actions fall to Probation and Parole to deal with eventually). Although POs have great discretion in determining how they conduct their day-to-day work, they are required to work within the confines of the law, follow court orders, navigate Bureau of Prison’s regulations and security concerns, and pick up the pieces and help probationers put their lives back together post-release. Probation and Parole is not only a catch-all bureaucracy in that they must address complex human needs through the provision of services, but they must manage some of society’s most problematic and sometimes shattered individuals while also dealing with all of the rules, barriers, and limitations put forth by earlier organizations and actors within the CJS. As a result, much of probation officers’ time is spent on investigating client histories (including

special conditions of court orders and legal restrictions clients must abide by) and holding probationers accountable to a wide array of rules.

A “rules are rules” justification for enforcing policies can be rooted in instrumental reasons or procedural justice rhetoric. Sean, a community-based service provider, advocated for procedural justice among returning ex-prisoners when he stated policies “should be a little more cut and dry” so “at least the person can know that they can do this...” Similarly, Mary, an advocate and community organizer, expressed frustration with inconsistent policies during a meeting when discussing that some people with sex offense convictions are allowed by probation to work at fast food restaurants while others are not because of the potential presence of children. Mary felt that all people with the same conviction type should be held to the same rules and interpretation of the rules.

#### “Policy is the Enemy of Wisdom”: Distributive Justice

Consider the following exchange that occurred during a prisoner reentry court status hearing<sup>22</sup>:

Probation officer: Your Honor, Mikel Jones’s grandmother is in court today at our request to discuss Mr. Jones’s housing situation that you asked me to look into.

Judge: Wonderful, let’s find out what’s going on so we can get Mikel home and engaged with the program. I don’t understand what the holdup is.

Probation officer: Mr. Jones is eligible for home confinement, Your Honor, but a residence has yet to be approved for him to be released. Mrs. Jones has been

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<sup>22</sup> This is a re-creation of the event based on observation notes and intended to ease readability.

working with the Home Confinement unit but has not been approved.

Judge: What's the hold up?

Grandmother of incarcerated client: Your Honor, I want my grandson to come home and to live with me. I want to help him and make sure he gets what he needs from this program. I've called the Home Confinement unit and filled out the paperwork, got the right phone, but they won't approve me because my son lives with me.

Judge: Thank you, Mrs. Jones for coming in today. What's the problem with your son being there that's preventing Mikel from serving his home confinement time with you?

Probation officer: Your Honor, her son, Mikel's father has an open charge. Department policy does not allow anyone on home confinement to live with someone with an open charge.

Judge: Why? Worried it'll rub off like radiation? What's the open charge for? [Judge tells Court Clerk to pull Mikel's father's file]... Traffic court?! From 2012, really?! This kid's still locked up because of his dad's open traffic case?!

Probation officer: (chuckling uncomfortably) I didn't write the policy, sir. It is the department's policy.

Judge: **Policy is the enemy of wisdom...** Talk with the people in your department and ask them to address this hold-up and release him so we can get his treatment going. Traffic court. That's ridiculous.

Unfortunately, it is very common for policy to cause a barrier for returning persons and RSPs who serve them, and it is much less common for a judge or someone in a position of considerable power (compared to most frontline service workers) to take note and demand a sensible solution be found.

Many RSPs recognize that they, their organizations, and/or their organizations' policies are a barrier to their clients' reentry, reintegration and success:

"We have to do phone calls and checks on a daily basis. So, some jobs are open to us doing calls to the place and asking if they are there, and some say

that is too much or they don't want it getting out to the other staff that the person has a criminal history. So, it is tough sometimes for people to find job placement with a criminal background. Some employers are not open to us calling and checking in with our clients, and we have to do it. It is kind of sad, but we have to do it. And sometimes people get the job, and once the employers figure you have to call every day, they say this isn't going to work out. So that is kinda soul crushing in itself when you got the job and they just, don't want to deal with it. And a lot of these guys here, they are used to let downs, but once they get here, and a lot of them say they are trying and it isn't work, it is touching. You just wish there was something you could do. You just wish there was something you could do.”

—Olivia, Residential Reentry Service Worker

Olivia knows that the regular calls from her and other RSPs are one of many factors that contribute to clients struggling to keep a job and succeed at reentry; however, they are required to make the calls and verify clients' locations. In addition to procedural justice ideals, RSPs also are motivated by distributive justice sentiments and focus on achieving fair or desirable outcomes regardless of equal procedural treatment. Distributive justice rhetoric is more common among RSPs who identify with social work versus rule enforcement or doing police work.

Similar to this situation, RSPs often argue that discretion and the ability to treat different cases differently is necessary for achieving justice. RSPs frequently justify unequal treatment or availability of services to clients through distributive justice rhetoric, stating that unequal treatment of clients is necessary for achieving more fair outcomes. For example, when RSPs justified pre-screening clients before sending them to job interviews or programming, they frequently referred to disparities in clients' needs, opportunities, motivation, and potential for future success. While some services were given to those most likely to succeed, others were reserved for those most in need. Medium-to-high risk clients were sometimes offered services and opportunities desired by but denied to low-risk clients because RSPs were focused on

reducing recidivism and public safety concerns and therefore felt that limited resources should be concentrated on clients most likely to cause problems or harm in the future. Additionally, most of the state's reentry assistance programs are only available to people who have spent one or more years in prison, despite the great need of people churning through the jails.

### **Fluidity of Competing Roles, Goals, and Justice Narratives: Social Workers and Rule Enforcers**

“You have to find a happy medium between discipline and social work... And that was something during the [hiring] interview, I was asked “Are you more social work or law enforcement oriented?” and certainly it depends on who you are dealing with and what their currency is, if they work better with the lighter touch or sometimes you have to do the enforcement thing because they get a little too comfortable.”

—Patti, Residential Reentry Service Worker

Research participants shared the ways that providers frequently maintain competing goals and roles<sup>23</sup>, wearing dual hats or oscillating between social workers and rule enforcers, among others. Similar to what Watkins-Hayes (2009) identified among welfare caseworkers, as social workers RSPs focus on outcome goals and aim to help clients by providing them with support and with as many available resources as possible to reduce strain and promote stability. This perspective highlights concentrated disadvantage and problematic rules and policy as leading to recidivism, and emphasizes clients' need for treatment, help, love, and empathy.

“I’m a busy guy. I also do the initial intake with our guys. That is one of the most important pieces because the initial intake is where you establish the

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<sup>23</sup> It is important to keep in mind that these roles are archetypes, and RSPs oscillate between roles depending on context.

relationship, the rapport, the respect... I initially start with vital information, the emergency contact, medication lists, things of that nature in case they pass out, ask them if they have a birth certificate, social security card, ID, if they are enrolled in [the state's reentry program], if they have a bank account. So, it is a support check list, and **if they don't have none of that stuff, you know, I am the guy who sees it through that they get those items...** It is tough, it's tough... If a guy has a job tomorrow and doesn't have it [legal ID], it is just tough. Like, we had a guy who the job was lined up for but he just didn't have the ID. He had a jail ID and a birth certificate and 2 pieces of mail and his Medicaid card, and that wasn't enough to get him anything. And I'm like 'you have all this stuff, how come you can't just get the ID?' It was a headache, and he ended up losing the job because of that. They wouldn't hold it for them and a jail ID isn't enough. So **sometimes I'll put a call in to the Social Security office and get cards or go to the DMV to get the ID. I'll get in my car and put them in shotgun, and we out...**

All our guys have my cell phone, and **they can call me 24 hours a day...** So, a lot of issues that come up in the evenings they call me, but throughout the day I'll call them and remind them of their groups and just touch base with them, especially after a weekend, see that they didn't go back to jail or get into any trouble over the weekend..."

—Trey, Peer Support Specialist

In the above quotes, Trey, who is a Peer Support Specialist for a community-based treatment center, epitomizes the social worker role. Trey is in charge of intake and orientation of new members to their organization. Beyond assisting new members fill out forms, Trey holds himself responsible for building positive rapport with new members, getting to know each member and the barriers to reentry each faces, and resolving any problems members are facing. Trey goes beyond the minimum expectations of many service providers by making himself available to members 24/7, proactively checking on members' well-being, mailing letters to members at their homes to help them establish proof of residency, and even using his personal vehicle to take members to appointments to get necessary identification materials or medical assistance or to facilitate reentry and transformation efforts. While going above the call of duty, Trey expresses frustration at the numerous reentry barriers such as people

being released from prison without adequate identification and bureaucratic red tape preventing many members from acquiring necessary ID.

Rule enforcers in my sample were more process-oriented and placed great emphasis on following law and policy and holding clients accountable. Rule enforcers emphasize criminological thinking, laziness, and problematic social networks as leading to recidivism and call for supervision, accountability, and discipline to bring about change in clients.

“There are a lot of questions about subsistence payments, which is a difficult issue because they don’t want to pay money, and they claim they don’t know about it or they don’t have enough, **so that is kinda a hard line we have to take with them**, and that is something they will call in and say ‘well, I’m just going to get this’ and you have to explain to them the whole process. So here it is working to back up each staff and the consistency because **they love to play staff against staff**. Well, I don’t know if they *love* it, but it works for them. Good cop, bad cop. ‘They let me do this, I’ve never heard of this, so and so told me...’ And when you ask who told you, they can’t say... So **consistency is important**, and it’s hard if you aren’t working on a shift with someone to know how they work, so um, the shift work is difficult. Communicating, we’ve gotten so much better with that by logging everything ‘cause it is all about document, document, document... You document your life away—Because in the end, it is all a legal thing, because we get monitored.”

—Patti, Residential Reentry Service Worker

Although Patti, like Trey, works as a frontline worker in a community-based reentry program with similar responsibilities, Patti tends to take on a rule enforcer role and emphasizes consistency, accountability, and documentation. Although Patti recognizes the frustration the subsistence process causes, she believes it is necessary to take a hard line with clients and be consistent for audit purposes and so clients cannot play staff against staff. RSPs complained about clients trying to “game the system” or be

manipulative<sup>24</sup>. On a few occasions while job shadowing, RSPs complained that some clients know the organization's policies very well and will use loopholes to their own benefit, call RSPs out if they do not follow policies, and use RSPs' deviations from policy against them. Consistency among staff and with policy helps RSPs address clients' criminogenic behaviors such as instrumental selective manipulation of staff and avoid conflicts.

The social worker role is typically associated with distributive justice rhetoric and is common among treatment-focused (i.e., rehabilitation-focused) organizations and RSPs who prioritized client-focused help to improve community. Conversely, rule enforcers are more commonly associated with corrections-focused (i.e., supervision and punishment-focused) organizations, rely on procedural justice rhetoric, and prioritize holding clients accountable for rule infractions in order to protect the community and maintain public order.

However, while some respondents strongly identified as either social workers or law enforcement, most identified with both social work and law enforcement roles and goals. For example, the Department of Corrections (DOC) is primarily supervision and control focused but criminogenic factors cross issues of health, mental health, substance abuse, employment, education, financial, and interpersonal issues. Thus,

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<sup>24</sup> This is similar to selective or strategic manipulation found among sex workers (Shdaimah & Leon 2015), women involved with drugs cultures (Anderson 2008), incarcerated women in treatment programs (McCorkel 2013), and welfare beneficiaries (Gustafson 2012). Although manipulation of others is associated with criminogenic thinking and behavior in general, RSPs accused women in particular of being manipulative. While attending in-prison workshops with RSPs at male and female facilities, members of the reentry workgroup would often complain that the male clients did not ask enough question or engage services but that female clients asked too many questions so that they could "work the system".



RSPs within DOC must take all of these issues into account if they are to effectively (and arguably fairly) treat those under their control.

“Poor DOC gets thrown under the bus all the time. They get hammered so excessively. **In the same breath you say ‘That person was on probation; why didn’t DOC do their job?’ But then in the same breath you turn and say ‘You need to be kinder to reentry’... It is a balancing act.**”

—Beth, Housing Service Provider

State and Federal criminal justice-based providers frequently talked about having to wear multiple hats and switch between being law enforcement-oriented and social service-oriented. The dual nature of their work is often part of organizational policies that call for supervision/control and rehabilitation (Sykes 1958; Kras et al. 2015; Taxman and Belenko 2012; Andrews and Bonta 2010).

RSPs who work for non-CJ community-based programs also described wearing social work and rule enforcement hats, needing to practice empathy and tailor treatment services to individual clients while also needing to enforce rules and hold clients accountable for their actions. Both approaches were seen as useful or necessary in helping clients: social work and rule enforcement approaches as competing *and* complimentary.

Similarly, Phillip talked about the balance between law enforcement and social work efforts:

“It really is, **it is almost like a dance...** When I first started working, people described it to me as a pendulum that you kinda hope to rest in the middle... **[Y]ou still have the law enforcement review and compliance part of the job no matter how well someone is doing,** and if someone is not doing well, well your law enforcement role is more exaggerated because you are doing more things, more office contacts, more field contacts, perhaps more drug samples or referring them to more programs... **Some of the programs are restrictive, so that puts them on the law enforcement side... So, those kinda straddle the line as well... It is a tough line to straddle.**”

—Phillip, Probation Officer

Despite the law enforcement-social work line being “tough to straddle,”

Phillip, like others, also reports liking this aspect of reentry work:

“I think that is what makes the job so interesting is having that different dynamic. Not being stuck into one thing or another thing... For probation work, I think if you are only interested in forcing people to comply with conditions, you are probably in the wrong line of work. You have to be interested in helping a person understand their faults and figure out how they can change and be more productive and to avoid going back to prison or being on the other side of a judge again...”

—Phillip, Probation Officer

RSPs often expressed feeling as though they had to simultaneously balance and quickly switch back and forth between multiple roles, not just one or two. One of the providers told me that during violation of probation hearings and problem-solving court status hearings, probation officers simultaneously wear three hats: social worker, police officer, and prosecutor. Many spoke about their roles as informal counselors or therapists, as it is not uncommon for RSPs to talk with clients about personal problems including substance abuse and family problems and to provide basic advice about interpersonal skills or financial well-being. For example, during a community-based workforce development session for women, a provider leading a discussion about identifying employment barriers quickly change gears and talk impromptu about healthy relationships and options for women who need to escape abusive relationships, all while handing out bus passes and holding one of the program participant’s baby on her hip.<sup>25</sup>

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<sup>25</sup> The sudden unplanned change in topic was due to a program participant sharing that she has trouble keeping a job because her partner does not want her to work and sabotages her employment opportunities by unplugging her alarm clock, hiding her

Although many RSPs must switch between dual or plural roles in order to do their jobs, their work environments may not support multiple goals in a meaningful way: one or the other is emphasized in the culture, use of resources, and performance measures. Probation and Parole includes law enforcement and social work-oriented ideals in their mission statements and has multiple efforts underway to improve the social well-being of people returning from prison to the community; however, the organization's primary emphasis is supervision, law enforcement, and public safety. Officers assigned to reentry programs that try to reduce recidivism through additional case management and social services for program participants expressed feelings of isolation, disconnectedness and lack of support from other officers. When I inquired about these sentiments, respondents often said that most people who work in P&P are interested in law enforcement more than social work, that recognition is given to people who catch offenders with drugs and money or work with law enforcement-partnered units—not to officers based on the number of probationers on their caseload who have employment, and performance measures focus on number of office and field visits, if the case supervision plans are followed, that probationers are monitored and abiding by the law and court orders.

Collaborative workgroups and inter-agency reentry initiatives often result in RSPs partnering to address shared goals, despite being diametrically opposed to one another in regards to professional roles and methods. Instead of viewing the other as complimentary, social worker and rule enforcer roles and goals are typically positioned as adversaries from opposite camps. When RSPs of different orientations

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phone, saying he will drive her to work without following through, constantly calling her at work, etc.

collaborate, especially if they are from different types of organizations (treatment vs. corrections-focused organizations), concerns over usurpation of power and influence arise, as do conflicts over which goals and methods should be prioritized. For example, community treatment providers frequently complain about DOC's approach (including their attire and attitudes), and DOC frequently complains that community treatment providers do not understand their jobs or the nature of corrections.

In one particularly heated meeting I attended, DOC and management from a partnered treatment facility got into an argument that demonstrated the division between CJ agencies and treatment organizations. The conflict involved whether a matrix of graduated sanctions should be adopted for participants of a particular interagency reentry program involving collaboration among DOC, the Court, and a community-based treatment provider that focuses on high-risk/high-needs probationers living in the state's highest crime-rate neighborhoods<sup>26</sup>:

Treatment staff: We think a matrix explaining potential sanctions and rewards for different behaviors would be helpful for us and our clients. Considering consequences of actions is an important part of addressing clients' criminological thinking, and we'll be better able to counsel our clients about decision-making if we know what consequences to expect.

DOC staff: We can't necessarily predict what the response is going to be. There are too many factors to take into consideration. We need to have a range of sanctions at our disposal to account for risk, nature of the behavior, if they're using and lying about it.

Treatment staff: Right, that's why we've included a range of responses within each part of the response matrix... They need to know if their behavior is going to result in incarceration or more treatment. We are trying to address

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<sup>26</sup> This exchange is a re-creation of the event based on observation notes I took in my car immediately following the meeting.

criminological thinking patterns. They can't make rational choices if they don't know what the consequences are.

DOC Staff: The consequences depend on the circumstances and what we feel is necessary to do our jobs safely and protect the community. This matrix is going to tell us how to do our jobs? We are responsible for keeping people safe.

Treatment staff: We are concerned about public safety too. We believe this approach will help avoid any issues.

DOC staff: You don't get it. If something violent happens, DOC will be held responsible—not you. You are coming from a treatment perspective; we are worried about public safety.

Treatment supervisor: That is insulting! Although you come in and police the people in our treatment neighborhoods, we [the treatment staff] live in these neighborhoods. We are a part of the community. Our children live here, around the drugs and the violence and the lure of crime. If something happens, it'll impact us directly and it will tarnish our organization too, but to say we don't care about people's safety....

DOC supervisor: How about we pick a date to discuss this again once we've had time to review it and give our feedback?

The DOC and treatment staff in this workgroup share very similar goals, but they come from very different backgrounds and orientations. From one-on-one conversations, I know DOC and the treatment staff largely share the same goals, and they generally share the same views on what they want for their clients, but DOC and treatment staff have different vantage points, tools, and power. DOC staff have few options in their discretionary toolkits and rely on increasing and decreasing control mechanisms to bring about behavioral change in clients. The proposed sanctions and rewards matrix could potentially disempower them by limiting how they use their discretionary toolkit; this in a sense is an attack on their authority and autonomy, and the DOC staff are concerned that it may tie their hands, keeping them from achieving their goals. Similarly, treatment staff also have limited options in their discretionary

toolkits and rely on encouraging compliance through increasing treatment services, although without DOC they cannot enforce compliance.

Several months after the exchange over the matrix, the treatment providers and DOC representatives of this reentry workgroup seem to be playing on the same team, speaking openly and respectfully to each other, and mutually discussing the clients from a trauma-informed care approach. It is not 100% clear why this reentry group was able to move past early opposition between the two groups and learn to work well together, but individual personalities in the workgroup may play a large role. The mood of monthly workgroup meetings is impacted by which DOC and treatment staff attend. Improved relations between the two organizations may be due to reduced attendance of an RSP who caused conflicts. Additionally, each organization had at least one staff member who was very open, honest about their perception of the workgroup, and open to collaboration, which helped break down barriers between the two groups. For example, following a graduation ceremony of the workgroup's clients at the treatment organization, DOC and treatment staff discussed the event and how it could be improved in the future. One of the probation officers said calmly she thought the ceremony was wonderful and was happy to attend. However, she was hurt that every politician and bureaucrat attending the ceremony was given credit for the clients' success but that she and the other DOC staff that work hand-in-hand with the treatment staff were not mentioned at all. The treatment staff acknowledged her criticism as valid and said they would communicate more to their supervisors the importance of crediting the whole reentry workgroup.

As the reentry group developed better rapport and came to realize they shared many of the same goals, DOC and the treatment staff began to collaboratively use

treatment and control mechanisms in tandem to achieve outcomes neither group could do independently with just control or just treatment approaches: DOC advocated for trying to get a client out of jail as quickly as possible so he could be home for the birth of his child.<sup>27</sup> DOC and the treatment group agreed that being able to be there at his next child's birth could mean the world to him and his progress. But they all also agreed that the client had serious mental health issues and probably needed to be on medication.<sup>28</sup> DOC and the treatment staff collaborated on how to pitch their concerns to the judge and prison mental health staff to try and expedite an evaluation and prescription of medication for the client while also guaranteeing release for the baby's birth in less than a week. Instead of viewing each other, treatment and corrections, social workers and rule enforcers, as adversaries, the two camps were able to collaborate. This partnership was made possible through open communication, mutual respect and trust, and recognition that their discretionary tools could be used to achieve mutual goals through complimentary efforts.

### **Justice Dissonance and Perceptions of Legitimacy**

Prior research indicates that people are more likely to understand a law or policy as legitimate and act accordingly if they view the law or policy as fair or just. But justice

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<sup>27</sup> The client was described as very damaged from multiple life traumas including watching his mother be murdered, being injured in the attack as a child, and feeling as though he was a constant disappointment to his foster mother. He showed little affect and describing himself as “fucked up. Just fucked up”. His kids are the only thing that he has emotion about, but he time and again gets sent to jail shortly after impregnating a girlfriend and has missed every one of his children’s birth.

<sup>28</sup> They also briefly discussed his fascination with guns and gun tattoos. The treatment group said the client agreed he needed help but had refused to go to a mental health center or office because of fear he would be seen and lumped in with "the crazies".

and fairness have competing conceptualizations, and procedural and distributive justice can at times be at odd with each other. For instance, although it may be procedurally just to return to prison all persons who use drugs or alcohol in violation of their terms of probation, doing so may conflict with distributive justice sensibilities to be more understanding of substance use among addicts and to address substance abuse with treatment, not punishment which can contribute to addiction issues.

How do justice professionals reconcile contradictory expectations? I argue that this is best understood first by recognizing a cognitive process which I call “justice dissonance.” When RSPs must reconcile competing justice narratives and orientations to law and policy, they may switch justice narratives or orientations to reduce dissonance. RSPs fluid oscillation between procedural justice rhetoric and distributive justice frameworks is just one example of what I identify as justice dissonance. Like cognitive dissonance, justice dissonance is often undetected because people fluidly oscillate between various beliefs and arguments; however, this dissonance may become conscious or cause conflict in how RSPs conduct and experience their work. Negative side effects of justice dissonance include uncertainty in how they should proceed, negative emotions, and distrust in the system or loss of faith in the legitimacy of a rule, organization, or the system in general. At times, negative side effects from justice dissonance seem unavoidable for RSPs.

My data shows that RSPs are motivated to reduce justice dissonance because it can result in negative feelings, frustration, confusion, disillusion with the system, and burn out. Sometimes reentry professionals alleviate distress or feelings of unfairness rhetorically by oscillating between procedural justice rhetoric and distributive justice sentiments, punishment and treatment narratives, or goals to reframe services. But



there are active responses as well. RSPs may work to modify policy to reformulate how procedural justice and distributive justice sentiments are balanced in order to reduce justice dissonance or may change careers.

For example, RSPs frequently express difficulty and sometimes frustration with trying to balance competing roles, goals, and justice narratives. As mentioned earlier, Bobby, a Community Corrections RSP, stated “There is just an *unbelievable* amount of rules... to the extent that it does make reentry difficult... We are often boxed in by our regulation...” He also voiced frustration with trying to balance his role as a rule enforcer and desire for procedural justice with achieving positive outcomes for participants despite the challenges they face:

**“What troubles me often is that those guys that do get jobs, they are required to pay ¼ of their gross income in subsistence (rent), and that troubles me because if 1) if they are sentenced to a period of incarceration, then the government should assume the cost. The most important thing that bothers me is that that is another example of us setting up another barrier. Those who are in favor of this say it teaches them responsibility. Frankly they don’t know what they are talking about because their needs are so dire that every dollar counts... So, when they get out, they don’t have enough for a security deposit or to buy a car for transportation, and so they have the same set of problems, so we’ve held them back... That is a huge amount to the guy and can block their successful reentry—the very thing that is supposed to try and help them.**

Recently we had a guy... he owed \$80 [in rent]. Well, my employer wanted me to try to persuade the probation office to bring him back to court to send him to prison and make an example of him. **I said, ‘this is not happening. I can’t do that. That is *not* why I got into this.’**... I really hate it. It’s not, it’s what bothers me most about the structure. And this isn’t a hit on my employer, this is a national system. ALL of the half way houses in the federal system are required to collect rent; all the contracts the federal bureau of prisons has with these nonprofits collect rent. They are supposed to be penalized after 21 days and lose privileges [if they don’t find employment to pay subsistence fees], **but the reality is sometime you just can’t find anything.** So, I don’t try to really force those things when I know someone is trying. Now if someone isn’t

trying, that is a different story. **[So, you have some discretion?] Um... probably not, but I do."**

—Bobby, Residential Reentry Service Worker

Bobby is an experienced service provider who has worked in criminal justice and prisoner reentry for decades. He strives to teach accountability to his clients and typically believes in following rules; however, the subsistence fees charged by his organization and their desire to punish clients who do not pay does not mesh with Bobby's sense of distributive justice. Bobby feels that the organization and system create roadblocks for successful reentry despite supposedly being there to try and help them. When he "knows someone is trying," Bobby resists his organization and chooses to not enforce the policy as a means of reducing dissonance. This subsistence requirement is a persistent problem at Bobby's organization and was a contributing factor to him eventually leaving the program.

Similarly, Mary, an (ex)prisoner advocate and community organizer, expressed frustration about the rules and how they are enforced:

"I've had guys tell me **'Man, I was written up for a rule that I didn't even know there was.'** And I said 'Man, that is really a shame that they don't even tell you what the rules are before they write you up or give you any clue.' The next time he wrote me he was like 'You'll never guess what... **They posted the rules in the hallway where we are not allowed to stop** [to read them].' Formality. By law they have to be posted, but you are not allowed to stop and read them, because they posted them right there [in a hall] so **you can't stop so that they can have the control and power...** Sometimes the rules are severely enforced with this individual and blatantly not from another one. It is a very volatile situation.... **If you thought for one moment that you are a law-abiding citizen and the good guys are going to do the right thing, that's not necessarily the truth. They will cover it up but not fix it.**"

—Mary, (Ex)Prisoner Advocate & Community Organizer

Mary points out that people are frequently held accountable for rules they are not familiar with or that are inconsistently enforced. Organizations can post rules to make

them public, but if people are not given the chance to read them, posting the rules is only a formality. Because of her experiences with DOC, Mary sees officers' enforcement of rules as part of their struggle for power and control over inmates, not as part of safety and security measures. If the intention of the rules is to maintain safety and security, it would make sense for inmates to be allowed to stop and read the rules.

Mary's distrust in the system has grown as a result of the inconsistencies and unjust actions she has seen within the fields of corrections and reentry to the point that she views the system as corrupt, going as far to say "There are 30% of correctional officers who are wearing the wrong uniform"—that some of the officers should be inmates. Like Bobby, Mary's frustration with the system as a result of justice dissonance has negatively impacted her perception of the system's legitimacy. Mary states that DOC does not follow policy consistently and has too much discretion. Her sense that the system is unfair because of this lack of procedural justice has contributed to her feeling the system is corrupt and not legitimate.

### **Chapter Conclusion**

RSPs frequently expressed competing conceptualizations of justice and fairness, particularly those in line with procedural justice and distributive justice rhetoric, in supporting their discretionary decisions and following policies. Procedural justice and distributive justice are useful narratives for RSPs as they conduct their work, but RSPs can experience severe justice dissonance if they are unable to reconcile those differences and use them in a balanced or complementary manner.

RSPs expressed the importance of treating all clients alike so that it did not appear they played favorites or had biases and to achieve uniformity in procedures (for

RSPs' and clients' benefit), in essence arguing for procedural justice while also expressing the need to be able to approach individual cases differently to account for variation in need, risk, and outcome potential—a distributive justice argument.

Similarly, strict enforcement of rules was called for by RSPs to ensure service continuity and consistency, security, and accountability, but service providers also often argued that exceptions should be made for people with extenuating circumstances. For example, positive urine screens are grounds for violation of probation. While some RSPs would argue that all violations of probation should be filed (procedural justice), others argue that informal reprimands and graduated sanctions such as requiring more treatment should be allowed for people grappling with addiction and actively engaging in treatment in order to maintain the person's recovery in the community instead of punishing the person and further destabilizing their recovery.

At times, multiple sentiments were used to justify a particular rule or action, and sometimes these justifications did not conflict (ex. Procedural justice and instrumental justifications for enforcing rules). But sometimes RSPs oscillate between conflicting justifications and rhetoric, resulting in justice dissonance. At times RSPs are unaware of their own justice dissonance or that they are using conflicting justifications and rhetoric.

Justice dissonance can cause internal conflict including negative emotions, frustration and confusion, uncertainty in how they should proceed, helplessness or dismay, and anger. Dissonance can also cause conflict with clients, colleagues, bosses, organizational policies, and law. RSPs may lose faith in the legitimacy of a rule, organization, or the system in general. RSPs are motivated to reconcile justice

narratives and reduce justice dissonance, but inability to do so can lead to role adaption, advocacy efforts, or policy modifications or violations.

## **Chapter 7**

### **SERVICE PROVIDERS' PERSPECTIVES ON CHANGING REENTRY, LAW AND POLICY**

Often, professionals within the justice system are inadequately recognized for either their sensitivity to structural disadvantage or for their reform work within the systems they engage. Reentry providers often channeled their justice dissonance into reform efforts. For some, awareness of needed change has not translated to advocacy, but it clearly informs the way those professionals interact with their clients, as has been documented in other literature (Leon and Shdaimah 2012).

Reentry service providers described areas in their organizations, the system, and society in general that should be improved in order fulfill their reentry goals.<sup>29</sup> As this dissertation has already documented, RSPs are typically overloaded, have constrained resources, and strive to achieve unclear, inconsistent, unachievable, or immeasurable goals. As a result, they can be vocal about room for improvement. RSPs in my sample call for smaller caseloads and better resources to facilitate building positive rapport with clients, clarified goals and ability to balance competing needs through discretion, limited discretion and vagueness in rules, and clients and the

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<sup>29</sup> RSPs perspectives on room for improvement in the reentry field was expressed during interviews and job shadowing organically while talking about client needs and services and in response to direct questions. When I asked RSPs about improvements, I framed questioned broadly (ex. "If you could change anything in your field, what would it be?" "What would make your job better?") and used more specific follow-up questions for clarification of RSP's meaning.

public to have a better understanding of their work and the barriers they face as service providers. More broadly, reentry providers frequently spoke about the need for cultural and societal changes that would help prevent crime and reduce recidivism, including improving education, housing, labor, and health and social services. RSPs frequently promote these social welfare improvements for all people, no matter felony conviction history, stating they are smart on crime because they can prevent crime and are the humane thing to do.

In this chapter, I describe how service providers' legal consciousness, including perceptions of justice and fairness, relates to RSP attempts to change reentry policy and practices. I will discuss RSP motivations, methods, and challenges to changing reentry policies and practices by formally modifying reentry policy and informally changing reentry practices through discretion and role adaptations. I will describe three role adaptations RSPs use to change reentry outcomes and achieve justice. I will conclude the chapter with a discussion of how RSPs' legal consciousness and access to resources interact to influence how RSPs respond to what they perceive as unfair reentry policies and practices.

### **“It is in Your Power to Change Those Rules”: Changing Reentry through Law and Policy Modifications**

Some RSPs believe that needed change should come or can come through formal law or policy.

**“When I started you couldn’t get food benefits if you had a drug conviction... so we proposed legislation to opt out of that. The first year it was denied because people loved to say that’s “Foods for felons” or that’s “Hugs for thugs”. The next year we put it in as an economic bill: for every dollar you put into food benefits, that creates 5\$ in the economy, and of course legislators went for that.**

[So they wouldn't do it for the human need, but they would do it for the economic benefit?]

Right. At the same time, **you have the same legislators who want to reduce recidivism, and we are going to pass this law to make it harder for someone to work, to live here, we are also going to increase a fine or fee... They are constantly at odds that way... It is political: You look tough on crime.** We are going to punish those people, those bad people. And then also, people realized that incarceration costs a lot of money, it is decimating communities; most of the people you are incarcerating are African-American males between 24-35, so you are destroying their communities; you are removing black men from communities, and impoverishing people, and by extension impoverishing families, because families are the ones that are doing the financial support for people in prison, so you are taking money from people who already have money problems.... There is that we don't rehabilitate in prison; we incarcerate, and then when they get out, we punish, because we have all of these new barriers. We want you to get a job, but you can't work here. We don't want you to be homeless and we want to improve homelessness issues, but you can't live here."

—Michael, Social Service Provider

When Michael started working in reentry, people who had been convicted of a drug offense were barred from receiving SNAP food benefits. RSPs identify food stamps as being an important resource for many people returning from prison and that SNAP bans are a barrier to reentry and contribute to recidivism. The initial effort to have the state SNAP ban removed failed because the legislation was not perceived to be tough on crime and soft on convicted felons. Michael and his colleagues had better success getting their desired legislation passed by pushing the legislation the following year as an economic bill that saves the state money in the long run. Michael is acutely aware of how complicated state policy issues are: different constituencies and politicians have different concerns, and voters, tax payers, and those with power frequently look down on convicted felons, particularly those convicted of drug offenses, as undeserving of help. Policy makers frequently make policy that is at odds, such as



efforts to reduce crime and recidivism while cutting social programs that reduce crime and recidivism. RSPs have difficulty getting politicians and other policy makers to change reentry policy to remove barriers to reentry because of the cultural sentiment that this is ‘soft on crime’ and that it may open one’s self and organization up to political liability<sup>30</sup>. Thus, political, financial, and legal considerations impact RSPs’ perspectives on law and their ability to facilitate change.

Despite these obstacles, RSPs often are in a better position than the average person to facilitate change to policy and practice:

“[Interviewer: Do you try to change the laws and policies in place? Or do you try to work best within the existing rules?] Everything is subject to change from where I have sat. That is why we have the system in place... How can we better use our resources and funding and services? Um, if that means changing something, policy or legislatively, yes.”

–Tina, Reentry Services Planner

“Also, if you are a service provider, you can do something about if someone has a house or not. You can’t really do anything about them not being able to get a driver’s license. So I think it has as much to do about their capacity to help as much as if they think those things are important or relevant. From my experiences as an advocate, people get mad at the rules but they don’t really realize that they can *change* them. It is in your power to change those rules, so I think that is a mental barrier for advocates as for anyone else.”

–Sam, Reentry Services Planner

Tina and Sam both feel that RSPs are in a unique position to create change in reentry policy, and they are optimistic that improvements can be achieved. Tina and Sam’s With the Law legal consciousness is compatible with their job tasks; they work for organizations that focus on state-level issues and researching, and advising on policy

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<sup>30</sup> In the political arena, this is most closely associated with the Willie Horton fiasco and its political implications.

matters is a part of their assigned tasks. Their job tasks and organizational culture aligns with a With the Law legal consciousness and empowers Tina and Sam to make change in the CJS as a major part of their work. Conversely, RSPs who are overwhelmed with providing direct services and/or have little access to politicians or other formal policy makers are less optimistic about their ability to change the system:

“[What about lobbying? Do you or other organizations you work with make efforts to change the system?] [Respondent sighs]. I soooooo wish. **There’s not enough interest. Families are too busy existing trying survive.** If they are connected with their loved one at all, that time is spent visiting. Which that is another issue, that prisons do not make it family friendly at all. They make it difficult to keep those ties. And those ties are the thing to reduce recidivism straight up. Obviously, this makes too much sense, again. Um, I would really like to, but again, I’d have a good time calling up a Senator and saying “If you don’t, uh, you know put more money into education at [the prison] then I won’t vote for you next time.” Doesn’t have the same impact as 50,000 gay people marching on the Capitol of the United States to get the right to be married, yet **you can’t get 50 people never mind 50,000 because of the stigma.** For some it is the stigma. **For some they just don’t have the time because they are a single parent. For some they’re just, they don’t know, they’re scared, don’t trust.** Ya know?... **So, not a whole lot of advocacy going on.** I mean, we try, uh.”

—Mary, (Ex)Prisoner Advocate & Community Organizer

Mary believes there is a desperate need for change in the CJS, particularly regarding corrections and prisoner reentry; however, she feels relatively powerless to create change. Her perspective of the CJS and change is in line with an Against the Law legal consciousness. She does not have direct influence on policy makers, and lobbying efforts for stigmatized groups is difficult. Mary highlights that convicted felons are especially demonized even compared to other groups traditionally stigmatized and that it is difficult to get people to be sympathetic to their cause. The concentrated disadvantage among convicted felons, their families and communities, and the RSPs

and service organizations undermines organized movements for CJS reform and (ex)prisoners'/felons' rights.

Reentry service organizations in general are not strong political forces. RSPs are frequently ill-equipped to facilitate change in policy/law or practice without buy-in from the general public because they represent a stigmatized group and because service organizations, like their clients, typically suffer from concentrated disadvantage and resource deprivation. Such resource deprivation that limits political action includes limited financial resources, social capital (ex. Influence with those in power), or cultural capital (ex. Understanding of law, policies, and bureaucracy). For example, Mary does not have a background in law or the CJS and feels as though laws and policies are another language:

“There are others like me that textbooks and manuals are just in a foreign language so I don’t even comprehend to begin with so I’m lost ‘Lawyernese’ is what I call it.”

—Mary, (Ex)Prisoner Advocate & Community Organizer

Those who do not understand CJS bureaucracy (which increasingly includes social service organizations, NGO service providers, and insurance companies) are less able to navigate the system, achieve desired results for their clients, and effectively create policy changes. This is especially true for individual service providers who informally provide services and support to returning persons outside of any organizational structure and “off the books”.

These struggles to create change for stigmatized groups are not lost on Sam who believes RSPs can help bring about change to policy and law:

“Changing law is hard, and you need to have constituencies that can do that. .... I actually, in the old days, I had legislators look me in the eye and say “Those people don’t vote; they don’t live in my district, and I am not interested” SO that is hard... making sure that family members vote, that they

are active is important, but the fact remains that those groups remain geographically isolated, so not every legislator is going to have a critical mass of ex-felons in their families and in their districts just because of the way that we know that arrest and imprisonment patterns are. So, I'm a little careful when I start to talk about voting empowerment because I am not always sure how effective it is as a tool."

—Sam, Reentry Services Planner

Felon disenfranchisement<sup>31</sup> is directly related to disenfranchisement and disadvantage of communities. As Sam experienced, politicians and other formal policy makers do not prioritize (ex)prisoners'/felons' well-being nor the well-being of their communities because it does not politically benefit them. Because these issues are for the most part geographically and demographically isolated to subgroups of the community and because those neighborhoods and populations are already marginalized, they are disadvantaged in the political and legal arena. Sam's background in law and current position empowers her to address policy, but she is aware that her perspective is different than someone like Mary who does not have a strong understanding of the legal system and politics and who works primarily providing frontline services to severely disadvantaged individuals and communities.

Jason, who served five years in prison before becoming an RSP, is motivated to create major change in reentry policy and practice due to his own experiences and legal consciousness expressions that include those that are With the Law and Against the Law. Jason feels that public indifference is largely to blame for the current laws and policies but does not let this reality prevent his belief in policy change.

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<sup>31</sup> Felon disenfranchisement, although often used to refer only to legal voting disenfranchisement, also includes social disadvantage from legal voting disenfranchisement and other forms of concentrated disadvantage at the individual- and community-levels.

“You need a group; you need people; you need political power if you will. And with the public indifference... It is this massive indifference that I was going to write another letter about but haven’t gotten to yet. It is the massive indifference that kept me there for 5 years... I contacted many lawyers, ACLU, private lawyers, you can’t get a lawyer to help you pro bono with a prison-related issue, whether it is egregious lack of medical care or serious wrong doing. Period. The ACLU, they are so under staffed, it is crazy. You just get the form letter back saying ‘Sorry, we won’t get involved’ with rare, rare, rare exception...”

–Jason, Peer Support Specialist

Although Jason maintains the system is generally unfair and set up to favor the powerful, he is an advocate for working to change the laws and policies.

While some RSPs emphasize individuals as the most important unit of analysis for measuring change, they believe policy reform may be a more realistic place to put their efforts. As Michael points out:

“The person coming out of prison is the biggest element. I wish I could wave a wand and make everyone socially responsible and educated and ethical, but forget it. You have to learn those behaviors. My focus would be on legislature. I think those are little common sense things we could do to open people up to having work.”

–Michael, Social Service Provider

Michael feels that working to improve reentry through legal action is more practical and effective because individual actors are too varied and difficult to control. Other RSPs referred to this as “the human factor”. Reentry efforts already try to make everyone act like responsible, educated, and ethical members of society, but RSPs and the system as a whole cannot make people act that way. The only thing that is truly in the control of policy makers is the policy, so working to make smarter policy is the logical step.

Rose similarly feels that working to change policy is more effective in creating change in her clients' reality than working to change individual actions and/or social attitudes.

"Get them some employment. Make sure that person has food. And try to get them employment. And then the housing. They need a place to stay meanwhile, but that is a hard one... But I haven't even thought about changing an attitude. That never has even occurred to me... It takes a long time to change people's attitudes.... So, I think the attitude change is going to take a very long time, beyond my life time. Maybe I'm wrong, but if I go on past things... To me, if we get some laws changed so people can enter certain professions that they can't.... If we can open up things for them. Maybe by and by there be some change in attitude."

—Rose, Volunteer Human Needs Service Provider

Changing people's attitudes can be difficult and may take generations to convert into sustained cultural change; therefore, Rose focuses on creating change and improving reentry through political action. She regularly attends local reentry coalition meetings and town halls, and advocates for policy changes to politicians and RSPs in a greater position of power than herself. Both Michael and Rose are tasked with helping individuals but maintain skepticism regarding the individual or attitude change. They resolve this tension between professional goals and real world, another form of justice dissonance, by focusing on policy reform.

But this response to justice dissonance is not available to all reentry providers. Many RSPs have to be careful about how they advocate for change. If advocacy is not an explicit part of their job description or if an RSP's position is different from their employer's or manager's, or if their opinion is at odds with commonly held sentiments among other service providers, RSPs' jeopardize their jobs, access to clients, funding and/or ability to achieve desired outcomes for clients:

"Judges included, some, do not want to acknowledge there's a huge, huge

problem. ... this indifference that I mentioned, in that people don't want to acknowledge the problems in the prisons."

—Jason, Peer Support Specialist

"In my opinion, and maybe I'm just pessimistic, but I don't believe the state of Delaware has a real commitment to changing recidivism rate. The CJS would suffer, from the court stenographers, judges, police officers, presentencing investigators, etc. If you put a dint of 50% in the crime or recidivism rate, a lot of people would lose their jobs. What is the real commitment to see the recidivism rate cut in half? A lot of people would frown on that type of assertion, but that's my opinion from having been around for a while."

—Dwayne, Community-based Reentry Coordinator

Jason and Dwayne are both community members who feel that the problems with the CJS and prisoner reentry are a result of indifference and insincere efforts by other RSPs to change policy. They feel RSPs who are embedded in the CJS, which many view as a money-making operation, are not committed to reducing recidivism and improving reintegration efforts because it would lead to a reduction in demand for services, CJS personnel, and CJS funding. But Michael disagrees:

"All the departments and divisions are trying to push through legislation. In order to get legislation out there, they need to get legislators to bring it to the floor, so you have to figure out who to take it to. But it isn't my program, it is the governors program, that isn't my place to push it. You think it wouldn't come back?"

—Michael, Social Service Provider

Michael works as part of government agencies charged with reducing recidivism and advocate for prisoner reentry issues and reducing barriers to reentry and reintegration. However, due to constraints imposed by policy or informal expectations and potential for backlash, some RSPs like Michael are hesitant to advocate for policy changes or openly speak about problems within the system or their organization. RSPs are hesitant to appear to take a political stance on any matter when representing their organization, especially if they work for a government organization. Independent

community-based RSPs are much more likely than others to speak openly about their negative opinions of the system, a policy or practice, or an organization or individual person.

### **Changing Reentry through Discretion and Role Adaptions**

Another approach to resolving justice dissonance which emerged from the data involved changes within themselves and/or other providers over time. RSPs whose default orientation is atypical for their organization (ex. Primarily social worker oriented RSP in primarily supervision/control agency) generally either adopt the professional role and corresponding cultural toolkits of the workgroup or leave the organization. Adaption or termination may be the result of being overworked, feeling frustrated or disappointed with work outcomes, or conflict between competing roles and conflicting perceptions of justice and fairness.

One technique for reducing conflict is to consciously or subconsciously switch professional roles along with the corresponding cultural toolkits and justice narratives<sup>32</sup>. RSPs can maintain a balance between rule enforcers and social workers

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<sup>32</sup> Sometimes RSPs maintain rule enforcer or social worker roles and procedural and distributive justice schemas respectively, but resolve dissonance conflicts instead by shifting who the client is—that is to say that RSPs will sometimes identify individual current/former prisoners as their client and sometimes identify the collective group of current/former prisoners or the general public as their primary client. By shifting who is seen as the client, RSPs can maintain a social worker role and continue viewing decisions and policies as just via a distributive justice perspective despite the negative impact a particular decision or policy has on individual clients. For example, although housing specialists often want to help returning ex-felons (taking on the social worker role) and refer to housing bans against ex-felons as unfair and harmful to the individuals barred from assistance, housing restrictions are simultaneously justified using distributive justice rhetoric because housing specialists frequently view the general public, particularly other residents of a community, as clients in need of



and their corresponding justice narratives as part of their day-to-day work with people returning from prison or oscillate between the roles as deemed best to handle a particular client or problem. For example, an RSP like Adam who typically prioritizes the social worker component of his job may experience justice dissonance after evicting a client from a sober living facility for drug use. Adam may resolve this by temporarily adopting a rule enforcer position and rationalizing the decision through procedural justice or “rules are rules” rhetoric to himself, the client, and others.

As I have documented, service providers may reduce justice dissonance by oscillating between rule enforcer and social worker roles or by switching how they define their goals and success. But those who do not or cannot may lose faith in the system or question the legitimacy of a particular rule or policy-making body. They are also more likely to experience “burnout”. However, my data documents another kind of response to justice dissonance—adopting alternative or additional roles. In addition to identifying bureaucratic survivalists, as previously explored in the literature, my data points to the need to recognize new adaptations, what I call “underground advocates” and “vocational phoenixes”.

Bureaucratic Survivalists: “I can’t save them all, I can’t fix everything”

Some of the RSPs adapted to competing roles, goals, expectations, and justice narratives by adopting what Watkins-Hayes calls a bureaucratic survivalist approach (2009). According to her research with welfare caseworkers, *Street Level Bureaucrats*

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protection from ex-felons who may cause problems directly or via attracting undesirable visitors to the community.

who face competing occupational identities may deal with the situation by minimally investing in the system or outcomes in order to just get by. Similarly, my data shows that service providers who face competing roles and justice narratives may deal with the situation by adopting a bureaucratic survivalist approach. This approach is not a permanent adaption but an additional role in their discretionary toolkits.<sup>33</sup>

At times, RSPs expressed the need to keep their head down and avoid trouble long enough to retire or move on to another job. RSPs shared they did a particular thing in order to check a box, not because it had anything to do with achieving a particular outcome (at least not from their perspective) but to say that they did it, simply to avoid getting in to trouble:

“Getting them to bring in their paystubs, calculate [subsistence], bring in the money order, bring in copies of the receipts and their bills. **It is soooo much distress and frustration.** It really is. And grown people don’t like people telling them how to spend their money. ‘I went to work, I earned this paycheck. Why are you telling me I have to bring in a copy of my phone bill before I can pay my bill?’ And **I get it!** I sit there and let them go off for a time. And after a while I tell them, **I have to have copies of this stuff cause I’m gonna be getting audited.**”

—Ruth, Residential Reentry Service Worker

Ruth sympathizes with her clients and would rather not have to collect subsistence fees and documentation, but to prevent from getting into trouble when her organization is audited, she complies with the organizational rules. Ruth draws on her social worker toolkit when allowing her clients to “go off for a time”, but she also enforces the rule that she and her clients view as problematic. Her motivation is just to

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<sup>33</sup> Similar to legal consciousness as described by Ewick and Silbey (1998), RSPs' professional roles and corresponding cultural toolkits are polyvocal. RSPs oscillate between roles and concurrently express multiple legal consciousness and roles.

do her job and prevent getting into trouble; as such, her enforcement of the rules for this instrumental reason aligns her with a bureaucratic survivalist orientation. Similar to Ruth, other RSPs justify decisions and practices on instrumental justifications such as maintaining a program or partnership's standing, keeping one's job, and avoiding public outrage.

Before and after meetings and court sessions, I regularly heard providers discuss "getting by to get by" so that they could hopefully retire. For RSPs working for organizations with retirement plans, the idea was to hang in with their head down and go with the flow until they met retirement age. For others, however, survival in the field was not a short-term endeavor. Young RSPs and providers who did not have a retirement plan and savings or an upcoming career change to look forward to on the near horizon also expressed survivalist sentiments.

Adoption of the bureaucratic survivalist role is associated with instrumental motives and justifications for action. In addition to helping clients and employers, service providers must act to facilitate their own survival despite life struggles. Like everyone else, RSPs generally *need* to work to make ends meet and many of them have families to support. They may also be overcoming serious life challenges including their own criminal records, homelessness, addiction, loss of spouses and siblings to drugs/violence or medical issues. Although some disagree with policy and practice and want to see change, they do not see a way to make that happen without jeopardizing their position, organization, and/or ability to help others. They may consider other options like those of Underground Advocates (See below) but decline to violate rules because of fear of consequences or perceptions of law and policy's legitimacy.

“[How has getting involved in the reentry side of social services impacted you?] Well, it has made me more compassionate and empathetic for the whole spectrum of people involved in reentry, law enforcement, legislatures. Although I can spout off all the barriers, I understand why they exist. I understand the purpose for them existing and where everyone is coming from. At times **I have gone from hopeful to frustrated to despondent, like ‘why bother?’** you know? And I have to remind myself, and this has helped, my therapist told me a story about all these starfish who wash up on the beach, and ‘oh my god you have to save them’ so you pick up and throw them in the water. **If I help one person, I should be happy with that because I can’t save them all, I can’t fix everything. That has helped me professionally...** but it has also made me want to get another Masters, and this time I am thinking about social work LCSW cause a lot of what I do now is that.”

—Michael, Social Service Provider

Michael’s statement highlights how his perspective and approaches have changed throughout his career. Michael reports experiencing “compassion fatigue” at times because of how much he cares for and does for his clients, and his inability to save everyone causes great distress. If he fixates on his failures and problems with the system, he becomes ‘despondent’ and takes on a cynical expression of the bureaucratic survival orientation. By focusing on his successes, however, he is able to minimize dissonance and negative feelings and balance his goals and limitations. Michael’s reframing of his work has also contributed to his desire to go back to school and acquire additional skills so that he can help more clients effectively; this sentiment to develop professionally to improve service work is representative of vocational phoenixes.

### **Vocational Phoenixes**

“It took me getting here, and I was like ‘I don’t know too much [about reentry case management]; I need to keep educating myself’. This is so broad, mind boggling. There is so much that you need to learn about...”

—Olivia, Residential Reentry Service Worker

Many RSPs experience persistent stress from their work, especially when faced with competing roles and goals and associated justice dissonance. It is common for service providers to recognize inconsistencies, structural problems, and service limitations with the programs they work for, the criminal justice system, and our social structure in general, further complicating the complex and emotionally intensive work service providers conduct (Leon & Shdaimah 2012). Although some service providers who recognize structural problems chose to do nothing to address the issues (i.e., bureaucratic survivalists), some service providers actively pursue new tools for their discretionary toolkits via trainings, education, exposure to diverse perspectives, and collaborative workgroups. I use the term “vocational phoenixes” to refer to RSPs who pursue new discretionary toolkits to improve reentry services.

Along with great churning among reentry service clients, RSPs also churn through the system. Probation officers commonly switched caseload types (ex. sex offender cases, domestic violence cases, etc.) every few years, employees within state agencies frequently transferred from one facility to another within the department, and some service providers completely changed careers after years in the field but remain within the reentry field.

It was common for probation officers or other RSPs who work in the community to say they started in prisoner reentry efforts by working in the prisons, but they felt the environment was too restrictive—in part because of being locked in a facility, but also because service providers did not feel they could balance social work and treatment with the security and control focus in the prisons. Other probation officers started by working in the juvenile justice system but moved to working with

adults when they became weary of working with youth's families who were often deemed part of their clients' problem but not under the officers' authority.

Additionally, some of the education and social service providers started in probation and parole. One of the providers I spoke with who ran an employment readiness and job placement program told me she got tired of working as a probation officer because many of the people she supervised were in trouble because of poor employment prospects and she felt there were not enough job readiness programs willing to work with ex-offenders, so she cashed in her retirement and savings and started a non-profit workforce development program. Another RSP stopped working as a drug counselor in the prisons because she got tired of seeing so many women return to prison because they could not find and maintain employment, so she sold her house and started a women's program to address employment.

It was common among the prison educators that I spoke with that they had started in K-12 education, worked with special needs students, and then moved on to teaching within the prison system. The educators I spoke with referred to the school-to-prison pipeline and that they had seen an increase in the number of prisoners with mental health problems and/or learning disorders. But the educators I spoke with who started in K-12 special needs education also commented that they had graduated with their students from the public-school system to the prison system.

Additionally, it was common for providers to talk with me about wanting to go back to school so that they could change fields or be better at their current jobs. RSPs I spoke with were pursuing degrees in social work, correctional systems management, psychology, and education. Some were pursuing Bachelors and Masters degrees and

another is intent on completing a dissertation on employers and employment opportunities for ex-prisoners.

Occasionally, RSPs discussed wanting to move to federal agencies because they are seen as better resourced and more balanced between law enforcement and social work. Others dream of climbing the ranks within their existing organization so that they can influence policy more directly and bring about change on a larger scale.

Burn out is a common concern among RSPs, but the ability to change one's position within the field can allow service providers to reinvent themselves. Like a phoenix, some service providers have the ability to burn hot and then rise from the ashes of their former careers, reborn in a new role with new opportunities to bring about change and new challenges to face.

Underground Advocates: "I'm not sure of all the rules, but I'm sure I fudged one or two"

In addition to adapting to role conflict and justice dissonance by being withdrawn and pragmatic like bureaucratic survivalists or seeking out new avenues to achieve goals like vocational phoenixes, RSPs may also adapt by digging in deeper to the field so they can effect change and outcomes through strategic defiance<sup>34</sup>. Justice dissonance can lead to providers questioning existing rules and policies and in turn may encourage resistance to rules and policies. Bobby's statement above that he does not officially have discretion to waive subsistence fees for program participants but

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<sup>34</sup> Westerland and colleagues (2010) use the term "strategic defiance" in their discussion of what they term "strategic litigation" and "strategic auditing" but do not define the term. I use the term "strategic defiance" to refer to workers' selective violation of law or policy in order to achieve distributive justice.

that he will not enforce his organization's rules if it means sending someone who is trying back to prison is an example of an RSP experiencing conflict between competing goals, expectations, and justice narratives. As a result of justice dissonance, Bobby expressed that he was resisting organizational pressures to enforce program rules.

Similarly, while discussing her frustration with DOC rules and policies, Mary stated the following:

**"Sometimes the rules are severely enforced with this individual and blatantly not from another one. It is a very volatile situation inside. . . . I'm not sure of all the rules, but I'm sure I fudged one or two of them in helping to try and make some changes. . . ."**

—Mary, (Ex)Prisoner Advocate & Community Organizer

Mary and others reported "fudging" the rules at least on occasion because they felt the rules were unfairly enforced or in the service of distributive justice. While those who espoused a predominantly social worker orientation strove for particular outcomes *within* the confines of existing policy, the group I call "underground advocates" conduct their work *despite* existing policies. Underground advocates feel existing policies and/or practices are in conflict with other policies, informal rules, and their personal sense of fairness and justice.

While speaking with service providers who work to improve sober living housing options for previously incarcerated people with addiction issues, two providers expressed frustration with the lack of services available in the state, including the lack of in-patient crisis management or long-term treatment. When asked how they respond when faced with a client who is using drugs again, especially considering lack of resources in the area, the providers responded that they frequently advise clients to lie to treatment facilities in order to get services:



“The only thing I can do is... send them over to the rehabs, but if it is full, we send them to another place... I tell the people, ‘**You need to tell them that you are going to kill yourself**’. It is just the way they work; they have sections for drugs, but **that’s a shoe in** if they say they’re suicidal.”

—Adam, Housing Provider

“I’ve had similar situations where you have nowhere to take them and **you don’t want them sleeping on the street, so you take them to the hospital and tell them they need to tell the hospital that they are going to kill themselves** and that they need to stick with that story because they will try and talk them out of it.”

—Amanda, Housing Provider

Adam and Amanda advise people to claim they are suicidal in order to get into drug treatment facilities because there are not enough beds for people with addiction issues, and the state reserves bed space for people with severe mental disorders and those who are believed to be a threat to others or themselves. Although heavy substance users are a threat to themselves and risk over dosing, this is classified differently by the treatment facilities; therefore, to prevent an over dose and potential death, Adam and Amanda advise people who want to enter the facility and start treatment to claim they may intentionally take their own life—the potential of accidental drug overdose is not enough to get treatment and care. Amanda and Adam primarily act as social workers and adopt complimentary rule enforcement positions when issues arise; however, service providers like Amanda and Adam may also choose to violate organizational rules, serving as underground advocates in order to achieve rehabilitative goals.

## Chapter Conclusion

Many RSPs feel that solidifying rights and policy that supports making rights a reality for all people in the community is a necessary step toward changing social injustices exacerbated by public perceptions of people with felony convictions. Other

RSPs, however, feel formally changing law and policy will either be improbable to achieve through formal/traditional channels or not go far enough to overcome stigma and economic and political incentives for discriminating against people returning from prison (and felons in general) who are perceived as a risk, undesirable, and/or undeserving of equal treatment.

RSPs who feel the CJS and reentry policies are unfair but believe change can come through formal avenues, including lobbying for legislative action and advocating for organizational changes, express polyvocality legal consciousness: Against the Law coupled with With the Law legal consciousness. RSPs who express this combination of legal consciousness and have resources to do so work to change reentry policy and practice through traditional channels.

When possible, RSPs work within laws and rules to achieve their goals and oscillate between multiple roles and corresponding cultural toolkits (Swidler 1986). To facilitate conducting their work and minimizing justice dissonance despite conflicting goals and limited resources, RSPs typically oscillate between social worker and rule enforcer roles and their corresponding distributive justice and procedural justice narratives. If RSPs are unable to minimize dissonance through social worker-rule enforcer roles (Watkins-Hayes 2009) or distributive-procedural justice narratives, resulting justice dissonance may result in role adaptations in the form of bureaucratic survivalists (Watkins-Hayes 2009), underground advocates, and vocational phoenixes. Each of these role adaptations are additional roles to social worker and rule enforcer roles, and they provide additional cultural toolkits for navigating conflict in reentry work.

RSPs who experience justice dissonance because their work and service outcomes do not align with their goals and internal justice narratives may adapt as bureaucratic survivalists in order to “get by”. Bureaucratic survivalism, which is aligned with With the Law expressions can be motivated by feeling unable to meaningfully bring about change to unfair policy or laws (i.e., Before the Law legal consciousness) because the system is so vast, bureaucratic, and fortified by redundancy of controls (i.e., Against the Law). RSPs were also more inclined to adapt as bureaucratic survivalists if they were very reliant on reentry work for their livelihood (particularly RSPs working toward retirement benefits) and did not have professional or personal resources to use toward education, training, or other professional and service development.

When “doing due diligence” to mitigate risk or trying to covertly circumvent rules to achieve distributive justice (i.e., doing justice), RSPs violate policy. I call RSPs who violate policy to achieve distributive justice as underground advocates. Underground advocates believe the rules are unfair, that they are unlikely to get into trouble for violating the rule, and if they do, it would be worth it; in other words, RSPs who violate policy to achieve distributive justice are motivated by Against the Law and Before the Law legal consciousness. RSPs are also more likely to covertly violate policies as underground advocates when working around an organization’s rules if they are not solely reliant on the organization for income.

Finally, sometimes RSPs experience significant justice dissonance due to feelings that the system is unfair or they are inadequately equipped to achieve their goals (in line with Against the Law legal consciousness) but maintain a predominately With the Law-Before the Law legal consciousness expression. RSPs who are less

exposed to strong Against the Law sentiments from trusted others and have access to resources to continue adding to their cultural toolkits through education, trainings, and continued collaborations are more likely to adapt to experiencing justice dissonance by adapting like a vocational phoenix by digging into the field deeper and acquiring additional resources and professional toolkits. Access to resources for professional development motivate RSPs to adapt as vocational phoenixes versus bureaucratic survivalists.

## Chapter 8

### SERVICE PROVIDERS' SITUATED LEGAL CONSCIOUSNESS

“In the beginning, I didn’t care about the population... ‘The criminals’, who cares? And I knew nothing about the systems... Regardless how I feel in the beginning, if I have a goal, I’ll commit myself to that, and the goal was to reduce recidivism. So, the more I learned about the population and the obstacles set up against them, the more I learned about the absurd rules against them. I became very passionate—you could almost say an advocate for them...”

—Michael, Social Service Provider

Reentry Service Providers generally have considerable discretion in how they conduct their work and in determining who should receive various kinds of social and supervisory services. My findings demonstrate that RSPs take numerous factors into consideration when making these determinations, including organizational goals and policies, resource limitations, client history and current characteristics, safety and liability concerns. Further, I show that RSPs’ are more willing to help those they are sympathetic toward, but sympathy and understanding are largely influenced by the information RSPs have access to, cultural toolkits (Swidler 1986), and RSP positionality. Job-shadowing and other ethnographic data supports the classification of clients into more and less deserving categories. Clients who are perceived as deserving of help because they “didn’t have a chance”, are trying, and do not act entitled or present a risk are more likely to receive help. Such perceptions are determined by RSPs’ personal biases and limited knowledge of clients’ history and personalities.

For example, I attended an information session for probation officers to learn about the State's reentry initiative to reduce recidivism, including information about official documentation, food stamps, and Medicaid eligibility, services, and processes. Throughout the information session, POs asked questions and made comments about the initiative and the eligible population, and opinions ranged considerably. Some POs present, like Liz who is a representative of the state's reentry initiative, took a very caring approach when discussing clients. Liz illustrates Watkins-Hayes's (2009) social worker role. She encouraged POs to identify who on their caseload is a part of the initiative and refer them for services. Although this requires more work on the behalf of POs, Liz argued that connecting clients with services could reduce strain that contributes to recidivism. At the other end of the spectrum were POs like Kenneth who expressed concerns about engaging probationers with the reentry initiative because he already feels overburdened by the supervision/control and administration tasks for which he is responsible. Kenneth does not think clients should receive free help and believes probationers need to learn accountability and responsibility through supervision and hard work. Kenneth illustrates Watkins-Hayes's rule enforcer, and he made it a well-known<sup>35</sup> point that he disagreed with tax money going to probationers in the form of waived fees, Medicaid, food stamps, job training, etc.

During the information session, Kenneth brought up one of his probationers.<sup>36</sup>

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<sup>35</sup> Kenneth was vocal about his opposition to using resources to assist probationers to the extent that the Liz started jokingly telling him to cover his ears before she would say anything about money (ex. How much money in bus tickets can probationers receive? How much does each birth certificate or photo ID card costs the state?).

<sup>36</sup> This dialogue is a re-creation of the event based on field notes.

Kenneth: I have an offender who just got released after 29 years. He's going to work, following the rules, but he has a sense of entitlement that needs to be checked. He's called me multiple times about housing assistance, saying I'm not doing my job because I'm not helping him find housing. That's not my job, and he needs to change his thinking, stop being so entitled.

Liz: [laughing] He called me too, blaming me and his PO—you [Kenneth]—for him not having what he wants.

Kenneth: Really?! This guy...

Liz: I had to correct his approach. I told him he needed to change his thinking and instead of demanding housing, he should ask for help.

Kenneth: I'm sorry. I'll have a word with him.

Liz: Don't worry about it. He called me back later and apologized for his earlier approach.

Kenneth: No kidding?! Good for you. [laughing]

Although Liz illustrates Watkins-Hayes's (2009) social worker role, she quickly oscillates to being a rule enforcer when dealing with a demanding client. RSPs complain about clients having "a sense of entitlement" and are less inclined to provide desired social services for clients they deem as acting entitled. RSPs are more inclined to use tools from their rule enforcer discretionary toolkit when working with "entitled" clients; the social worker role then is reserved for clients who the RSP deems deserving. On the other hand, RSPs like Kenneth whose default orientation is in line with rule enforcement may use tools from their social worker discretionary toolkit for clients who give service providers deference and who appear humble and grateful.

Kenneth: I don't see why we are throwing all this money at them. Some don't want to change and will just keep taking advantage of the system.

Liz: Yeah, but some people do want to change, and some people never had a chance in life. Sometimes people just need a little help.

Kenneth: That's different. I get it in some cases. Like, I have this one guy, he never had a chance. His mom was a prostitute, supported a pretty hefty habit. The shit this kid saw growing up... He never had a chance, but he doesn't act entitled and disrespectful. As long as he is trying and doesn't try to take advantage, I'll try to help him out. But people need to show they want to make a change.

Liz: I hear you. Some of them can talk a good game but you know they aren't ready to change. But when they really want to turn things around, you can tell.

This conversation<sup>37</sup> between Kenneth and Liz highlights how POs and other RSPs' perceptions of their work and goals, clients, reentry initiatives, and broader political and economic issues influence interactions between clients and RSPs, ultimately impacting services and possible reentry outcomes. Kenneth works primarily as a supervisory officer with probationers in the community while Liz primarily works with incarcerated men and women to establish reentry transition plans. Kenneth is more aligned with the rule enforcer role and corresponding procedural justice, supervision and control, and accountability rhetoric, and Liz is more aligned with the social worker role and corresponding distributive justice and help rhetoric; however, both Kenneth and Liz switch between the orientations and associated cultural toolkits depending on their perception of clients, resources, and fairness.

This difference in orientations is contextual: Kenneth and Liz have different situated knowledge about their clients and reentry in general because of their positions. Supervisory officers like Kenneth often have strained relationships with their probationers who often do not want probation services. Much of the information Kenneth has about clients is from their case files because probationers frequently do

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<sup>37</sup> This dialogue is a re-creation of the event based on field notes.



not want to share sensitive and embarrassing information relating to prior victimization, illiteracy, or drug addiction because it may be used against them. Liz on the other hand performs in-reach, talking with incarcerated men and women about their future needs and offering optional services such as housing referrals, and legal documentation. Because of their different positions, Liz and Kenneth sometimes see different sides of their clients, and because they have different responsibilities and access to resources, Liz and Kenneth have different tools available to serve probationers and elicit change in clients' behaviors. When Liz and Kenneth talk about particular clients and situations, they agree on their assessments of clients and appropriate services, but because of their situated subjectivity, access to information, and interactions with clients, they have vastly different assumptions about clients in general and how to approach reducing recidivism.

While prior literature has shown policy and use of standardized assessments provide some sense of objectivity and perceived equal treatment of clients (through a procedural justice understanding of fairness), my work incorporates analysis of how RSPs' discretionary decisions come down to their personal opinion of clients' deservingness, risk, and potential success. These subjective determinations as well as RSPs' justice and fairness narratives, potential justice dissonance, and resulting discretionary decisions are influenced by RSPs' contextual positionality. This in turn is influenced by their social position, identity, and social distance from clients. RSPs' and their perspectives are influenced by an intersection of their own experience and knowledge about prisoner reentry and the system, felony status, peer relationship with clients, professional identity and position within bureaucratic systems.

This chapter highlights common backgrounds, identities, and positions in society that influence Reentry Service Providers' understandings of reentry policy, clients, and fairness impacts their discretionary decisions. My data show that RSPs' paths to the reentry field, felony status, prior victimization and perpetration experiences, and cultural competency make RSPs more empathetic to clients. Peer RSPs who have previously been incarcerated and have a felony label are generally empathetic to clients and call for holistic approaches to reentry services; they express polyvocal legal consciousness, preferring procedural justice to discretion. Peer-support RSPs help bridge RSPs' justice narratives and clients' in efforts to bring about services deemed fair by clients and RSPs. Non-peer RSPs are also capable of empathizing with clients' perspectives of fairness and expressing polyvocal legal consciousness. RSPs who are capable of code switching and polyvocality in collaborative workgroups are uniquely able to influence the legal consciousness and service outcomes of diverse RSPs and service organizations.

### **Reentry Service Providers' Roads to Reentry**

RSPs' understandings and perceptions of reentry, returning persons, policies, and fairness/justice are largely influenced by how RSPs came to work in the reentry field. Although some people aspired to working in the field, many stumbled into the field, and some were thrust through reentry after their own incarceration and release from prison and chose to help others following in their footsteps. RSPs' different roads to reentry greatly influence which aspects of the larger reentry picture are familiar to them, how understanding or empathetic they are of various actors in reentry, and what RSPs feel should be done to improve reentry.

“I wanted to work hand and hand with offenders...”

Service providers traditionally associated with prisoner reentry include probation officers and prison counselors. Those I spoke with felt drawn to working in the criminal justice system field and had actively sought out jobs in corrections.

“I started with the department in the institution... I worked as a VHR [Vacation and Holiday Relief], which allowed me to work with all the units within the prison, about 20-30 different positions... which got me very acclimated to all the procedures and duties within the institution. From there, I resigned and took a position outside the state as animal control... It allowed me to work statewide, do field operations, and conduct investigations and working more on a police line of work... Now I have the experience working in the field, doing investigations; basically, I had the skills to be a probation officer, plus the background experience of working in the prison, so I was well rounded... The police field never interested with me. I wanted to work hand and hand with offenders. I looked at profiling work way back then, so by going to work in the institution, I would be able to learn the behavioral patterns of the offenders. That was a perfect starting spot for me. So as soon as I got my associates, I applied. It was planned. Heh, it was planned.”

—Laura, Probation Officer

As Laura explained, she intentionally gathered the experience she needed in order to have the institutional knowledge for effective work. For Laura, working in corrections is her life’s passion, “I wanted to work hand and hand with offenders.”

Similarly, Karen felt a drive to work in corrections:

**“I actually grew up with someone very close in my family who had substance abuse/addiction and criminal history. That pushed me into CJ and to study it and see why,** cause I didn’t understand, my family didn’t understand, so then as soon as I graduated, I worked in the prisons for about 3 years... **I just made it my goal that I was going to get here** [probation] because this is ultimately what I wanted to do. I felt like inside the prisons all you do is just enforce. There is no, I feel like I can’t help them. So as much as there is 2 roles: the enforcement role and there’s like “I want to help, I want to make these men’s and women’s lives better” and how can I do that inside a facility. I can’t. New information, so here I am.”

—Karen, Probation Officer

Karen was drawn to corrections because her brother struggles with drug abuse. She initially worked as a correctional officer in the state prison and work release facilities but did not feel she was able to help “make these men’s and women’s lives better” because of the institutional focus on rule enforcement and control. She transitioned to probation seeking a work environment that is less aligned with rule enforcement and more focused on helping people.

While some of the reentry service providers, like Laura and Karen, intentionally signed up for working with incarcerated or formerly incarcerated men and women, many service providers, like Michael, had reentry thrust upon them, and had no background or interest in working with incarcerated and formerly incarcerated people:

“[How did you get involved in reentry, especially coming from social services?] **I was told to. In the beginning, I didn’t care about the population, couldn’t care less, you know “the criminals”, who cares. And I knew nothing about the systems and how education, labor, etc. interactions.** Once I started learning about how corrections works, and how education and labor work in the system, how housing doesn’t work in the system, and how my department interacted with the system, it just became very interesting to put that together. How do you get everyone to work together, get the community to work together? And as I learned more about reentry... **Regardless how I feel in the beginning, if I have a goal, I’ll commit myself to that, and the goal was to reduce recidivism. So, the more I learned about the population and the obstacles set up against them, the more I learned about the absurd rules against them, I became very passionate, you could almost say an advocate for them...**”

—Michael, Social Service Provider

Previously, service providers who worked for social service agencies had few interactions with prisoner reentry efforts. Eligibility restrictions barred many if not all convicted felons from accessing public benefits, and informal barriers also prevented service providers from assisting convicted felons and people returning from prison. In

recent years, however, especially in connection with rising concerns over mass incarceration and recidivism and the availability of Second Chance Act funding for recidivism reduction programs, some service providers got to work one morning to find that their existing job now included a new task of working with inmates or former prisoners. Collaborative initiatives among Delaware's Departments of Corrections, Housing, Education, Labor, and Health and Human Services aimed at reducing recidivism and modifications to the state's public assistance laws have resulted in increased interactions between social service providers and former prisoners. Like Michael, many RSPs reported being more understanding of former prisoners and prisoner reentry issues after working in the field, but not everyone felt the same way. Some RSPs thrust into working directly with incarcerated or formerly incarcerated men and women felt uncomfortable working with the clientele, particularly sex offenders.

"How did you get involved in prisoner reentry?" "Well, when I hit the street..."

Interviewer: "How did you get involved in prisoner reentry?"

Jason: "Well, when I hit the street..."

Approximately 17% of the RSPs I spoke with received a different education to prepare them for their current work in reentry services: they experienced prisoner reentry firsthand as a result of a felony conviction. RSPs like Jason got involved with prisoner reentry by experiencing prisoner reentry. In the process of trying to recover and reintegrate back into the community, many formerly incarcerated men and women

seek out the help of others, and upon benefiting from that assistance, some choose to serve as peer-navigators and work in prisoner reentry-related fields.

“Life experiences and I guess a life calling [brought me here]. I used to be in the criminal justice system on the other side of the fence. Been through reentry. And I am an outlier in a sense because I was educated but still dabble, so going through reentry I was a little luckier because I was well-educated and got jobs easy. And because I gave everything up I kept jobs... I felt I needed to help them do what I did, so education, and trying to help them navigate reentry.”

–Sean, Peer Support Specialist

**“I’m a peer support specialist... Peer support means you’ve been through incarceration... I’ve been incarcerated and in drug treatment programs, on probation.** When I came home, I jumped right into the field of substance abuse and mental health and then went back to school... It’s a very unique job. But it is rewarding and it definitely keeps me on my Ps and Qs and living the right way. **So our guys look at me as someone who’s been through the system that they can related to and look at and see as a beacon of hope, be that person that they always wanted to be and achieve their vision of who they set out to be.”**

–Trey, Peer Support Specialist

Jason, Sean, Trey, and other RSPs with felony records often draw on their own experiences to build rapport with clients and understand their motivations and challenges. They are working in this field because they had experienced the challenges, overcome, and wanted to give back and help others in a way someone without firsthand understanding may not be able to do. Peer-support specialists tended to be very empathetic to people coming out of prison, recognizing the vast barriers to reentry and the emotional struggles involved, but they also emphasized the importance of returning persons needing to change their thinking and approach to life and to follow rules and work with the system instead of against it. Peer-support specialists generally acknowledged unfairness policies and practices within the system and expressed frustration with laws and policies, but they also generally advocated for

clients and service providers to follow rules in part for the sake of following rules, which is seen as an imperative to remaining in the community. In line with a social worker orientation, they advocate for holistic approaches to reentry and helping returning persons by providing copious social services. Although the social worker role is generally associated with distributive justice narratives, peer-support RSPs tended to prioritize procedurally just administration of policy:

“I think history has shown, when you give too much discretion to people, their personal stuff gets into it. You say ‘ex-offender,’ ‘ex-con,’ that ‘ex’ is negative, so you are asking a person to use their discretion on something that already has a negative connotation. So that ‘discretion’ kind of goes out the door unless they are in it for helping... So, I think **it should be a little more cut and dry. Yes, it may hurt a few people, but if it were cut and dry, at least the person can know that they can do this...**”

—Sean, Peer Support Specialist

Sean, like other RSPs who had been under the control of the CJS at some point in their lives, is critical of the CJS and frequently vocalizes Against the Law legal consciousness. Although peer-support RSPs recognize discretion is a useful tool for achieving desirable outcomes and to allow unique circumstances to be taken into consideration, they are also aware that discretion and policy can also be used as a tool of the powerful. RSPs who have not been through the CJS personally are much more likely to express With the Law legal consciousness and to view RSP discretion positively.

### **Cultural Competency and Concentrated Disadvantage**

Peer-support RSPs are in a unique position to provide reentry services, but other RSPs are also able to connect with clients and share similar legal consciousness through empathy, even without incarceration experiences and felony labels of their

own. For instance, RSPs with criminal histories but *without* criminal *records* have a unique position and ability to influence reentry services and outcomes:

**“I was molested as a child many times, raped a few times as a teenager. I did drugs and alcohol A LOT as a teenager. As a young adult... oh and sex. A LOT of sex. As a young adult, I made friends with a kid in the neighborhood who was 16; I was 21. [Technically] I’m a sex offender, but that was before the rules... He was my friend, and we hung out, and we smoked dope and drank, and he was comfortable, and it was easy... Um, I realized this wasn’t good because it was sorta what happened to me and that is why I am doing what I’m doing, so I stopped. ... Point being, why did I molest this kid? Was it because of my drug and alcohol abuse? No. It was because I was molested. ... You’re not a sex offender. It is something that happened, that you did and you should take blame for that, but knowing why—I wasn’t a slut. It was something that I did because of what happened to me. You can’t go forward until you understand where you were coming from... But to be defined your entire life by one stupid something you do at 16?... And that is the main barrier to reentry: to fix the problem that brought you to the point to commit the crime in the first place. If that’s not ever addressed, it’s not going to change...”**

—Mary, (Ex)Prisoner Advocate & Community Organizer

Because of her victimization as a child, Mary engaged in many risky and illegal activities as a young adult<sup>38</sup>. In hindsight, she identifies her own actions as similar to the crimes that she experienced, and empathizes with her clients. She now helps sex offenders and other highly stigmatized or socially isolated individuals returning from prison. Although she does not share the same stigma as her clients, she shares a similar history and identity to her clients who are registered sex offenders. Because she was able to understand her own substance abuse and promiscuity as a response to earlier victimization and because she then went on to commit acts that by current law would result in her being charged with statutory rape, she is more empathetic to convicted

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<sup>38</sup> Substance abuse and risky sexual activity including perpetrating victimization of others is a common response to sexual victimization.



sex offenders and advocates fiercely for rehabilitation and reintegration initiatives and support for people released from prison.

Mary is fiercely opposed to sex offender housing restrictions, registries, and notification requirements; in line with Against the Law legal consciousness, she views these policies as being oppressive and discriminatory controls. In an effort to change sex offender policy, she shares her critical perspective of the CJS with others. She also expresses With the Law legal consciousness by trying to change the CJS and reentry policy through collaborating with government agencies and advocating for collective action by citizens to encourage politicians and bureaucrats to change policy. Unlike peer-support RSPs who have been convicted of a felony and are largely disenfranchised, Mary can draw on her experiences with crime to facilitate services without her formal record preventing her from voting or obtaining access to records or clearances to conduct in-reach. In essence, Mary's understanding of reentry and sex offender policies and her ability to conduct her work and strive for justice reform are influenced by the intersection of her sex, victimization and perpetration experiences, and her clean criminal record.

Similarly, Sean's perceptions of the CJS, prisoner reentry, and social justice is situated in his understanding of race, history, power, and his own experiences as a black man who was incarcerated for felony drug charges:

“So, you can catch a crime when you are 20, and at 80 years old still of ‘poor moral character’. And when you look at when that stuff started: pre-Jim Crow. So is it remnants of the chain gang ... When the 13<sup>th</sup> Amendment came along, then the only way they could keep slavery legal is by felonies, if we keep that on, even when you come home, oh we have a working class forever... below working class because these guys are doing the jobs that the immigrants won't do, and they don't want to do that, so they go do what they know which is stuff that is detrimental to everybody...”

—Sean, Peer Support Specialist

Like a number of RSPs and returning men I encountered, Sean makes direct connections between modern CJS practices and racial disparities and America's history of racial segregation and subjection through post-slavery chain gangs and Jim Crow. I was surprised how often I found myself in conversations with RSPs (especially community-based service providers), inmates, and probationers about Michelle Alexander's *The New Jim Crow*. Most but not all of the service providers generally agreed with the argument and felt others should read it so they too would be aware of the vast structural racism and disadvantage that exists in our CJS, ideally leading to some form of change and improvement in criminal and social justice. A few RSPs agreed with the identification of structural disadvantage and racial disparities but said the book did not fairly or fully present RSPs' concerns. This subsample of RSPs emphasized safety, liability, resource limitations and the benefits of existing restrictive policies to society. They opposed conflating race and class with financial means, believing it may encourage clients to blame others for their circumstances and develop an antagonistic relationship with RSPs. Community-based RSPs who were African-American and/or convicted felons were more inclined to align with Alexander's thesis than white service providers with no records who worked in government agencies.

In my sample, formal discussions of race are largely absent among RSPs who work in government organizations; while in contrast, a few community-based organizations exist and operate specifically to help African-American clients and

communities in attempts to counteract structural racism and generational disadvantage<sup>39</sup>:

“When families throughout the course of years and years and years, men have been absent from the homes with the drug laws of the late 80s and the War on Drugs, it incarcerated a lot of black men, which made it difficult for single mothers to raise their children, and so now we centralize on those guys to come home and be great father figures and great community men. That is the premise for that. And of course, men in those zip codes have some of the highest recidivism in the state, almost the whole country. In the mid 70s. For every 7 of 10 men... So, the plan is to keep fathers home and be where they are supposed to be in their homes. That is why we centralize on the guys in those zip codes<sup>40</sup>.”

—Trey, Peer Support Specialist

Trey grew up in the community he now serves. He has seen the effects of the War on Drugs over the past few decades first-hand. Trey sees the high recidivism rates among people in his community to be the result of structural disadvantages perpetuated by an unfair system. He believes his clients need treatment, help, and support—not more rules, heavy policing, and adding on to already existing disadvantage.

In relation to his Against the Law legal consciousness that sees reentry practices as being unfair and restrictive, Trey encourages his clients to be the change they want to see in the world and engages in community building efforts to improve

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<sup>39</sup> Clients of all races are eligible for services, but few white clients live in the area services are provided.

<sup>40</sup> Due to generational residential segregation according to race, zip codes are a proxy for race. Trey’s organization focuses on clients who live in zip codes that experience extremely high recidivism, poverty, and violence. Although the organization does not base program participation on race, because of the demographics of the target zip codes and disproportionately high rates of African-Americans in the CJS, most of the participants are African-American. During my observations at the organization, all of the program participants were African-American men, and the staff was diverse.

reentry. Trey believes lack of access to legal professionals contributes to concentrated disadvantage, and as a successful African-American man, he feels he has the ability to be a resource for others in his community and help improve their life trajectories:

“I want to be a lawyer. Advocacy law. Part of it is, as a black man, we don’t, I don’t know too many lawyers. A lot of us in our community are represented by people who you can’t really relate to, ya know, and if I can be that person they can relate to and they had some understanding, then, and not to say that the top lawyers in the state can’t relate to our guys, but I don’t think they really understand what it is like to only have food from school and not going to school because I don’t have clean clothes and mom and dad on drugs... I don’t know if they can relate to that and understand why these things are happening. There are a few lawyers that aren’t a part of our culture and are good representatives, but at the end of the day, I want to be that guy. It has taken me 35 years to realize that, but I am here.”

–Trey, Peer Support Specialist

Trey’s experiences with the CJS have left him feeling that the system is unfair because most people without good legal counsel do not understand the system or their rights. He believes that lack of access to legal professionals and lack of knowledge about law and legal culture are additional forms of concentrated disadvantage along with poverty and racial discrimination. So, despite feeling the system is unfair (i.e., Against the Law legal consciousness), Trey wants to join the legal field (i.e., become With the Law); to Trey, the legal field is unfair because he does not know the rules to the game, and the system is unfair, because too few people from disadvantaged backgrounds have become lawyers and started to address disparities.

Although shared backgrounds, characteristics, and identities can help RSPs understand their clients (and vice versa), it is not always the case:

“You have a lot of agencies that say they are going to do this and that, but they don’t have the ability to do that. They don’t understand the culture. If you take a person who may have a Masters in human services, but if you have never interacted with people from that particular population, it will be difficult to reach them, and I’m not saying it’s a race thing because often young white kids

are more successful in reaching people...because they have no relationship with them while others will try to snowball them.”

—Dwayne, Community-based Reentry Coordinator

Dwayne has worked in law enforcement and community organizing for decades, and he has seen many CJ initiatives come and go. The majority of service providers in Dwayne’s area are white, and the majority of people returning from prison back to Dwayne’s community are African-American. Many returning persons underutilize reentry programs and needed services, which RSPs sometimes take as an indication that clients do not want to change. Dwayne on the other hand feels clients are not comfortable with RSPs, but he does not think “it’s a race thing” exclusively.<sup>41</sup> To improve services, RSPs need to be culturally competent, and clients need to feel as though they belong, are welcome, and feel respected; race alone does not equate to cultural competency.<sup>42</sup> Although shared cultural backgrounds and past experiences give peer-support RSPs an advantage to providing services to clients, non-peer RSPs

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<sup>41</sup> Like Trey, Dwayne believes the sterile, highly secured, or culture of some organizations makes clients feel uncomfortable and othered, especially when they have to submit to a security screening to access services. Clients are intimidated by the organization, the service providers, and/or the paperwork and processes it takes to receive services. RSPs should strive to make clients comfortable coming to them for assistance, and some of that involves having a warm and welcoming building, practicing cultural sensitivity, having RSPs similar and familiar to clients.

<sup>42</sup> Race alone cannot determine whether or not clients and RSPs will have good rapport, if RSPs will take a social worker or rule enforcer approach to providing services, or if they will invoke distributive or procedural justice narratives. For instance, RSPs struggle to understand and work with clients of their same racial group because of class differences and starkly different upbringings. Also, RSPs are at times stricter and less sympathetic toward people of their racial group because the RSP feels rule enforcement is what the clients need and/or the RSP feels the clients’ behaviors reflect on their racial group as a whole, and by default on the RSP who shares the client’s racial identity.

can build equally strong relationships with clients if they are knowledgeable about client backgrounds and perspectives, empathetic, but not assuming or gullible. Beyond being sympathetic to clients, Dwayne is calling for RSPs to be empathetic. Being knowledgeable about client perspectives helps RSPs empathize and includes understanding clients' complex legal consciousness that influences rapport building, service engagement, and compliancy with expectations and policy. It also includes understanding that clients and RSPs view justice and fairness through different lenses directly related to one's situated subjectivity in power structures.

### **Collaborative Reentry Workgroups**

As previously discussed, RSPs come from a broad range of organizations, service orientations, and positions of power, all of which influence their perspectives of prisoner reentry issues. In recognition that people returning from prison have vast needs that no one service provider or even organization can adequately address, reentry service provision is increasingly being conducted through collaborative reentry workgroups. Reentry workgroups include small team case-management approaches to providing services to clients within a single organization as well as large, multi-agency collaborative workgroups that include representatives from DOC, DHSS, DOE, DOL, multiple housing organizations, and various community-based treatment providers.

The organizations RSPs work for and collaborate with influence how RSPs think and talk about clients as well as what service approaches are considered for clients. Organizational culture provides service providers with cultural toolkits and influence when and how RSPs use various tools (Swidler 1986; Watkins-Hayes 2009).

By working as part of a reentry workgroup, RSPs increase information gathering and sharing among RSPs and expand the resources that are available to

clients. Additionally, working in a collaborative workgroup<sup>43</sup>, especially that includes RSPs of different backgrounds and orientations, exposes RSPs to additional tools for their discretionary toolkits, including different terminology to use, new ways of thinking about client needs and service provision, and a broader understanding of reentry issues in general. Exposure to other system actors and increased knowledge about other organizations' services and policies can increase collaboration, but it also directly exposes RSPs to competing justice narratives and corrections orientations, which can contribute to justice dissonance.

Collaborative reentry workgroups can benefit from inclusion of community members and peer-support RSPs. They help expand resources to state workgroups, including buy-in from clients, cultural competency, and perspectives of typically marginalized groups. Peer-support specialists in particular contribute to collaborative reentry workgroups by serving as an ambassador and interpreter with clients. In addition to exposing traditional RSPs to client perspectives, which are generally suspicious of corrections and mandatory treatment services and in line with Against the Law legal consciousness, and helping them understand clients' motives, peer-support RSPs can help explain RSPs' perspectives and policy to clients. Peer-support RSPs are fluently polyvocal when it comes to legal consciousness and professional roles.<sup>44</sup>

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<sup>43</sup> Power struggles between RSPs and service organizations also exist, especially if organizations are fighting for resources (ex. Grant money, clients) or when punishment/control tactics are used that conflict with treatment plan and vice versa.

<sup>44</sup> Peer-support RSPs' polyvocality and fluid role adaption may be aided by long backgrounds of code switching (Anderson 1999). Peer-support RSPs frequently discussed "the code of the streets" (in reference to norms of street life, not the book or theory specifically), and how they code switch as part of their professional work so

Inclusion of Against the Law legal consciousness expressions in collaborative reentry workgroups can cause conflict between RSPs expressing those sentiments and RSPs who default to a With the Law orientation. System actors may even take offense when Against the Law sentiments are expressed, especially if done so from someone with a criminal record who does not also couch this perspective in softening statements that place blame on structural inequality instead of system actors. Peer-support RSPs and others empathetic to client perspectives who understand state actors' perspectives and are fluent at code switching are particularly successful in fostering collaborative relationships.

Multi-agency collaborations have led to greater understanding and collaboration among service providers and identification of barriers to reentry and barriers to implementation of reentry best practices in the state. As a result, there has been an increase in MOUs between partnering agencies and modifications to organizational policies and procedures to reduce barriers and streamline services. RSPs are better able to refer clients to appropriate services at other organizations and explain to clients what to expect or why they are not able to receive services. Increased communication through collaborative workgroups seems to reduce but not eliminate RSP and client frustration with organizational policy and practices because there is greater understanding to what they are and why they exist. However, collaborative workgroups do not eliminate frustration and conflict, in part due to on-going limited resources and disagreement over ideal approaches to behavior modification and reentry.

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they can navigate the streets and connect with clients and be respected among RSP and other professionals.



## **Chapter Conclusion**

How RSPs perceive, experience, and conduct their work is influenced by the individual's positionality. Law and policy's legitimacy largely depends on individuals perceiving rules and legal processes as fair (Tyler 1990), and perceptions of law and fairness are contextual and largely dependent on service providers' situated subjectivity (Berrey et. al 2000). Findings in this chapter indicate that prisoner reentry service providers' understandings of clients, services, reentry policy, and justice and fairness—and resulting discretionary decisions—are influenced by or situated in context. Providers' professional identity, understandings of justice, and discretion are influenced by their situated subjectivity, including the intersection of their gender, race, felony status, and social distance from clients.

When RSPs perceive clients as being deserving of help—typically according to a personal or organizational judgement of neediness, worthiness, and riskiness—they are more inclined to make efforts to go above and beyond to help a client access services and use social worker and distributive justice rhetoric. Conversely, when RSPs perceive clients to be undeserving of help (or deserving of punishment, being “checked”) or risky, RSPs are more inclined to strictly enforce restrictive rules and use procedural justice narratives. RSPs tend to be more empathetic with clients they relate to or identify as deserving, which is influenced by RSPs' background and identity. In general, RSPs employ distributive justice narratives and the social worker role when working with clients they are empathetic toward. RSPs' empathy is influenced by client relatability, deference, and deservingness, which is based on limited information.

Shared backgrounds and identities facilitate rapport and communication between clients and RSPs and increase RSPs likelihood to express Watkins-Hayes's

(2009) social worker role. Peer support specialists are uniquely situated to provide services to clients because of their shared experiences to build rapport on and understanding of client perspectives. Peer-support RSPs frequently use their previous experiences, knowledge, and connections to street life or drug culture to build rapport and provide services in a way that is conducive to the realities of their clients' everyday lives. Because of their in-depth knowledge of the experiences clients go through and shared identity, peer-support RSPs are generally more empathetic to their clients and feel the CJS and reentry policy are unfair and unjust. Peer-support specialists' unique experiences with the CJS and RSPs results in a polyvocal expression of Against the Law and With the Law legal consciousness: Although frequently aligned with social workers and a holistic approach to prisoner reentry, peer-support RSPs, especially those who have been incarcerated, are cautious of giving RSPs discretion and advocate for strict adherence to procedurally just administration of policy. Instead of achieving distributive justice through discretion, peer-support RSPs advocate for bringing formal policies in line with what is distributively just. In essence, because of their prior experience being oppressed by law, they predominately express Against the Law perceptions of the system, and because of their negative experiences as the result of RSP discretion, they feel RSPs actions should be constrained by policy, which is in line with a With the Law legal consciousness orientation.

## **Chapter 9**

### **CONCLUSION**

#### **Summary**

The driving research question at the outset of this project broadly asked how service providers influence and experience prisoner reentry efforts and focused on RSPs' work experiences and perceptions of reentry issues (ex. client needs, barriers to reentry, recidivism rates, and services/assistance). As described in Chapter 4, often with inadequate resources, more demand than the organization can handle, unclear or conflicting goals and directives, and inter- and intra-organizational bureaucracy, RSPs work to assist clients through release from prison and reintegration into general society. At the core of reentry organizations' and RSPs' missions and actions is improving well-being of clients while protecting society, typically by trying to reduce recidivism through treatment or supervision services. Prisoner reentry when understood through a holistic lens includes social/treatment services *and* supervision/control services. RSPs generally concurrently possess and oscillate between CJ/Control and Social Justice/Treatment orientations and corresponding toolkits (Swidler 1986). CJ-oriented RSPs are similar to Watkins-Hayes's rule enforcers, and Social Justice/Treatment-oriented RSPs are in line with Watkins-Hayes's social workers.

The orientations and corresponding cultural toolkits RSPs prioritize influences how RSPs conduct their work. These competing orientations can be conflicting and complimentary. Reentry workgroups expose RSPs to additional organizational

cultures and individual perspectives. As a result, reentry workgroups can improve communication and services and influence RSP orientations. RSPs who work in reentry workgroups tend to use a holistic understandings of client reentry experiences and barriers and collaborate to make RSPs' services complimentary instead of unintentionally sabotaging one another's efforts.

As the project progressed, I refined the initial research question to explore influences on RSPs' discretionary decisions with an emphasis on service providers' roles and legal consciousness in connection to how providers experience and conduct their work. Specifically, this project seeks to explore how prisoner reentry service providers' legal consciousness relates to how they experience and conduct their work. This research objective was broken into three research questions:

Research Question 1: "How do prisoner reentry service providers perceive law, justice, fairness, and law's legitimacy?"

Law and policy are a salient part of prisoner reentry and reentry service providers' work. Clients and the field are legally defined and formally marked by the CJS, and much of prisoner reentry policy is codified in federal, state, and local laws, organizational policies, and interpretations of such rules. RSPs note that interpretation of complex rules and built in discretion allow great discrepancies between formal law applications of law and policy. This is often the result of RSP "doing due diligence" by using broad eligibility criteria for increases in supervision/control services and restrictive criteria for social/treatment services. RSPs work to reduce risk including potential physical harm; damaged public image/reputation; and limited opportunities for self, organization, or clients. RSPs are also very concerned about litigation and legal financial liability.

Reentry service providers' legal consciousness is polyvocal and fluid. RSPs expressed With the Law legal consciousness when presenting law and policy as a fair set of rules that everyone is required to abide by. With the Law legal consciousness was often used by RSPs when discussing client or system failures but stressing individual actors are responsible for outcomes. Similarly, "With the Law" legal consciousness was expressed by RSPs when they argued clients, service providers, and advocates must engage the system according to the established laws, policies, and norms if they want to access services, assist clients, and/or make changes to the system (i.e., use law and policy like a tool).

RSPs also understand law and policy as a tool used by others and express Against the Law legal consciousness. RSPs, particularly those who work in non-government organizations, often reflect the Against the Law perspectives of their clients and have an antagonistic relationship with law and policy. RSPs recognize collateral consequences to CJ policy and view collateral sanctions as unfair and restrictive policies that are intended to punish convicted felons beyond their formal sentence. Against the Law like criticisms of the CJS connect modern CJ practices to America's history of slavery, Jim Crow, and modern day "colorblind racism" that serves to create an underclass. Rights consciousness often accompanied Against the Law expressions of legal consciousness; many felt that current policies violate convicted felons' rights.

Despite the salience of law and policy in the reentry field, RSPs also express Before the Law legal consciousness. At times, RSPs seem to have a very distant relationship to law; sometimes law was discussed as something far beyond service providers' reach. Additionally, even after acknowledging expectations, they brushed

standing law and policy aside, arguing the rules did not matter because enforcement was very unlikely or because of conflicting rules or resource considerations made following the rules impractical.

As other research on legal consciousness has found, RSPs' legal consciousness is complex and fluid. RSPs maintain conflicting perspectives of law. For example, Jason viewing law as an oppressive tool of the powerful (i.e., Against the Law legal consciousness) and believing he can change reentry practices through bringing about formal change to law and policy through legal avenues. Additionally, RSPs frequently expressed competing conceptualizations of justice and fairness.

RSPs use procedural justice and distributive justice narratives when conducting their work. RSPs expressed the importance of treating all clients alike and to achieve uniformity in procedures, in essence arguing for procedural justice while also expressing the need to be able to approach individual cases differently to account for variation in need, risk, and outcome potential—a distributive justice argument. Like Ewick and Silbey's (1998) tripartite orientations to law, RSPs possess and use procedural justice and distributive justice narratives, fluidly switching between the understandings of justice as they conduct their work and justify their discretionary decisions and interpretations of policies.

Although competing perceptions of law or fairness often go unnoticed, RSPs can experience what I term "justice dissonance". Justice dissonance can include negative feelings such as frustration, powerlessness, anger, anxiety, etc. Severe justice dissonance can also diminish RSPs' perceptions of rules, organizations, or the system in general's legitimacy. RSPs are motivated to reconcile justice narratives and reduce justice dissonance, but inability to do so can lead to role adaption, advocacy efforts, or

policy modifications or violations. Those who do not effectively resolve justice dissonance may experience what is commonly known as burnout or employ techniques of neutralization.

Research Question 2: “Is there contextual variation in service providers’ legal consciousness, and if so, which factors impact when and how service providers invoke various forms of consciousness?”

RSPs’ legal consciousness is complex, fluid, and situated according to reentry service providers’ positionality and general perspectives. RSPs’ understandings of clients and services, law and reentry policy, and understandings of justice and fairness are influenced by context. RSPs are more inclined to go above and beyond to help a client access services and use social worker and distributive justice rhetoric if they perceive clients as being deserving of help—typically according to a personal or organizational judgement of neediness, worthiness, and riskiness. Conversely, RSPs are more inclined to strictly enforce restrictive rules and use procedural justice narratives when RSPs perceive clients to be undeserving of help (or deserving of punishment, being “checked”) or as risky. In general, RSPs employ distributive justice narratives and the social worker role when working with clients they are empathetic toward. RSPs’ empathy is influenced by client relatability, deference, and deservingness, which is based on limited information. Additionally, RSPs tend to be more empathetic with clients they relate to or identify as deserving, which is influenced by RSPs’ background and identity. RSPs are more likely to express distributive justice and social worker orientations when they have good rapport with a client and identify with them.

Peer-support RSPs frequently use their previous experiences, knowledge, and connections to street life or drug culture when conducting their work. Because of their

in-depth knowledge of the experiences clients go through and shared identity, peer-support RSPs are generally more empathetic to their clients and feel the CJS and reentry policy are unfair and unjust. Although peer-support RSPs, especially those who have been incarcerated, frequently aligned with social workers and a holistic approach to prisoner reentry, they are cautious of giving RSPs discretion and advocate for strict adherence to procedurally just administration of policy. Because of their prior experience being oppressed by law, peer RSPs predominately express Against the Law perceptions of the system, and because of their negative experiences as the result of RSP discretion, they feel RSPs actions should be constrained by policy. Instead of achieving distributive justice through discretion, peer-support RSPs advocate for bringing formal policies in line with what is distributively just and then adhering to procedural just implementation.

RSPs' legal consciousness is also influenced by their desire to minimize internal and external conflicts and risks. Even if RSPs view rules as unfair, RSPs are likely to comply with rules and hold clients to the same expectation when the RSP's work is likely to be verified or reviewed by a supervisor, review board, the media, or the general public. RSPs legal consciousness orientation to law is also dependent on their position of power, including within organizational structures and regarding the direction of law's use. RSPs are more likely to view policies as fair or necessary (With the Law) when they are to their own benefit and unfair and oppressive (Against the Law) when used by others in a way that negatively impacts the RSP.

Additionally, RSPs' legal consciousness can vary depending on who they are prioritizing. RSPs experiencing justice dissonance when considering a particular client's case may alleviate dissonance by refocusing on how their actions will impact



their clients in general. Similarly, although an RSP may view a law as unfair from their clients' vantage point, they may justify the policy by articulating the value it has for the RSP, service organization, or the general public.

Finally, RSP legal consciousness is influenced by reentry workgroups. Reentry workgroups expose RSPs to additional tools for their discretionary toolkits, including different terminology to use, new ways of thinking about client needs and service provision, and a broader understanding of reentry issues in general. RSPs who work as part of reentry workgroups are exposed to more varied perspectives and legal consciousness and are therefore more included to understand reentry, law, and justice in complex ways expressed through polyvocal expressions of legal consciousness. Against the Law rhetoric and admission to underground advocacy, however, are stifled around management within singular organizations and around DOC in multi-agency collaborative reentry workgroups.

Increased communication through collaborative workgroups has potential to increase exposure to competing justice narratives and reentry perspectives, which can contribute initially to justice dissonance. Collaboration, access to resources, and use of competing goals and justice narratives as complimentary can reduce but not eliminate RSPs' and clients' frustration with organizational policy and practices. Collaborations can also reduce justice dissonance, rule violations, and injustices in reentry policy and practice.

Research Question 3: "How do prison reentry service providers' understandings of justice, fairness, and law's legitimacy impact how they conduct their work and distribute services?"

RSPs are motivated to reconcile justice narratives and reduce justice dissonance in accordance with their legal consciousness and available resources. To

address dissonance, RSPs oscillate between social worker and rule enforcer roles and corresponding distributive justice and procedural justice narratives; they may also try to reduce dissonance through authorized exercise of discretion or by exceeding policy to “do due diligence” and mitigate risk.

RSPs unable to reconcile justice narratives and reduce justice dissonance may advocate for law and policy change through legal avenues. RSPs who feel the CJS and reentry policies are unfair but believe change can come through formal avenues express polyvocality legal consciousness: Against the Law coupled with With the Law legal consciousness. RSPs who express this combination of legal consciousness and have resources to do so often work to change reentry policy and practice through traditional legal channels, including lobbying for legislative action and advocating for organizational changes.

RSPs may also adapt to justice dissonance by taking on alternate professional roles and switching corresponding justice narratives. RSPs unable to minimize dissonance by oscillating between social worker and rule enforcer roles (Watkins-Hayes 2009) and corresponding distributive and procedural justice narratives may reduce dissonance by taking on an alternate professional role adaptations in the form of bureaucratic survivalists (Watkins-Hayes 2009), underground advocates, and vocational phoenixes.

Bureaucratic survivalists “get by to get by” is in line with With the Law legal consciousness but it is motivated by RSP frustration with policy or the organization (Against the Law) and feelings that RSPs are unable to meaningfully bring about change to unfair policy or laws (i.e., Before the Law legal consciousness) because the

system is so vast, bureaucratic, and fortified by redundancy of controls (i.e., Against the Law).

When “doing due diligence” to mitigate risk or trying to covertly circumvent rules to achieve distributive justice (i.e., doing justice), RSPs violate policy. I call RSPs who violate policy to achieve distributive justice as underground advocates. Underground advocates who violate policy to achieve distributive justice are motivated by Against the Law and Before the Law legal consciousness.

Finally, sometimes RSPs experience significant justice dissonance due to feelings that the system is unfair or they are inadequately equipped to achieve their goals (in line with Against the Law legal consciousness) but maintain a predominately With the Law-Before the Law legal consciousness expression. RSPs who are less exposed to strong Against the Law sentiments from trusted others and have access to resources to continue adding to their cultural toolkits through education, trainings, and continued collaborations are more likely to adapt to experiencing justice dissonance by adapting like a vocational phoenix by digging into the field deeper and acquiring additional resources and professional toolkits.

Access to resources for professional development motivate RSPs to adapt as vocational phoenixes versus bureaucratic survivalists. RSPs are also more inclined to adapt as bureaucratic survivalists if they were very reliant on reentry work for their livelihood (particularly RSPs working toward retirement benefits) and did not have professional or personal resources to use toward education, training, or other professional and service development. RSPs are also more likely to covertly violate policies as underground advocates when working around an organization’s rules if they are not solely reliant on the organization for income.

## **Implications and Recommendations**

Criminal justice scholars recognize service providers' influences on policy in action (Lipsky 1980, Watkins-Hayes 2009, Castellano 2009). Sociolegal literature on legal consciousness shows that *how* people think about law and policy influences how people engage with law, creating law in action (Ewick & Silbey 1998, Cooper 1995; Shdaimah 2009). Reentry service providers' legal consciousness influences their decision-making processes and resulting actions at the micro-level that determine the services received by clients and ultimately client outcomes. This project expands existing knowledge of service providers' interactions in reentry fields and individual-level decision-making processes to include SLBs' perceptions of justice, fairness, and law's legitimacy. In turn, we better understand why SLBs adhere to or resist policy and law: to achieve justice, reduce justice dissonance, and prevent burnout. This knowledge improves our ability to understand prisoner reentry experiences, including disparate receipt of services, recidivism, and reintegration among clients.

This project also expands knowledge of non-government service providers as SLBs (Smith & Lipsky 1993; Castellano 2009), which is needed as non-CJ personnel are increasingly involved with CJ professionals in prisoner reentry decisions and wrap-around services. Non-CJ services are important components of many collaborative reentry workgroups, and although they prioritize social justice/treatment and distributive justice orientations, they also engage in rule enforcement and maintain perspectives about reentry and justice in line with CJ/Supervision and control orientations that prioritize procedural justice and accountability over rehabilitation. Criminal justice and non-criminal justice service providers must balance rehabilitation and punishment/control goals; these goals can be contradictory and complementary. Specifically, this research challenges pre-existing understandings of rule enforcers as

efficiency engineers (Watkins-Hayes 2009)—in the current findings, efficiency engineers fall within the bureaucratic survivalist role—and expands the conceptual framing to include underground advocates and vocational phoenixes who recognize structural barriers and limitations to social work and rehabilitative goals and wish to challenge the status quo. Recognizing these underground advocates and vocational phoenixes both deepens our theoretical understanding and suggests policy implications.

Service providers are a vital part of prisoner reentry programs and policy. Their actions, approaches, and dispositions can significantly impact the reentry experiences and life chances of their clients. RSPs who adapt to conflict such as justice dissonance by taking on new bureaucratic survivalist, underground advocate, and/or vocational phoenix roles have the potential to undermine policy or organizational initiatives, but they also have the potential for developing innovative approaches to policy conflicts, resisting injustice and pushing for system improvements, and cross pollinating prisoner reentry bodies of knowledge and approaches. These findings provide important insights into how frontline workers navigate complex work environments in the field of prisoner reentry, including how they are impacted and how they affect corrections and reentry policy through discretionary decisions, creating law and policy in action.

Upon learning about RSPs competing roles and goals and the resulting role adaptations that can arise when justice dissonance negatively impacts RSPs disposition and/or perspective of rules or the systems legitimacy, some may call for efforts to separate rule enforcement and social work aspects of RSPs' work, emphasize one form of justice over the other, or call for policy reform relating to discretion; however, these

approaches are two sides of the same coin, competing but also complimentary aspects of trying to bring about change. It is impossible to completely remove one or the other from RSPs or their work, and trying to do so would likely not achieve change or a sense of justice. Social work and rule enforcement are both needed for RSPs to bring about change in the clients while also protecting personal, institutional, and societal interests.

Similarly, justice cannot be achieved solely through distributive justice or procedural justice approaches; both must be satisfied through fair rules and processing and fair outcomes. Although competing narratives, they can be complimentary in bringing about a sense of justice and improving perceptions of system legitimacy and social well-being.

Similarly, discretion and policy are needed and need to be limited. Discretion is greatly needed by RSPs in order for them to conduct their work and navigate conflicting goals and policies, and policy is needed to assist RSPs in discretionary decision and maintain order. Discretion is needed for distributive justice while policy is needed for procedural justice. If policy writers want to promote RSPs following the rules, it is important they develop rules that minimize conflicts between policies, that RSPs understand the reasoning behind rules and have opportunities to comment on and influence policies, and that rules are perceived as fair by procedural and distributive justice definitions.

Instead of trying to emphasize one role, goal, or justice narrative over others, RSPs and their clients would be better off if competition were replaced with collaboration. When underground advocates resist or defy policy or bureaucratic survivalists ignore policy, a gut reaction by many would be to fire them, pull their

security credentials, or sue them depending on the particular situation. In some situations, that may be the best approach. However, just as competing perceptions of justice and fairness exist within RSPs and prisoner reentry programs and policies, justice dissonance is pervasive in society in general. Instances of resistance, defiance, and disregard should be used as learning opportunities, as insights into the current structures failures and clues for system improvements. For example, instead of trying to force homeless shelters to house people on psychotropic medications by suing them for housing discrimination, we should ask the shelters about their motives<sup>45</sup>, and then ask the next question: “Why aren’t there adequate housing services available for members of our community with mental health problems?” Similarly, instead of being angry at an RSP who encourages a heroin user to lie about being suicidal in order to get a bed and detox services, we should keep in mind that the RSP is trying to save the client’s life, that intentional or not, heroin use easily results in death. We then should ask the next question: “Why are there not enough detox and in-patient treatment beds in the state?” And before we get up in arms at the state for not providing more housing and treatment options for those in need, we need to understand the many competing interests that influence taxation and state expenditures. Greater communication and collaboration to address our societal problems is needed.

RSPs involved with workgroups that promote collaboration over competition, rely on input from diverse perspectives, and view social work and rule enforcement efforts as complimentary approaches of equal value seem to experience fewer negative

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<sup>45</sup> I was told they do not have nursing staff and feel inadequately prepared to address instances of psychosis or if clients stop taking or have a negative reaction to their medications.

effects such as burnout from justice dissonance. However, even the most cohesive workgroups with well-balanced approaches experienced great frustration when they encountered implementation barriers such as lack of resources or legal restrictions or external organization policy conflicts without simple appeals processes. Input including perceptions of fairness, justice, and need for improvement should be included from frontline RSPs, non-CJ involved community members, and people returning from prison. Peer RSPs should also be integrated into reentry workgroups and frontline services. A better understanding of various individuals' perceptions of needs, policy, and justice is necessary in order to construct societal policies and programs that will be effective at promoting individual and community well-being and compliance with rules.

### **Limitations of Current Study and Areas of Future Research**

In-depth interviews of reentry service providers coupled with job shadowing and observations of reentry service locations provided incredibly rich data that has contributed to expanding the existing knowledge on prisoner reentry, legal consciousness, and service providers' roles in influencing reentry policy and practices. Despite the contributions this research makes to the field, the current study has limitations that warrant further research.

To begin with, this project relies on interviews from 35 reentry service providers. Although these service providers are a heterogeneous sample population, including social service and CJ personnel, government and private actors, pre- and post-release RSPs of diverse demographic backgrounds, they may not be representative of all RSPs in the State of Delaware. My reliance on purposive and snowball sampling and RSPs' agency in opting into the project may skew findings.



Due to access, I collected the majority of data in urban and suburban programs and service providers. Additional research is necessary to explore rural RSPs' legal consciousness. Also, the State of Delaware's reentry field may be unique due to the State's unified jail-prison system or state-wide interagency reentry initiative. Additionally, although I had access to all of the State's correctional institutions to attend in-reach services and had considerable access to community-based reentry workgroups, my observations of reentry services including discussions among colleagues or interactions between RSPs and clients were not completely random and were limited to what participants were willing and able to share with me.

The concept of legal consciousness is complex and difficult to research due to its abstract and fluid nature. Although RSPs' perceptions about law, policy, and justice and fairness are expressed and explored in the findings chapters and I was able to identify some patterns in expressions of legal consciousness, further research of service providers' legal consciousness is needed. Much of the prevailing literature on prisoner reentry and CJ in general present corrections as a hyper-bureaucratized system absent of human influence or agency; however, research on SLBs shows that frontline workers can play a significant role in carrying out and resisting policy. Additional research is needed on how service providers perceive policy and how to modify the system to bring about fair and just reentry practices.

Finally, future research is needed to more explicitly explore how RSPs' legal consciousness impacts service provision in specific organizational settings. I hope to extend this research project by looking more closely at collaborative prisoner reentry workgroups to understand workgroup dynamics including transference of orientations, justice narratives, and other cultural frameworks that influence reentry services and

outcomes. Additionally, I hope to further investigate reentry service providers' legal consciousness in public and emergency housing eligibility and appeals processes. Finally, efforts should be made to create survey measures and vignettes to help researchers systematically contextualize expressions of legal consciousness and measure the impacts of RSPs' impacts on reentry policy and practice.

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## **Appendix A**

### **LIST OF ABBREVIATIONS**

<b>Abbreviation</b>	<b>Definition</b>
BOP	Bureau of Prisons
CDHS	Center for Drug and Health Studies
CJ	Criminal Justice
CJS	Criminal Justice System
DHHS	Department of Health and Human Services
DMV	Department of Motor Vehicles
DOC	Department of Corrections
DOH	Department of Housing
DOL	Department of Labor
DSHA	Delaware State Housing Authority
I-ADAPT	Individual Assessment, Discharge and Planning Team
IRB	Institutional Review Board
K CPR	Kent County Partnership in Reentry
MOU	Memorandum of Understanding
NGOs	Non-Government Organization
P&P	Probation and Parole
RRC	Residential Reentry Center
RSP	Reentry Service Provider
SLB	Street-Level Bureaucrat
VOP	Violation of Probation

## **Appendix B**

### **RECRUITMENT MATERIALS**

#### **Project Title: “The Other Side of Prisoner Reentry: Service Providers’ Discretion and Perceptions of Law, Justice and Fairness”**

##### **Purpose of Research**

Although reentry and recidivism are popular focuses in public policy and academic research, far less is known about reentry professionals such as probation officers, case managers, service providers, and advocates who work with previously incarcerated persons as they return to the community. As part of an exploratory study, I would like to interview approximately 40 individuals and job shadow 10 people who work as reentry professionals in order to shed light on reentry service providers’ experiences, work, and perceptions. This research will contribute to understanding reentry professionals’ role in the reentry process.

If you choose to participate, you will be asked about your experiences working with formally incarcerated and/or currently incarcerated men and women as they transition from prison to the community. You will also be asked about what services and how services are provided to clients and about your opinions regarding prisoner reentry, needs, services, and processes. You may also be asked to participate in job shadowing in which a researcher would observe your day-to-day work activities. Participation in job shadowing is not required to participate in the interview.

##### **Eligibility**

To be eligible to participate in this study, you must be 18 years or older, have experience providing reentry services to soon-to-be-released and/or previously incarcerated persons, and cannot currently be detained/confined in a penal institution. Potential participants include, but are not limited to, case managers, social service providers, probation officers, and prisoner/ex-felon reentry advocates with knowledge of reentry services.

##### **Confidentiality**

Information gathered during the project is for research purposes only and will be confidential. To maintain confidentiality, all research participants will be assigned a pseudonym during data analysis and reporting and will only be referred to by pseudonym and/or general job title. Neither participation confirmation nor participant

responses will be provided to any individual or organization outside of the research team.

**Procedures**

If you decide to participate, you will have a face-to-face interview. The interview will include open-ended questions (similar to a discussion or conversation). The anticipated time of each interview will be approximately 1-3 hours and will be arranged at a time convenient to you.

You may also be asked to participate in job shadowing and allow a researcher to observe you as you conduct your work.

The content to your responses is intended solely for research purposes, and I will do everything possible to safeguard the confidentiality of your information in the research process.

**Contact**

Tanya N. Whittle, M. A.  
Graduate Research Assistant  
Center for Drug and Health Studies  
Sociology and Criminal Justice Department  
University of Delaware  
PH: 571-439-6182  
[twhittle@udel.edu](mailto:twhittle@udel.edu)

## The Other Side of Prisoner Reentry Project Overview

- This project will explore prisoner reentry service providers' work experiences and their perspectives on prisoner reentry and reentry services.
- Service providers who work with previously incarcerated people (ex. probation officers, case managers, employment and housing specialists, mental health counselors, volunteers, peer-support counselors, advocates, etc.) are encouraged to participate.
- Participation involves taking part in an interview about prisoner reentry and reentry services (1-1.5 hours) and/or job shadowing during work-related activities.
- Project results will contribute to the overall understanding of service providers' role and experiences in prisoner reentry.

Are you a service provider who works with people leaving prison?  
*Get Involved!*  
Participate in an interview about your work and prisoner reentry.

- Share your perspectives about prisoner reentry issues and services.
- Contribute to ongoing research focused on local reentry service providers' experiences and input.
- Candidates for inclusion have experience working with previously incarcerated people during their transition from prison to the community.

**Contact: Tanya N. Whittle, M.A.**  
Doctoral Candidate & Graduate Research Assistant  
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## The Other Side of Prisoner Reentry Service Providers' Role, Perspectives, and Experiences





## Appendix C

### IRB APPROVAL AND PARTICIPANT CONSENT FORM



RESEARCH OFFICE

210 Halliwell Hall  
University of Delaware  
Newark, Delaware 19716-1551  
Ph: 302/831-2136  
Fax: 302/831-2828

DATE: March 4, 2016

TO: Tanya Whittle, M.A.  
FROM: University of Delaware IRB

STUDY TITLE: [441053-4] The Role of Professionals' Perceptions and Discretion in Ex-Felon Reentry

SUBMISSION TYPE: Continuing Review/Progress Report

ACTION: APPROVED  
APPROVAL DATE: March 4, 2016  
EXPIRATION DATE: March 12, 2017  
REVIEW TYPE: Expedited Review

REVIEW CATEGORY: Expedited review category # (6,7)

Thank you for your submission of Continuing Review/Progress Report materials for this research study. The University of Delaware IRB has APPROVED your submission. This approval is based on an appropriate risk/benefit ratio and a study design wherein the risks have been minimized. All research must be conducted in accordance with this approved submission.

This submission has received Expedited Review based on the applicable federal regulation.

Please remember that informed consent is a process beginning with a description of the study and insurance of participant understanding followed by a signed consent form. Informed consent must continue throughout the study via a dialogue between the researcher and research participant. Federal regulations require each participant receive a copy of the signed consent document.

Please note that any revision to previously approved materials must be approved by this office prior to initiation. Please use the appropriate revision forms for this procedure.

All SERIOUS and UNEXPECTED adverse events must be reported to this office. Please use the appropriate adverse event forms for this procedure. All sponsor reporting requirements should also be followed.

Please report all NON-COMPLIANCE issues or COMPLAINTS regarding this study to this office.

Please note that all research records must be retained for a minimum of three years.

Based on the risks, this project requires Continuing Review by this office on an annual basis. Please use the appropriate renewal forms for this procedure.

If you have any questions, please contact Nicole Farnese-McFarlane at (302) 831-1119 or [nicolefm@udel.edu](mailto:nicolefm@udel.edu). Please include your study title and reference number in all correspondence with this office.

**University of Delaware  
Informed Consent Form**

**Title of Project: The Other Side of Prisoner Reentry: Service Providers' Discretion and Perceptions of Law, Justice and Fairness**

Principal Investigator: Tanya N. Whittle

You are being asked to participate in a research study. This form tells you about the study including its purpose, what you will do if you decide to participate, and any risks and benefits of being in the study. Please read the information below and ask the research team questions about anything we have not made clear before you decide whether to participate. Your participation is voluntary and you can refuse to participate or withdraw at anytime without penalty or loss of benefits to which you are otherwise entitled. If you decide to participate, you will be asked to sign this form and a copy will be given to you to keep for your reference.

**WHAT IS THE PURPOSE OF THIS STUDY?**

The purpose of this study is to explore service providers' experiences working with previously incarcerated persons as they transition from prison to the community. Participants will be asked about their experiences as reentry service providers, what and how services are provided to clients, and opinions about reentry needs, services, and processes. Approximately 40 participants will be interviewed and 15 participants job shadowed during the course of this study. This research will contribute to understanding reentry professionals' role in the reentry process.

You are being asked to take part in this study because you are a reentry case manager, probation officer, service provider, or advocate who works with previously or currently incarcerated persons reentering the community. To be eligible to participate in this study, you must be 18 years or older, have experience providing reentry services to previously incarcerated persons, and cannot currently be detained/confined in a penal institution.

**WHAT WILL YOU BE ASKED TO DO?**

- If you decide to participate in this study, you will have a face-to-face interview (like a discussion or conversation) about your work as a reentry service provider, including open-ended questions and a brief survey. Interviews are anticipated to take 1-3 hours and will be arranged at a time convenient to you.
- To facilitate a conversational interview, interviews will be audio-recorded with your permission. If you have something personal to say during your interview, you may at anytime ask that the audio recorder be turned off. Myself and my academic advisors will be the only people who will ever listen to the recording. Once transcribed, these audio recordings will be destroyed by deleting the audio files. If you decline to be audio-taped, I will still include you in the study but will take written notes instead.
- You may also be asked to participate in job shadowing for 5-15 hours in which a researcher would observe day-to-day service activities. Participation in job shadowing is not required to participate in the project's interview opportunity.



**WHAT ARE THE POSSIBLE RISKS AND DISCOMFORTS?**

- The content of your responses is intended solely for research purposes, and I will do everything possible to safeguard the confidentiality of your name in the research process. To protect your identity, I will only refer to you by professional title and/or pseudonym during the analysis and reporting process. I will not provide any recordings or transcriptions of your responses to any person or agency (e.g., government agencies, employers, or family members) unless legally forced to do so.
- Despite efforts to maintain strict confidentiality, it is possible that you will be inadvertently identified; however, risk is minimal. Although risk is minimal, there is the chance that comments made during an interview could make you identifiable to those within the field and may carry negative consequences.
- There might be a chance that you may have some emotional stress during the interview. You may decline to answer any question with absolutely no penalty. If you get tired during the interview, we can take breaks.

**WHAT ARE THE POTENTIAL BENEFITS?**

- There are no anticipated direct benefits from participating in this research; however, some may find sharing their opinions and experiences to be gratifying.
- Knowledge gained from this study may contribute to our understanding of the reentry process and reentry work more fully.

**HOW WILL CONFIDENTIALITY BE MAINTAINED?**

- Every effort possible will be made to keep all research records that identify you confidential to the extent permitted by law. Confirmation of your participation or any recordings or transcriptions of your responses will not be shared with any person or agency (e.g., government agencies, employers, or family members) unless legally required.
- Interviewees' identities will be protected by separating them from the interview data. In the event of any publication or presentation resulting from the research, no personally identifiable information will be shared. During the analysis and reporting process, each interviewee will only be referred to by professional title and/or assigned pseudonym. Research results may include paraphrasing and/or direct quotes, which will be identified with pseudonyms.
- Raw data will only be shared with my academic advisors for research purposes. Interview recordings will be deleted after transcription. Digital transcripts will be stored on a password protected hard drive.

Your research records may be viewed by the University of Delaware Institutional Review Board, but the confidentiality of your records will be protected to the extent permitted by law.

**WILL THERE BE ANY COSTS RELATED TO THE RESEARCH?**

- There are no costs associated with participating in the study.

**WILL THERE BE ANY COMPENSATION FOR PARTICIPATION?**

- There is no compensation for participating in the study.

**DO YOU HAVE TO TAKE PART IN THIS STUDY?**

Taking part in this research study is entirely voluntary. You do not have to participate in this research and participation is strictly confidential. Accepting and declining participation will not be reported to any person or agency (e.g., employers, government agencies, or family members). If you choose to take part, you have the right to stop at any time. If you decide not to participate or if you decide to stop taking part in the research at a later date, there will be no penalty or loss of benefits to which you are otherwise entitled. Your refusal will not influence current or future relationships with the University of Delaware.

**WHO SHOULD YOU CALL IF YOU HAVE QUESTIONS OR CONCERNS?**

If you have any questions about this study and/or this consent form, please contact the Principal Investigator, Tanya Whittle, at 571-439-6182 ([twittle@udel.edu](mailto:twittle@udel.edu)). You may also contact Dr. Chrysanthi Leon, dissertation committee chair, at 302-831-1236 ([santhi@udel.edu](mailto:santhi@udel.edu))

If you have any questions or concerns about your rights as a research participant, you may contact the University of Delaware Institutional Review Board at 302-831-2137.

---

Your signature below indicates that you are agreeing to take part in this research study. You have been informed about the study's purpose, procedures, possible risks and benefits. You have been given the opportunity to ask questions about the research and those questions have been answered. You will be given a copy of this consent form to keep.

By signing this consent form, you indicate that you voluntarily agree to participate in this study.

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Signature of Participant

---

Date

---

Printed Name of Participant

Your signature below indicates that you are agreeing to be audio recorded during this research study.

---

Signature of Participant

---

Date

---

Printed Name of Participant

## **Appendix D**

### **SITE OBSERVATION INFORMATION**

Delaware's State and Federal reentry courts operate as problem-solving courts that specialize in former prisoners, re-offenders, and recidivism. The reentry courts are intended to combine graduated sanctions and connection to resources to aid in reintegration; therefore, the reentry courts provide a unique opportunity to observe judges, probation officers, and other CJS and non-CJS agents deliberate clients' cases including VOPs, needed services, expectations of clients and understanding of clients' circumstances, etc. Additionally, I attended the State Superior Court's violation of probation hearings.

The Wilmington Achievement Center in Delaware aims to bring state and non-state reentry services together under one roof to make finding and obtaining reentry services easier for former prisoners. The "one-stop" reentry center is available to the public and provides services from a variety of state and private organizations.

A state initiative to bring state and non-state reentry services together to reduce recidivism is "I-ADAPT"; in addition to the Delaware Department of Corrections, the Departments of Housing, Labor, Education, and Health and Human Services are also involved. Monthly I-ADAPT steering committee and case management meetings lasting from 1-2 hours each were attended as were monthly workshops in each of the state's prisons. Monthly workshops in the prisons are held to serve provide participants of the State's reentry initiative information about housing, employment, probation, education, and health and social services as they prepare for release into the

community and to facilitate rapport building and referrals for resources. I attended workshops and case management meetings in all counties and prison in the state with the majority of observations coming from New Castle and Kent counties.

Kent County Partnership in Reentry is a non-profit organization that started as the community arm of I-ADAPT, although it runs independently of I-ADAPT. KCPR serves as a reentry coalition for local state-based, non-profit, and faith-based reentry organizations. It serves primarily as an information hub for reentry services in Kent County and conducts small-scale service projects such as providing Christmas presents for a former prisoner's family. KCPR meetings are held monthly in Dover and last 1.5-2 hours. I observed KCPR meetings intermittently for three years.

The RRC is the only federal halfway house in the state of Delaware and serves as the primary residential reentry center for all persons, male or female, returning to the state of Delaware from the federal prison system. The RRC aims to assist former prisoners with necessary resources but must balance social services with corrections. The RRC has been contracted to operate in Delaware for the past two years and has the capacity to serve 24-36 clients in-house.