The Assigned Counsel Plan of the City of New York
Co-sponsored by:
Appellate Division, First and Second Judicial Departments
Sponsored by:

Andrea J. Barrow, Esq. and Marc Culpello, Esq.

Supervised Release Program of the Criminal Justice Agency

June 13, 2013

Spring 2013

Continuing Legal Education
A BRIEF PROGRAM DESCRIPTION
QUEENS SUPERVISED RELEASE

NEW YORK CITY CRIMINAL JUSTICE AGENCY, INC.

WEB: WWW.CJ.NYC.EDU
PHONE: 646.213.2500
FAX: 646.213.2500

32 Duke Street
New York, NY 10007

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Research Brief No. 32
MAY 2013

A series of reports summarizing current research from CJA.

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ADMINISTRATIVE ASSOCIATE

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Successful and Unsuccessful Termination

Successful Termination:

- N = 100
- August 3, 2009 - November 30, 2012
- Number of Clients Served: 924
- 864 (66%) had 137 active participants
- Completed (66%)
- At the cutoff date, the program was 96% complete

Unsuccessful Termination:

- Program on probation, being designed on probation of program and momentary safety and may include a client's being held for court referral.
- The unsuccessful terminations occurred when the Court ordered an immediate arrest or re-arrest, as required by the Court.
- Revised, in cooperation with the Court, recommendations for mandatory conditions of supervision, such as supervision of probationers, conditions of employment, and other socio-economic activities.

Program Exclusions:

- Excludes persons having more than six months of supervision under probation.
- Excludes those who have a high risk for re-arrest or violation, as defined by the Probation Office.
- Violent, Emergency, and Methamphetamine offenses.

To address public safety concerns, the program

Program Evaluation:

- The supervision levels tiers and responsibilities are considered in lowering supervision, reducing the length of supervision, and other socio-economic activities.
Among those who had been recommended to the moderate FTA service, 29% were assigned to the Moderate FTA recommendation categories assigned to program CJA. Figure 4 illustrates the distribution of CJA recommendation.

18% were women (not shown). About 82% of program clients were men, and

Gender

thirds were under the age of 30. Many were 20 to 23 years of age (23%). Over two

months were 20 of younger (27%) and nearly as

number were 19 of younger (27%).

November (not shown). Monthly

Figure 2

August 3, 2009 - November 30, 2012

Figure 2 illustrates the pro-
Compared to those with mental health needs, those with substance abuse needs were significantly more likely to enroll in outside services (35%) compared to those with mental health needs (2%); 49% of those in need of substance abuse treatment were willing to enroll in outside services, and the proportion was even larger among the single-needed group (58%). Among those not enrolled, 13% of those in need of both health needs were not linked to any services, while 5% of clients with only health needs were not linked to any services. Most clients with substance abuse or mental health needs were not linked to any services.

A chart shows the types of services offered to clients in need of services for clients in need of services. The chart indicates that 55% of clients were assessed to be in need of one type of service, and another 17% were assessed to be in need of both. The chart also shows that 78% of clients were assessed to have both needs.

Figure 5 shows that the top four program changes made by clients were changes in employment, changes in living arrangements, changes in substance abuse treatment, and changes in mental health treatment.

Figure 6 shows the top four crime categories of the top program changes made by clients. The categories are property offenses, violent offenses, drug offenses, and traffic offenses. The chart shows that property offenses were the most common change made by clients.
Figure 10

In-Program Failure to Appear

Result in a program failure exit.

Figure 9

Length of Time to Exit by Completed Status Type

Vocals or were otherwise dismissed (Figure 9).

Successful completers spent an average

than client misconduct

en clines (10% were terminated for reasons other

Supervision was recorded for 10% of clients. All

were convicted of a new crime resulting in

Count (less than 1%), or in other ways (%).

10-1-year incarceration (4%) program (3%), to Family
87% Successfully

Figure 8

Completed Cases Type

The quotient to marital health counseling, and formal

as shown in

Among the 682 clients who had completed the

Program Status

CIA
Figure 14 shows that defendants whose prob-
erty change and higher rates for burglary-
29% of those originally arrested on a burglary-
in-program re-arrest rate was 77%, compared to
were among the least likely to be re-arrested. Their
a drug charge (any of clients)
green arrest was on a drug charge (half of clients)
Figure 14 shows that defendants whose pro-
were more likely to be re-arrested than
mules were re-arrested while in the program (not
those with no re-arrests among other
the green arrest and those with no
ers were also included in
the few clients younger
2% of those re-arrested were 13% of the
Figure 14 shows that 34% of clients aged 16
was associated with being young, male, and ar-

Correlates of In-Program Re-Arrests

The average time from program entry to re-

Figure 12 shows that 21.9% of in-program
-Any burglary (or drug) (1)
(1) of those re-arrested were included in the
-For drug (28%) (Figure 10). Figure 14 shows that 34% of clients aged 16

Research Brief

Figure 11

In-Program Re-Arrest (Docketed only)
Summary & Conclusions

Over the three-and-one-half years of operation, the program’s impact on the defendants’ lives can be observed. The overwhelming majority of those identified as needing mental health services have substance abuse problems, and the program has been successful in addressing both. The most important lesson we have learned from the program is that the mental health needs of defendants can be addressed successfully when the program is designed to meet these needs. The program’s success is due in large part to the collaborative efforts of the defendants, who have been treated with respect and dignity throughout their participation in the program.
Research Brief from

Queens Supervised Release: A Brief Program Description

No. 32 (May 2013)

TO:

New York, NY 10007
25 Duane Street

The New York City Criminal Justice Agency, Inc.

Queens Supervised Release: A Brief Program Description

No. 32 (May 2013)
Supervision is deemed completed by the Court. These progress reports include the following:

- An initial intake assessment which includes written and verbal assessments related to mental health and substance abuse, based on any clinical recommendations, relisting to mental health and substance abuse, based on

The Case Managers will submit written progress reports to the Judge, your defense lawyer, and

- Make every court appearance and avoid arrests.

Supervision is decreed completed by the Court. You will be given an appointment time for termination of the

- Meet regularly with our Case Managers, who are licensed social workers, at our office at 299 Broadway.

- If the office is

Supervised Release Program
CRIMINAL JUSTICE AGENCY
NEW YORK CITY

For: (212) 694-9085
Office: (212) 694-9080
NEW YORK, NEW YORK 10007
299 BROADWAY, SUITE 1816
I understand that I fail to comply with the above condition, the Court may advance the case.

I agree to any other condition imposed by the Court and will adhere to any other condition imposed by the Court and directed by the Court, avoid re-arrests and

2. To maintain telephone and face-to-face contact as directed by the Program;

3. To notify the Program immediately of any change in address or telephone;

4. To be present at every court appearance as directed by the Court; and

5. That the Program will monitor my compliance with the conditions of release and will

release my release, set bail, and/or issue a warrant for my arrest.

I, ____________________________ (Client's Name)

__________________________________________ (Client's Signature)

Date Released:

__________________________________________ (Client's Signature)

Next Court Date:

__________________________________________ (Judge's Signature)

Client's Street Address, Apt. #:

__________________________________________ (Client's Signature)

Client's Phone Number:

__________________________________________ (Client's Signature)

Client's City, State, and Zip Code:

__________________________________________ (Client's Signature)

Client's Initials:

__________________________________________ (Client's Initials)

Date Appointment Time:

__________________________________________ (Client's Initials)

CRIMINAL JUSTICE AGENCY
NEW YORK CITY
SUPERVISED RELEASED PROGRAM

(212) 693-9080
Located at the 299 Broadway, 18th Floor, Suite 1816, New York, NY 10007

I, ____________________________ (Client's Name)

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COURT RE-ENTRY: When reports will be submitted at all scheduled court appearances. If

CASE MANAGEMENT: The Supervised Release Program will provide intensive monitoring

TARGET POPULATION: The Supervised Release Program Intakes persons who are:

OVERVIEW: The Criminal Justice Agency’s Supervised Release Program targets persons

FACT SHEET ON THE SUPERVISED RELEASE PROGRAM IN MANHATTAN

PROGRAM MANAGER

ANGELA T. BARROW, Esq.

NEW YORK CITY, NEW YORK 10007

599 BROADWAY, SUITE 1816

SUPERVISED RELEASE PROGRAM

CRIMINAL JUSTICE AGENCY

NEW YORK CITY

FAX: (212) 69-63-0058
OFFICE: (212) 69-69-0008
New York City Criminal Justice Agency
Supervised Release Program

Andrea J. Barrow, Esq.
Mari Curbelo, Esq.

- CJA's first Supervised Release program in Queens operating since August 2009

- CJA's newest Supervised Release program opened in Manhattan in April 2013

- Numbers
FUNCTIONS OF THE CRIMINAL JUSTICE AGENCY

- CJA contracts with the City to provide interviews and recommendations, notification, and research.
- Interviewers at Central booking interview arrestees to produce reports (the CJA Interview) to assist the court in making the release/bail decision.
- Data is collected electronically from the Police, OCA, CJA interviewers and NYC Corrections to be integrated in the Agency's comprehensive database for notification of future court dates and for ongoing research.
- CJA produces research reports on pre-trial, bail, and a broad array of criminal justice policy issues.
In 2011, CJA conducted about 283,000 interviews of defendants held for Criminal Court arraignment.

CJA participates in E-arraignment so that the Interview report is included along with the complaint and RAP sheet as part of the printed court papers.

Information in the Interview report includes residence, occupation, family and/or community ties. Criminal history information is also collected: counts of previous convictions for felonies, misdemeanors and open cases, and bench warrants because these factor into the recommendation.

The empirical research has shown that these factors are related to failure to appear, which is the statutory basis for the release decision in NY. (CPL §510.30)
CJA'S RECOMMENDATION SYSTEM

- CJA's recommendation is based on a validated objective point-scale system. A new recommendation system was implemented in 2003.
- This gave CJA greater confidence in discerning between levels of risk for Failure to Appear.
- Three Principal and Largest Categories:
  - Recommended for release on recognizance (ROR) – FTA rate 8%, (+7 to +12 points)
  - Moderate Risk for failing to appear if released on recognizance – FTA rate 12% (+3 to +6 points), and
  - Not Recommended for release on recognizance because of High Risk of FTA - FTA rate 22%, (-12 to +2 points).
Many pre-trial service agencies provide supervision along with the traditional pre-trial services.

Historically, CJA was interested in providing a supervised release option, however, this was tempered by case processing realities and net-widening concerns. Most recently the 2011 Annual Report noted that 43% of all cases are disposed at arraignment, 57% are continued. The arraignment ROR rate for all continued cases (non-disposed felonies, misdemeanors and violations combined) city-wide was 68%.

However, the ROR rate for felony cases at criminal court arraignment is 40%. That means that 60% have bail set or are otherwise detained at criminal court arraignment.
ADDITIONAL FACTORS

- CJA's leadership role in revising the National Association of Pre-trial Services (NAPSA)'s standards in 2003, which are modeled on the ABA's revised Standards for Pre-Trial Services. These envision a continuum of release options, ranging from a presumption of release on recognizance, release on condition, imposition of reasonable and reachable bail, up to preventive detention.

- CJA participated in NYCLA Criminal Court Task Force and provided research data. In 2005 the Task Force issued a resolution supporting a Supervised Release pilot program in Queens.

- City responded and together with CJA, devised the Queens Supervised Release Project in 2009.
QUEENS SUPERVISED RELEASE

This pilot program was funded by the City to offer supervised release to a limited group of defendants charged with selected non-violent felony offenses, who do not pose a substantial risk to public safety.
Goals: The release of otherwise detention-bound defendants would generate cost savings at both the institutional and individual levels.

- No increase in FTA or in serious/felony re-arrests.
- Test if better court outcomes, including treatment diversions.
- Remain vigilant about net-widening: concern that ROR'd defendants – ROR plus.
- Preliminary numbers suggest that Queens ROR rate has increased since the start of Queens Supervised Release.

Due to frequent waiver of CPL §180.80 in Queens, research has also shown an additional displacement of pre-trial detention time. Because the overwhelming majority of successful program clients receive a conditional discharge sentence there is post-sentence jail displacement, as well.
SUPERVISED RELEASE DESIGN

- We have established eligibility criteria
- The defense attorney is the gate keeper to avoid net widening and to minimize the use of the program in cases where the client should be released on recognizance
- Our offices are in a setting outside of the court
- Our case managers are social workers, not pre-trial officers
- We have institutional resources to be accountable to the Court
  - Notified of our client's future court dates
  - Notified if a Client has an online re-arrest
- Presence in arraignment part
EXPANSION

Bail reform is in the air
- Human Rights Watch report, "The Price of Freedom"
- National Association of Criminal Defense Lawyers Resolution
- Chief Judge Lippman’s State of the Judiciary Address

The positive experience in Queens has afforded us the opportunity to secure funding from the City to expand into Manhattan

We secured the funding in 2012 and the planning continued through the beginning of 2013
In April 2013 the Manhattan Supervised Release program began operation. As of today, we have had 82 clients released into our program.
HOW SUPERVISED RELEASE IS USED

- Supervised Release is a tool for the Court as an alternative to setting bail.

- A tool for lawyers to keep their clients out of jail.
At arraignment, if your client is eligible, and you believe the program is right for your client - you decide whether to ask the Judge to release your client into the program.
WHAT IS SUPERVISION?

An agreement to be supervised, is an agreement to the following:

(1) To meet with our licensed social workers regularly in our Program Offices for the duration of their case.

(2) To allow social workers to complete an assessment to determine whether client has mental health or substance abuse treatment needs.

(3) To allow us to report to the Court - program attendance, the assessment results referrals made, and re-arrests, if any.
ELIGIBILITY

In order to be eligible for the Program, the case must be BOTH charge eligible and the person must be criminal history eligible.
Non-Violent, B, C, D and E Felonies*

- No Misdemeanor Cases
- No A Felonies
- No VTL/DV/Contempt

*As per Penal Law §70.02
CRIMINAL HISTORY ELIGIBILITY REQUIREMENTS

Defendant must have

- Six or fewer misdemeanor convictions

- Not more than 1 adult felony conviction
  - If prior felony conviction is for a VFO, the conviction must be at least 10 years old.

- Other relevant Criminal History is also considered
Court Reps staff the arraignment parts Monday through Friday, 9:00am – 1:00am.

- Court clerks provide calendars to screen charges
- Access to NYC database eArraignment for Rap, CJA and Complaint.
FURTHER SCREENING

After an initial finding of eligibility Court Reps Screen Rap Sheet for more information:

- Does the defendant have a significant warrant history?
- Mitigating circumstances?
Other ongoing matters:

- Other open cases?
  - Indicted felonies?
- On probation or parole?
- Do they report a local address?
  - Do they have contacts in the community?
- If homeless, do they have supportive housing?
The Court Rep approaches Defense Counsel and asks if bail is likely to be set?

- If NO, Court Rep does not pursue the case any further.

- If YES, Court Rep presents the attorney with the terms of supervision.
In the back, attorney considers the option of Supervised Release with the client.
SOME CONSIDERATIONS

- Is this a case where the client should be ROR'd?

- Is the client in a position to make bail?

- Will the client be able to comply with the conditions of supervision?
INTEREST IN SUPERVISED RELEASE

If attorney and client are interested, the Court Rep conducts an interview.
OUR INTERVIEW

- Re-introduce the program. Discuss the required face-to-face office appointments with our social work staff.

- Re-read the terms sheet – allow for questions, clarification.
If the defendant is willing, the Court Rep requests contact information for someone:

1. Verify local address
2. Serve as a contact in the event of release to program

If verified, client signs terms and case is fully eligible for Supervised Release.
Defense Attorney requests Supervised Release as part of bail application

We can interview the client and serve as a backup if attorney is unsure whether to raise it initially
The client signs a contract agreeing to the terms of supervision.

The Court Rep reads contract terms on the record.

Terms state: (1) client agrees to report for intake, (2) to complete the assessment (3) to comply with reporting requirements (4) To allow us to report this information

A copy of the contract is given to all parties.

The client is given an appointment to report to our program office at 299 Broadway.
SUPERVISED RELEASE ADJOURNMENTS

- For reporting purposes, our cases require adjournments of six weeks or less.

- Out of arraignment, if co-defendants have 180.80 dates, may be adjourned to track.

- Every subsequent adjournment should be in six week increments.
CLIENT "ROR’D" TO SUPERVISED RELEASE

- The Court Papers will include contract and state Supervised Release.

- OCA will indicate client is "ROR".

- Before leaving arraignment, the client waits to meet with the Court Rep and is given a time/date for intake.
Intake is the first meeting with the Case Manager/Licensed Social Worker

- Introductions
- Explain program expectations
- Identify and discuss appt. scheduling, probation, outstanding warrants, if any
LEVELS OF SUPERVISION

There are graduated levels of supervision

All clients begin on Level 1 Supervision

- **Level 1 Supervision**
  - two face-to-face visits and one scheduled telephone call each week
LEVELS OF SUPERVISION (CONT’D)

- Level 2 Supervision
  - One face-to-face visit and one scheduled telephone call each week

- Level 3 Supervision
  - Three weekly telephone calls

- Level 4 Supervision
  - One telephone call each week
The level of supervision changes as the client establishes a track record of compliance, or secures regular work, starts an educational or training program or, if in need, enters into a treatment program.
The assessment to determine substance abuse or mental health treatment needs is conducted over the first few weeks.
Several clinical tools are used by Case Managers to complete the assessment. These include:

- One oral swab drug test
- Written tests
- Verbal tests
- Clinical observations based on interactions
If a need is identified, a referral for services is offered.

Accepting the referral is voluntary.
A progress letter is produced and submitted to the Court at every scheduled court appearance for the life of the case.

Copies of this letter are submitted to the defense attorney, the ADA and Judge who released the client at his or her arraignment.
COURT LETTER CONTENT

- The number of office appointments made
  - Ex: 10/10 face-to-face visits and 4/5 phone calls.
  - Reasons, if compelling, about missed appointments or calls.

- Results of Assessment
  - Ex: Client is not in need of additional outside services.
  - Ex: Client would benefit from substance abuse treatment.

- If a referral for outside services was made

- Participation in constructive outside activities such as school, training program, or employment

- Information on docketed re-arrests, if any
CIRCUMSTANCES OF OFF CALENDAR LETTERS

- Felony, or serious docketed re-arrests
- Loss of Contact
LOSS OF CONTACT

Process:
- If a client misses several appointments
- unable to contact him or her
- we will reach out to the defense attorney for assistance.
If a week passes, and we have not heard from the client, a Loss of Contact letter is sent to the client’s address.

If we do not hear back within a week, we send a letter informing the court that we have lost contact with the client.
LOSS OF CONTACT

The Court decides whether to wait and address the issue on the next scheduled court date or to advance the case and issue a warrant.
WORKING WITH ATTORNEYS

- Our social workers remain in contact with the defense attorneys over the course of the supervision.

- Social workers or program staff can appear on the case at the attorney's request.

- Social workers encourage and attempt to facilitate client's on-going communication with his or her defense attorney.

- If diversion is negotiated, we hand over reporting to plea negotiated program.
ENDING SUPERVISION

Supervision continues until:

- The conclusion of the case: by dismissal, by plea, through trial
- or until supervision is revoked by a Judge.

- We continue to supervise if a case has been reduced.
We do not supervise cases where bail is set (double supervision).

We do not supervise post-plea through a repleader that involves participation in a treatment program.
We will close the case if a client is detained without the possibility release.

Examples: Probation violations, ICE detainer or unreachable bail on another case.
Beginning in August 2009, to date 1,197 clients have been released into our Queens Supervised Release program.

- 86% of all participants have successfully completed.

- Only 10% have had supervision revoked by the court – usually for a felony level re-arrest or detention on an earlier case (probation violation, ICE, etc.)

- Our overall Failure to Appear rate is 6%. Revocation of supervision for Failing to Appear is under 4%.
## QUEENS SUPERVISED RELEASE PROGRAM NUMBERS THROUGH JANUARY 31, 2013

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<tr>
<th>CLIENTS' STATUS</th>
<th>Count</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Active</td>
<td>127</td>
<td>12.0%</td>
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<tr>
<td>Completed</td>
<td>928</td>
<td>88.0%</td>
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### COMPLETED STATUS TYPE

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<tr>
<th>Status</th>
<th>Count</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Successfully Completed</td>
<td>802</td>
<td>86.4%</td>
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<td>Case adjudicated</td>
<td>626</td>
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<td>Transferred to TASC/QTC</td>
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<td>District Attorney Monitoring</td>
<td>9</td>
<td>0.5%</td>
</tr>
<tr>
<td>Other</td>
<td>3</td>
<td>0.3%</td>
</tr>
<tr>
<td>Supervision Revoked</td>
<td>96</td>
<td>10.3%</td>
</tr>
<tr>
<td>Failure to appear/program failure</td>
<td>36</td>
<td>3.9%</td>
</tr>
<tr>
<td>Detention on a new rearrest</td>
<td>51</td>
<td>5.5%</td>
</tr>
<tr>
<td>New rearrest and participation issues</td>
<td>5</td>
<td>0.5%</td>
</tr>
<tr>
<td>Solely participation issues</td>
<td>1</td>
<td>0.1%</td>
</tr>
<tr>
<td>Other</td>
<td>3</td>
<td>0.3%</td>
</tr>
<tr>
<td>Other Termination</td>
<td>30</td>
<td>3.2%</td>
</tr>
<tr>
<td>Previous case and detention</td>
<td>18</td>
<td>1.9%</td>
</tr>
<tr>
<td>Immigration/Parole detention</td>
<td>7</td>
<td>0.8%</td>
</tr>
<tr>
<td>Other detention (bail on instant case)</td>
<td>1</td>
<td>0.1%</td>
</tr>
<tr>
<td>Program termination</td>
<td>4</td>
<td>0.4%</td>
</tr>
<tr>
<td>Other</td>
<td>0</td>
<td>0.0%</td>
</tr>
<tr>
<td><strong>Total Completed</strong></td>
<td>928</td>
<td>100%</td>
</tr>
</tbody>
</table>
QUEENS SUPERVISED RELEASE PROGRAM
NUMBERS THROUGH JANUARY 31, 2013

<table>
<thead>
<tr>
<th>Failure Reason</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>In-patient detox/treatment</td>
<td>4</td>
<td>4%</td>
</tr>
<tr>
<td>Sick</td>
<td>3</td>
<td>3%</td>
</tr>
<tr>
<td>No carfare</td>
<td>2</td>
<td>2%</td>
</tr>
<tr>
<td>Family crisis</td>
<td>1</td>
<td>1%</td>
</tr>
<tr>
<td>Confused date/Arrived late/Court closed/Incorrect Date</td>
<td>7</td>
<td>7%</td>
</tr>
<tr>
<td>Unknown</td>
<td>1</td>
<td>1%</td>
</tr>
<tr>
<td>Afraid of Court Outcome</td>
<td>1</td>
<td>1%</td>
</tr>
<tr>
<td>Detained by Other Legal Authorities</td>
<td>7</td>
<td>0.7%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Program Status</th>
<th>Total Number of Clients</th>
<th>Percent</th>
<th>Mean (Days)</th>
<th>Median (Days)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Active</td>
<td>127</td>
<td>12.0%</td>
<td>98.4</td>
<td>90</td>
</tr>
<tr>
<td>Successful Completion</td>
<td>802</td>
<td>76.0%</td>
<td>129.7</td>
<td>105.5</td>
</tr>
<tr>
<td>Supervision Revoked</td>
<td>96</td>
<td>9.1%</td>
<td>101.7</td>
<td>82.5</td>
</tr>
<tr>
<td>Other Termination</td>
<td>30</td>
<td>2.8%</td>
<td>95.1</td>
<td>79.5</td>
</tr>
</tbody>
</table>