
Responding to the Challenges of Violent Extremism/Terrorism Cases for United States Probation and Pretrial Services

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Abstract

This article is intended to share the U.S. District Court of Minnesota Probation and Pretrial Services' experiences, knowledge, practices, and processes for working with extremist/terrorist defendants and offenders with other criminal justice professionals. Over the past decade, the District of Minnesota has been challenged with meeting the demands of more jihadist-type extremist cases than any district in the United States. The Federal Judiciary's Probation and Pretrial Services national system does not have specialized risk and needs assessment tools, intervention strategies for disengagement and rehabilitation programming, or specific supervision practices for working with this new generation of extremist/terrorism participants. After conducting extensive research, the District selected international experts to provide training and tools for working with extremists that range from jihadists to white supremacists. The District has implemented a team-based approach for working with extremists to include combining current Probation and Pretrial Services practices with programming developed by Expert Consultant Daniel Koehler, Director of the German Institute on Radicalization and Deradicalization Studies (GIRDS), and a risk assessment tool and manualized intervention strategies developed by Her Majesty's Prison and Probation Service of the United Kingdom. By necessity, the District of Minnesota has become both a training hub and experimental lab for developing the first of its kind of practices for working with extremist cases in the United States. The District of Minnesota has developed the Minnesota Probation and Pretrial Services Justice Model of Intervention, Disengagement, and Rehabilitation for working with extremists. This model of specialized tools, training, and knowledge has been incorporated into assessing release or detention of defendants pending trial, identifying pretrial release conditions, determining appropriate sentence recommendations, and developing the necessary special conditions for community supervision to ensure both public safety and disengagement from extremism as components of the rehabilitation process.

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Introduction

There has never been a greater challenge for criminal justice professionals than the one faced today with global terrorism, as it reaches into individual communities worldwide. The 9/11

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World Trade Center and Pentagon attacks planned and carried out by the terrorist group, Al-Qaeda, killed 2,996 people in the United States (U.S.) in 2001 (IAC Publishing, LLC, 2018). This was the largest attack on United States soil since the bombing of Pearl Harbor. The Al-Qaeda cell of terrorists trained for this act and moved through U.S. communities undetected and unrestrained. Historically, the District of Minnesota first notably experienced the jihadist terrorism issue with the arrest of Zacarias Moussaoui, known as the “20th hijacker” of the 9/11 Al-Qaeda attacks on the U.S. Moussaoui initially raised suspicions when he attempted to attend flight school in the Minneapolis area to learn how to only take off and land a Boeing 747 without a basic pilot’s license. He was later arrested on immigration charges in August 2001, merely to be in custody and unable to participate in the September 11, 2001, attacks. The failed terrorist is currently serving six life sentences without the possibility of parole in the custody of the Bureau of Prisons in the Supermax Unit in Florence, Colorado, after convictions in federal court in the Eastern District of Virginia for involvement in the 9/11 attack. Over the past two decades, jihadist type extremism/terrorism has been on the rise in the U.S.

In these times, it is not a matter of if, it is a matter of when, where, and how catastrophic the next terrorist attack will be. For the federal justice system, violent extremism continues to escalate with new challenges from both foreign and domestic terrorist groups. These groups range from jihadists to white supremacists. The recent surge of these cases taking the spotlight has clearly been jihadist-type offenders involved with foreign terrorist organizations (FTOs). However, white supremacist groups are currently on the rise and have historically accounted for the majority of extremist crimes in the U.S. This current generation of extremists has required the development of greater knowledge, skills, tools, and practices for working with all types of extremists.

The challenges of extremism/terrorism cases for the federal judiciary’s Probation and Pretrial Services are complex, as one would expect from this issue. At the heart of this challenge is dealing with defendants and offenders who have been or are in the process of being radicalized to violent extremism. These challenges include recommending release or

detention of defendants pending trial, identifying pretrial supervision conditions for those released, determining appropriate sentence recommendations, and developing the necessary conditions for post-conviction supervision that ensure both public safety and disengagement from extremism as a part of the rehabilitation process to successful, law-abiding citizens.

This issue is further complicated by interactions and overlapping responsibilities of the judiciary's Probation and Pretrial Services with Department of Justice agencies such as the United States Attorney's Office and the federal Bureau of Prisons. Initially, the U.S. Attorney's Office was developing initiatives for community prevention, prosecutions, cooperators, and proposed pretrial diversion, which often require the support of Probation and Pretrial Services. In addition, there is a critical need for the Bureau of Prisons to develop specific rehabilitation programming for extremists in custody to avoid further radicalization and to better prepare these offenders for reentry into the community on supervision as a part of rehabilitation.

By necessity, the District of Minnesota, U.S. Probation and Pretrial Services, has become both a training hub and experimental lab in the U.S. for practices for working with extremist cases. Thus far, the District has shared these training initiatives with the Administrative Office of the U.S. Courts, Probation and Pretrial Services Office from Washington D.C.; the U.S. Bureau of Prisons; the U.S. Attorney's Office; treatment providers; and numerous federal districts from around the country facing the challenges of working with extremist cases.

It is recognized that many districts have a small number of these cases. The District of Minnesota, U.S. Probation and Pretrial Services, receives numerous requests from other districts for assistance with terrorism case-related issues. In addition to assisting on individual cases, the District has developed a national networking group, consisting of numerous districts from around the country challenged with these types of cases, that convenes regularly to develop strategies and share information for working with extremist cases. The Administrative Office of the U.S. Courts, Probation and Pretrial Services Office,

and the Federal Judicial Center also participate in these meetings to glean information for the development of training practices for the national Probation and Pretrial Services system.

Much of the information in this article has previously been shared by the author through presentations with national and international researchers and a variety of federal, state, county, and local jurisdictions faced with the challenge of working with extremist/terrorism cases. Among researchers, Kelly Berkell's article on risk reduction in terrorism cases on post-conviction supervision sheds light on some of the many issues raised by researchers on the deficiencies of the federal justice system in handling risk assessment and rehabilitation of terrorism-related defendants and offenders. The District of Minnesota has addressed these deficiencies with some potential solutions through the District's programming (Berkell, 2017).

Section I of this article details the statutory foundation and scope of the challenge for Probation and Pretrial Services in the U.S. and the District of Minnesota for working with both foreign and domestic extremism/terrorism cases now and in the future. Section II describes the District of Minnesota's research and steps in the development of programming to work with extremist/terrorism cases to protect the public and provide intervention and rehabilitation for defendants and offenders. Section III discusses the District's team approach to intervention and assessment for rehabilitation of extremism/terrorism defendants and offenders. Section IV outlines incorporating the District of Minnesota's team approach and knowledge for working with extremist defendants/offenders into the structure of the justice system processes for the role of Probation and Pretrial Services. In conclusion, Section V summarizes the limitations of existing research and programming for working with extremists/terrorists and offers an intervention model based on some of the best possible research and practices available. This conclusion offers recommendations for addressing the issue of extremism/terrorism for the U.S. now and in the future with increased resources to develop a national plan and strategy that provides a full continuum of services from prevention initiatives to the completion of community supervision.

I. Foundation and Scope of Violent Extremism/Terrorism Cases

Statutory Provisions for Terrorism

To begin discussions on working with terrorism/violent extremism cases, it is necessary to establish a definition of terrorism as a basis for this topic. Considering that this perspective is for the development of a Justice System Model of intervention, federal statute provides the best definition and foundation for this purpose and is the origin of these cases.

As defined within the following selected areas, (1) and (5), of U.S. Criminal Code Title 18, Section 2331,

- (1) the term “international terrorism” means activities that—
 - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;
 - (B) appear to be intended—
 - (i) to intimidate or coerce a civilian population;
 - (ii) to influence the policy of a government by intimidation or coercion;
 - or
 - (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and
 - (C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;
 - (5) the term “domestic terrorism” means activities that—
 - (A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;
 - (B) appear to be intended—
-

- (i) to intimidate or coerce a civilian population;
- (ii) to influence the policy of a government by intimidation or coercion;
- or
- (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and

(C) occur primarily within the territorial jurisdiction of the United States.

As defined at U.S. Criminal Code Title 18, Section 2332b(g)(5), the term "federal crime of terrorism" is an offense that "is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct."

In addition to the charge of terrorism, there are numerous other terrorism-related activities that a defendant or offender is charged with in the federal judiciary under U.S. Criminal Code Title 18, Sections 2332 through 2339. These offenses may include acts of or attempting or conspiring involvement in terrorism to include homicide or intent to cause serious bodily injury; use of weapons of mass destruction; acts transcending national boundaries; bombings, harboring, or concealing terrorists; providing material support or resources; financing, fundraising, or financial transactions to a designated foreign terrorist organization; or obtaining military training. Individuals may also be charged under U.S. Criminal Code Title 18, Sections 951 through 970, for violations of Foreign Relations statutes for crimes against a foreign government or friendly nation for acts related to terrorist activities. These offenses could include conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign county; commission to serve against friendly nation; and expedition against friendly nation.

Extremism/Terrorism-related activities may also be charged as offenses not identifying or mentioning terrorism by definition such as false statements, money laundering, firearms offenses, hate crimes, false passport application, defrauding the U.S., fraud or wire fraud, threats, and/or obstructing. The required handling of these cases for Probation and Pretrial Services is based on the offense conduct in relation to the specific involvement with terrorism and level of radicalization of the individual rather than a specific charge or conviction. The

variety of activities and offenses charged make it difficult to maintain an accurate accounting and picture of the terrorism-involved cases in the U.S.

National Scope of Foreign Extremism/Terrorism

Since the 9/11 attacks of 2001, there have been over 500 terrorism prosecutions involving jihadist-type extremists with 426 convictions and 84 cases currently pending in the U.S. (Center on National Security at Fordham Law, n.d.). On the front end of the justice system, Probation and Pretrial Services can expect more new cases, based on the Federal Bureau of Investigation reports of over 1,000 currently open terrorism investigations within the 50 states (Wray, 2018). On the backside of the system, Probation and Pretrial Services can expect to see more terrorism cases for post-conviction supervision in the future, as the Bureau of Prisons currently has 412 inmates with history of involvement in foreign terrorist organizations (80% jihadist) and 86 domestic-type terrorists in custody. 108 of these inmates are scheduled to be released in the next five years, 62 of whom are U.S. citizens, per Bureau of Prisons official Jeff Woodworth (J. Woodworth, interview, November 2, 2018).

This issue continues to escalate. Since 2013 (the ISIL/ISIS era), there have been 161 homegrown jihadist terrorism-type cases in 30 states of the U.S. which primarily involve offenses of plots for attacks, overseas travel, financial support, false statements to authorities, and weapons charges (House Homeland Security Committee, 2018b). The scope of this issue is even more broad, as the most recent number of travelers or those attempting to cross U.S. borders to join foreign terrorist activities has been estimated between 250 to 300 (Meleagrou-Hitchens, A., Hughes, S., & Clifford, B., 2018). According to the House Homeland Security Committee, since 2014, 73 ISIS-linked plots have been aimed at the U.S., its citizens, or its official presence overseas (House Homeland Security Committee, 2018a).

This issue is shared internationally, as aspiring jihadists from all over the world have poured into Syria and Iraq to support ISIS terrorist activities with a combined force of an estimated 40,000 participants (McCarthy, 2017). Continuing to escalate is the frequency of attacks and incidents that have occurred worldwide with 248 ISIS-linked incidents in 18

countries since 2013, with most of those incidents occurring in France, the U.K., and Germany (House Homeland Security Committee, 2018b).

In attempts to forecast the future of foreign terrorist activities, it is not an unreasonable conclusion that, if ISIS continues to lose territory in Syria and Iraq, those displaced terrorists will disperse into underground networks and cells generating an increase in attacks worldwide to include the U.S. ISIS and their leader, Abu Bakr Al-Baghdadi, have already shifted their propaganda message from recruiting inspiring jihadists to travel to Syria and Iraq to fight to directing them to stay in their homeland and carry out acts of terrorism. Osama bin Laden was a clear example of the potential of this type of shift from specific battlefield activities to underground networks and clandestine terrorist attacks. He was displaced from guerrilla warfare in the battlefield against the Russians in Afghanistan to ultimately target the U.S. His refocused efforts resulted in a number of successful terrorist attacks against the U.S. to include those of 9/11. It is realistic to say that, for the time being, and in the future, there will continue to be a critical demand for the federal judiciary to work with extremist cases involving both foreign terrorist organizations like AL-Qaeda, Al-Shabaab, ISIL, ISIS, and domestic extremist groups like white supremacists.

Rise in Domestic Extremism/Terrorism

Terrorists and violent extremists come in many different forms in the U.S. that range from jihadist to white supremacist. The jihadist brands of foreign terrorism like Al-Qaeda, Al-Shabaab, ISIL/ISIS, and Internet radicalization are a relatively new phenomena in the U.S. over the past two decades in the post-9/11 era. However, domestic terrorism has had a long history with some groups like the Ku Klux Klan (KKK) dating back almost 150 years to the Post-American Civil War era of the 1860s. White supremacists historically account for a majority of terrorism and hate crimes in the U.S. The recent focus on the development of interventions and rehabilitative programming for the current wave of jihadists has drastically improved our understanding and methods for working with white supremacists and other types of extremists involved in domestic terrorism in the U.S.

Probation and Pretrial Services can anticipate more white supremacists and other types of extremist cases to come. Currently, domestic terrorism and hate groups are back on the rise in the U.S. with 954 identified groups in 2017 (Southern Poverty Law Center, n.d.). According to FBI statistics, there were 8,437 hate crime offenses reported in 2017 (United States Department of Justice, Federal Bureau of Investigation, 2018). In the ten-year period from 2008 through 2017, there were 387 domestic extremist killings in the U.S. with 71 percent or 274 of those committed by white supremacists and right-wing extremists (Anti-Defamation League, 2018). The Director of the FBI reports that there are currently over 1,000 open investigations on criminal behavior involving white supremacists in the U.S. (Barrett, 2017). Currently, 200 identified white supremacist offenders with offenses directly related to their group are in the custody of the Bureau of Prisons, with 126 being Skinheads, 53 Aryan Nation, and 21 KKK members (J. Woodworth, interview, November 2, 2018). These numbers do not account for many offenders in custody whose offense of conviction did not identify their involvement in a white supremacist group or membership in a white supremacist prison gang.

In general, people often conclude that white supremacists and jihadists are drastically different and should not be included in the same conversation. Although white supremacists and jihadists look dramatically different in appearance, have different narratives, have different cultures, and use their own exclusive signs and symbols, their underlying structure is the same. As defined in Her Majesty's Prison and Probation Service (HMPPS) training, violent extremists/terrorists are individuals who support or commit illegal acts of violence in support of a group, cause, or ideology.

In the Daniel Koehler/German Institute of Radicalization and Deradicalization Studies (GIRDS) model, extremist ideology structures are dissected into the following three basic elements: **problem**, **vision**, and **solution**. To briefly illustrate this point, the jihadist's narrative within the **problem** element includes: Islam is under attack by American policy and being corrupted by Western culture. The narratives within the **solution** element are violence, carrying out a jihad attack, martyring oneself if necessary, or traveling to a conflict zone to

fight. For the element of **vision**, the ultimate vision is living in a utopian Islamic caliphate. White supremacists, on the other hand, use different narratives of these elements. For the **problem** element, white supremacist narratives often include: minorities are committing crime, immigrants are taking jobs from whites, and Jews are controlling the media and economy. The **solution** element may involve violent attacks or mass shootings and an apocalyptic war. For white supremacists, their **vision** is of restructuring society to a white-dominated state and domain.

The mobilization behaviors carried out by jihadists and white supremacists are much alike, even though they look distinctly different. For example, jihadists often attempt to travel to a conflict zone usually in the Middle East, whereas neo-Nazis attend regional and national white supremacist rallies to further their cause or carry out extremist-related activities. Similar extremist activity has been very visible in the District of Minnesota with a number of aspiring jihadists attempting to travel to East Africa and the Middle East and far-right extremist attacks on individual Muslims and mosques.

This breakdown of the primary elements of different ideologies and examples of extremist activities clearly demonstrates similar underlying structures among extremists. Given these similarities, a full range of extremists can be approached in a comparable fashion using the same risk assessment tools and interventions.

Terrorism Recruitment in Minnesota

Over the past decade, the District of Minnesota has experienced the highest number of jihadist terrorism-related cases and identified travelers or attempted travelers, in the U.S. when broken down by federal judicial districts of jurisdiction (Meleagrou-Hitchens et al., 2018); (GW Program on Extremism, 2018). People often inquire why Minnesota, in the heartland of the U.S., produces so many terrorism-related cases. The foreign terrorist organizations of Al-Shabaab and ISIL/ISIS have heavily recruited the Somali population of Minnesota. It is not a new phenomenon in the U.S. for immigrating/transitioning people to experience segments of

their populations being susceptible to involvement with criminal elements often due to the challenges of assimilation and culture conflicts, especially among their younger generations.

This trend of jihadist-type terrorism cases began back in 2007, when the family members of a number of young Somali men from Minneapolis came forward to report their sons had disappeared. Later, it was discovered they had departed to fight for Al-Shabaab in East Africa. After several waves of similar Al-Shabaab cases, in late 2013 and early 2014, the District of Minnesota experienced a shift to ISIL/ISIS-related cases with travelers and attempted travelers heading to Syria. Derived from both the testimony of terrorism-related defendants and offenders and significant observable differences in Internet propaganda, it appears this shift occurred primarily due to a more powerful Internet media recruitment campaign by ISIL/ISIS.

Historically, Minnesota has welcomed immigrant and refugee populations through the services of a number of voluntary agencies like Lutheran Social Services, Catholic Charities, and World Relief Minnesota, in combination with extensive local social services agencies and an extended education system. As a result, the U.S. State Department has frequently relied on Minnesota for relocations of immigrants and refugees (DeRusha, 2011).

Minnesota is home to the largest Hmong population in the U.S. with 66,000 people who originally began immigrating to Minnesota in the post Vietnam War era from war-torn Laos (Minnesota Historical Society, n.d.). More recently, Minnesota has become home to an estimated immigrant population of as many as 60,000 to 100,000 people from famine-stricken, civil war-torn Somalia. This represents the largest Somali population in the U.S. and outside of Somalia (Hill, 2017). The Somali population started to immigrate to Minnesota in the early 1990s for education, professional opportunities, and business ventures, due to national instability in their homeland. This immigration shifted to a large-scale refugee movement due to civil war in Somalia (Wilhide, 2018).

During the course of investigative interviews, members of both the first and second generation of the Somali community have openly shared their experiences with Probation and Pretrial Services Officers and Mr. Koehler for reports to the Court and ongoing supervision

activities. These interviews included defendants/offenders and others with close relationships, such as family members, friends, coaches, teachers, and mentors. The first generation of Somali emigrants and war refugees suffered from famine and were often relocated to refugee camps, having experienced great hardships and atrocities. Like most immigrants and refugees, they faced many challenges economically, socially, and culturally. The first generation was often more accepting of working at menial or labor jobs and building small businesses. Many of these people maintained multiple jobs working seven days a week with little time for children and family, often having older siblings tend to the younger children.

Some from the second generation report experiencing feelings of disillusionment over the difficulties and barriers of assimilation and being marginalized in the mainstream culture, often seeing greater opportunities experienced by American youth. Of the Somali youth interviewed, some have spoken of not being accepted by other groups among American youth in school and being bullied, taunted, or facing racism. Some of the Somali youth not born in the U.S. had memories of difficult life experiences of famine, refugee camps, atrocities, and a challenging immigration process to America.

Further complicating assimilation for some Somali second generation youth has been the generational conflict between the traditional, conservative, and hardworking lifestyle and values of their parents and the values of Western/U.S. youth culture. The struggles of assimilation to the community and the generation gap with parents developed weakened or fractured identities reported among some Somali youth. This dynamic has contributed to a second generation of Somali youth being more susceptible to the recruitment of foreign terrorist organizations.

Although there appear to be contributing factors increasing the recruitment success level of some Minnesota Somali youth, there are counterpoints of view that these circumstances do not fully account for the number of youth, who had supportive family relationships, great opportunities, and promising futures, and still voluntarily gave in to the narratives of terrorist organizations. The U.S. Attorney's Office clearly pointed out these

opportunities at the sentencing hearings of a number of the youth involved in terrorism offenses. It was noted that the vast majority of Somali youth in Minnesota communities are taking advantage of available opportunities and not joining foreign terrorist organizations.

The number of terrorism defendants/offenders from within the Somali community represents a miniscule percentage of the population. Members of the Somali community are visible and successfully invested in transportation, culinary, banking, government, law enforcement, medical services, education, security, and politics for example. However, regardless of any debate over the circumstances that did or did not produce these extremist/terrorism-related defendants and offenders, Probation and Pretrial Services is tasked to work with those fallen prey to radicalization and committing a criminal offense.

To date, there have been a total of 54 defendants and offenders related to the foreign terrorist organizations Al-Qaeda, Al-Shabaab, and ISIL/ISIS publicly identified by the government for the District of Minnesota. In addition, the District has had 5 other international terrorism-related cases not involved with groups officially identified as foreign terrorist organizations. This brings the current total of foreign terrorism-related cases in the District to 59. Somali community leaders claim the number is much higher due to travelers successfully leaving the U.S. to join foreign terrorist organizations without their departure being detected or reported.

Of the 59 terrorism participants identified, 35 have been already sentenced, of which 15 were Al-Shabaab-related defendants, 15 were ISIL/ISIS-related, and 5 were involved with international groups not officially identified as foreign terrorist organizations. 15 of the remaining 24 participants have died, of which 10 participants were Al-Shabaab and 5 were ISIL/ISIS, with 2 of those being identified as suicide bombers. There are still a number of fugitives unaccounted for and others who were never charged due to their death preceding the government's knowledge of their terrorism-related activities, per District of Minnesota Assistant U.S. Attorney Charles Kovats (C. Kovats, interview, November 16, 2018).

The District has also received terrorism-related defendant/offenders transferred from other districts or radicalized while in prison, which adds to these numbers. To date, 4 of these

defendants/offenders have not been immigrants, Somali, or of East African descent, demonstrating the variety of people who have been radicalized to jihadist extremist/terrorism-related activities. The District also works with a number of white supremacist extremists. The District's current combined community supervision caseload of extremists has been averaging at about 25 with 13 being jihadist and 12 white supremacists. These numbers will continue to increase in the years to come with offenders released from prison and ongoing prosecution of pending extremist cases. Tracking extremist cases continues to be a challenge due to unclear definitions, inconsistent methods, and limited tracking systems.

II. Research and Program Development

The extremism/terrorism issue must be addressed, as the most salient factor at the heart of the issue is that untreated, radicalized individuals will infect communities and continue to seek opportunities to harm others and martyr themselves. To respond to the challenge of the extremism/terrorism-related cases for the U.S. District Court of Minnesota, Chief Judge John R. Tunheim, Senior Judge Michael J. Davis, and the author worked closely on this issue for the District to include conversations with the U.S. Attorney's Office and the Federal Defender's Office.

It was determined through extensive research that there were no other federal agencies, state or local jurisdictions, or nongovernment organizations in the U.S. that had specialized evaluation and assessment practices or intervention programming for radicalized defendants and offenders. This imminent issue required further initiatives to provide for public safety on a number of levels. Therefore, the District conducted further research to evaluate international programs for possible solutions. The focus of this research was to identify components of other countries' extremism/terrorism intervention programs claiming success, which could be useful to the circumstances in Minnesota and the U.S.

The research included programs in Yemen, Saudi Arabia, Indonesia, Singapore, Germany, Denmark, Britain, France, and Sri Lanka. Programs in Germany and England were

identified as most applicable, as they operate in similarly-situated circumstances to Minneapolis and the U.S. to include economic, religious, and political parallels, and similar diversity in population. During discussions, Judge Davis recommended visiting some intervention and deradicalization programs in Germany and England. Chief Judge Tunheim approved and directed the initiative to move forward.

From October 1 through 9, 2015, the author traveled to visit a number of providers for intervention and deradicalization programs in Berlin, Germany; and London, England². Judge Davis later conducted a follow-up visit with Daniel Koehler, the Director of German Institute of Radicalization and Deradicalization Studies (GIRDS), in Berlin during December 2015.

The purpose of these trips was to begin necessary collaboration and networking to obtain information and materials to develop programming for the U.S. District Court of Minnesota and U.S. Probation and Pretrial Services. Site visits were conducted with a number of experts and experienced program providers and members of their staff.

Expert Consultant Resource Selection

During the visits to the above-described organizations, an outstanding body of information and network contacts were acquired to begin program development for the Court and Probation and Pretrial Services. From the programs visited, two outstanding expert resources were identified as the most suitable to assist the District of Minnesota with materials and practices for working with extremist/terrorism defendants and offenders. The first was Daniel Koehler of GIRDS. The second was Her Majesty's Prison and Probation Service (HMPPS) of the U.K. It was believed these two resources would provide the best possible chances of success in this complex area. Both Daniel Koehler and HMPPS offer different training and materials with some consistent overlap that would make their contributions very valuable in building a foundation for the District's needs for program development.

² The visited institutions were: The German Institute on Radicalization and De-Radicalization Studies (GIRDS), EXIT-Germany, Hayat-Germany, PREVENT in the United Kingdom, CHANNEL in the United Kingdom, Active Change Foundation (UK), Institute for Strategic Dialogue (ISD) (UK), and Her Majesty's Prison and Probation Service (UK).

Intervention and Disengagement Process Training

The first step of the District's strategic plan for development of the intervention and rehabilitation programming for extremism/terrorism-related cases took place on February 29, 2016, with the establishment of an expert consultant contract with Daniel Koehler. From April 14 to 22, 2016, Expert Consultant Daniel Koehler visited Minneapolis, Minnesota, to conduct case specific evaluations and provide training for U.S. Probation and Pretrial Services and others involved in the team disengagement and rehabilitation process.

The evaluation process included face-to-face interviews with family members and the defendants who pled guilty to providing material support to terrorism. The weeks prior to the face-to-face interviews by Mr. Koehler, he was provided all filed indictments and other background documents of the offense conduct. Mr. Koehler also conducted telephonic and videoconferencing interviews with the prosecuting Assistant U.S. Attorneys and U.S. Probation and Pretrial Services Officers assigned to conduct presentence reports for background information. The purpose of the evaluations was twofold: first, to assist with sentencing and supervision activities; and second, to provide a format of performing this type of evaluation.

The radicalization and deradicalization coordinator training was provided from April 18 to April 22, 2016. The coordinator training included representation from the District of Minnesota Probation and Pretrial Services; counseling services providers; the Administrative Office of the U.S. Courts, Probation and Pretrial Services Office; the Bureau of Prisons; and the U.S. Attorney's Office community prevention initiative.

The training was the first of its kind to be provided in the U.S., and the attendees were the first in the country to be fully trained in analyzing the process of radicalization and the necessary step-by-step process of deradicalization/disengagement.

The training program key components included:

- Terrorism and political violence
- Statements of terrorists
- What is ideology and what is radicalization?
- Recruitment campaign of terrorist organization
- How would you radicalize someone?
- The DNA of jihadi ideology
- ISIL/ISIS and other designated terrorist organization propaganda
- Affective environment analysis
- Risk analysis
- Case typology and ranking
- Individual and family counseling

A key component of the training included the case analysis exercises. The exercise of analyzing an individual's radicalization experience and identifying his/her underlying motivation/driving factors in order to develop a deradicalization plan was significant for program development. From the exercises, it was demonstrated that the cases from Minneapolis and the U.S. are almost identical to those in other parts of the world. It was apparent from the training that the intervention practices developed by Mr. Koehler were universal and could be tailored to be utilized for a full continuum of services to include prevention and intervention programming, pretrial services, incarceration, and post-conviction supervision.

Mr. Koehler's model was developed from the influence of research and practical experience working with violent extremists that ranged from neo-Nazis to current-day jihadists. The training provided significant knowledge about working with jihadists and others to include identifiable signs, symbols, and mobilization behaviors. This initial training was supplemented by Mr. Koehler's trips to the U.S. for Court testimony about specific cases

and additional training from September 19 through 23, 2016, and from March 20 through 24, 2017.

The second step of the strategic plan was to secure material and training for working with extremists from HMPPS of the U.K. The author developed a relationship and worked with HMPPS officials to have trainers come to the U.S. to provide training on the Extremism Risk Guidance 22+ (ERG 22+) risk assessment tool and other materials for working with extremists. After a little over a year and a half working with HMPPS staff to gain numerous approvals through the ranks of HMPPS and the U.K.'s Ministry of Justice, final approval was obtained for the training. This process came with delays and setbacks due to changes in their administration, elections, and other international terrorism incidents. The Paris bombings and other attacks resulted in setbacks for the District's training request, as other requests took priority over the U.S.

Following the author's return from initial site visits in October 2015, the District began reviewing the risk assessment tool using introductory summary materials. The ERG 22+ fit hand in glove for use with the cases the District was reviewing, and the value of the tool for managing extremists was confirmed. In March 2017, the District received an approval date of May 1 through 5, 2017, for two trainers to be brought from the U.K. to train a class size of approximately 20 participants.

During the May 2017 training, the attendees received training for a manualized approach to working with extremist offenders focused on the following three areas: structured professional judgment risk assessment tool ERG 22+; Developing Dialogues (DD) toolkit for constructively engaging offenders involved with extremist ideas, groups, causes, or ideology; and an established approach for working with extremists for Healthy Identity Intervention (HII).

The ERG 22+ is a risk assessment tool for analyzing the risks, needs, and vulnerabilities to be managed to prevent offending. The content of the Developing Dialogues toolkit is used to promote effective conversations with offenders when discussing and

addressing extremism issues. The HII modules and sessions of the structured intensive intervention aim to facilitate change in personal commitments from violent extremism.

The District developed a team-based approach to working with extremists by combining the current probation and pretrial practices with programming developed by Mr. Koehler and a risk assessment tool and intervention strategies developed by HMPPS. The combined training of these sources was critical to best enable Probation and Pretrial Services to assess the level of radicalization, risk, and needs of the individual to ensure public safety, disengagement, and rehabilitation of the defendant/offender. The knowledge, tools, and practices were incorporated into pretrial services, sentencing recommendations, and community supervision.

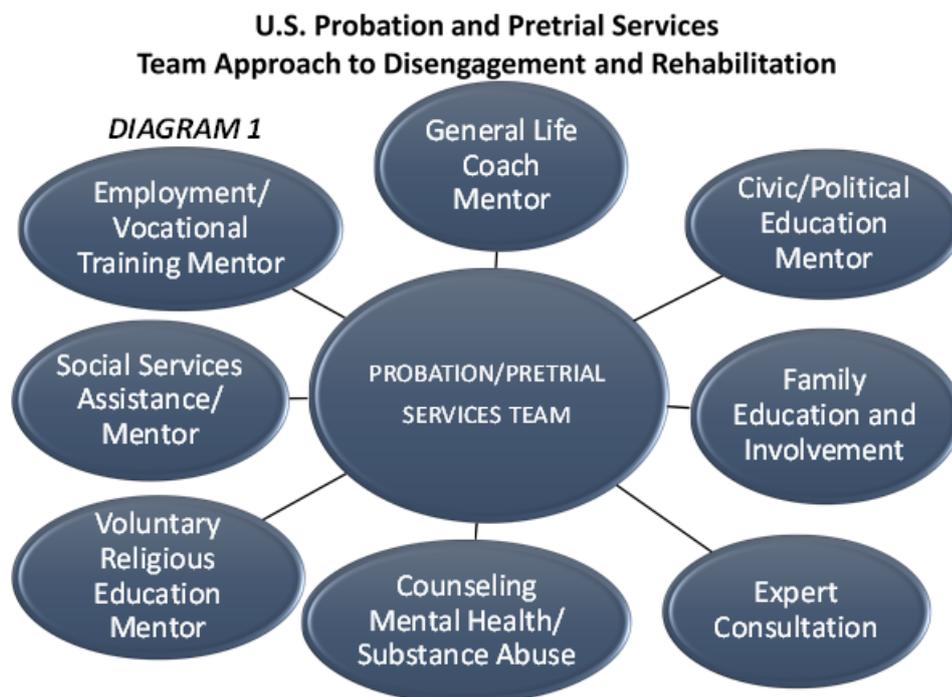
III. Probation and Pretrial Services Team Intervention Process

The word deradicalization may evoke for some the image of a person in a hypnotic state undergoing intense psychotherapy equivalent to brainwashing. Unlike this image, the Koehler deradicalization model requires a process much like radicalization, where, over a period of time, influencing experiences and counternarratives are utilized as alternatives to extremist ideas and beliefs to initiate a cognitive shift from violent extremism. The term disengagement refers to a behavioral withdrawal from contacts and activities related to extremism. From this point, the District uses the term disengagement to represent both deradicalization, which is cognitive, and disengagement, which is behavioral, as a combined meaning to avoid the negative conflicts often associated with the term deradicalization throughout U.S. Government entities, the justice system, and public misconception. The program is referred to as the MED program, which stands for the Minnesota Extremist Disengagement program.

This intervention and disengagement process for working with extremism/terrorism cases will require the use of one more set of tools and strategies to be incorporated into the profession of probation and pretrial services. Working with radicalized extremist individuals

requires the use of specialized knowledge, skills, tools, and methods, much like already utilized in working with addiction, violence, gangs, organized crime, sex offenders, and cybercrime defendants and offenders, just to name a few. 85 percent of the intervention and disengagement methods incorporated in the process are already used in probation and pretrial services casework.

The disengagement process used by the District identifies and addresses underlying, motivating factors leading to the individual’s radicalization and provides multiple reasons to abandon radical activities, group, ideology, or cause. As can be seen in Diagram 1, the Probation and Pretrial Services team coordinates the process of intervention and disengagement for rehabilitation developed after the Koehler model.



The District’s team approach process incorporates a multidisciplinary, highly trained team facilitated by Probation and Pretrial Services. The team coordinates a close-knit intervention process that may include mental health and substance abuse counselors, mentors,

halfway house staff, reliable educated family members, and any other necessary social services. The team works together in a holistic approach to address the numerous needs and issues of the individual. The team members may meet as frequently as weekly for strategy sessions or to staff issues that arise in the process. Depending on the circumstances, these meetings can include all team members or a few of the members shown in Diagram 1. Meetings may also be conducted with the sentencing Judge when necessary.

Team Selection and Assigned Roles

The team consists of primary members to include the Chief Probation Officer, a Probation and Pretrial Services Officer supervisor, and specialized Probation Officers, all trained in the coordination of the disengagement process. The assigned Probation and Pretrial Services Officers, counselors, and mentors are trained in the Koehler model. Probation and Pretrial Services Officers are also trained in the ERG 22+ risk assessment tool, Healthy Identity Intervention (HII), and Developing Dialogues (DD) of the U.K.

These Probation and Pretrial Services Officers are very skilled in interviewing, rapport-building, performing behavior analysis and assessments, and ensuring the delivery of a holistic continuum of services. The preferred team members are knowledgeable in the ideology and terminology of extremists that range from jihadists to white supremacists, which were defined in great depth in the Koehler training. Team members will need to stay current on new and changing culture and trends among extremists. Most of all, it is important that these team members have a strong, voluntary commitment in accepting the challenge of intervention and rehabilitation for radicalized defendants and offenders.

The team works from a complete knowledge of the individual's past and current circumstances. The team will review the bond and presentence reports; psychological evaluations; law enforcement reports; criminal indictments; forensic social media history; and information from collateral contact interviews with family, friends, and other significant relationships. The information reviewed will include an evaluation report completed by Mr. Koehler if one is available. The team members and the supervising Probation and Pretrial

Services Officer place special attention on monitoring key areas and people for radicalizing influences. These may include school; work; neighborhood; recreational areas; places of religious involvement; and radicalized friends, family members, or other associates.

For the team, the review of the radicalization process is forensic in nature to understand and identify the underlying, motivating factors of the individual to develop an intervention and disengagement plan. The Koehler process identifies how radicalization occurs through strategic dialogue and narratives to incite and or entice an individual or group to join in a violent ideology or cause. Radicalization occurs in a process over a period of time that includes intense or reoccurring exposure to a number of push and pull factors to engage one's emotions. Push factors are meant to incite an individual's negative emotions and pull factors are meant to entice the individual's positive emotions. An example of a push narrative is a statement that Islam is under attack by western policy and nations. An example of a pull narrative is a statement that, by joining ISIS, one gains honor as an elite warrior and will achieve life in a utopian caliphate. As defined by the Koehler model, the radicalization process leads to the individual's depluralization, which means complete intolerance for others outside of one's new group and belief system.

There are numerous reasons why people join jihadist or white supremacist groups, cause, or violent/extremist ideology. The radicalization process often includes an audio and visual diet of Internet propaganda and influential personal contacts as seen in the Minnesota cases. Defendants and offenders have often described radicalization as a mental and emotional state of anxiety and turmoil coupled with the excitement of action and cause that will bring a new future or an end with great promise such as life in a utopian caliphate or martyrdom. It is critical to identify what specific factors of the radicalization recruitment propaganda hooked or appealed to the individual for case planning.

As part of the process, the team members must be able to establish a relationship and connection with the defendant/offender to obtain his/her radicalization biography during the investigative process. It will be necessary to identify personal characteristics and social circumstances that were major influences in the radicalization process, such as social media,

recruiters, close friends, family members, religious leaders, and social networks. The individual's personal experiences contributing to his/her susceptibility could range from psychological and physical abuse to high levels of empathy to include a desire for humanitarian support for victimized people in war zones or desire to fight in their defense.

Following Koehler's model, this assessment should also identify any radicalization defense mechanisms used to program the defendant/offender, known as firewalls, in order to appropriately respond to them to move the disengagement process forward. These firewall narratives are advanced counternarratives which oppose logical arguments against radicalization narratives and violent extremism. Firewalls are preemptive narratives that discredit parents; religious leaders; and other traditional, significant influences in an individual's life, presenting them as corrupted by western values or anti-white sentiment while warning that they cannot be trusted. Failure to recognize and address these firewall narratives could result in a failed disengagement attempt, further contributing to or escalating the level of radicalization and commitment to a violent group, cause, or ideology.

Risk and Needs Assessment

Working with extremists can be dangerous, and constant risk assessment is necessary. Risk assessment includes gauging risk to national security, risk to the community, risk to the individual's family, risk to staff/team members, and risk to the defendant/offender disengaging from the extremist group and associations. The team continually conducts risk assessment and case planning for the individual to build on the disengagement process and to adjust supervision practices and strategies as needed for public safety. The team utilizes Mr. Koehler's methods for risk assessment and environmental analysis and the U.K.'s ERG 22+ risk assessment tool.

The team considers four primary categories of factors when assessing defendant/offender risk, as identified through the use of the ERG 22+. Through the tool, the team establishes the defendant's/offender's level of engagement in the group, cause, or ideology; intent level to carry out extremist actions and criminal behavior; capability to carry

out acts of violence; and possible protective/mitigating factors. Extremists with military training, knowledge of explosives and firearms, prison experience, and access to extremist networks and resources bring higher levels of risk, as they have greater capability to carry out acts of violence. In addition, the team utilizes the ERG 22+ to identify mitigating factors and positive progress that allows for adjustments in the intensity of the supervision plan. The basic factor areas of the tool are as follows:

ENGAGEMENT:

1. Need to redress injustice and express grievance
2. Need to defend against threat
3. Need for identity, meaning, and belonging
4. Need for status
5. Need for excitement, comradeship, or adventure
6. Need for dominance
7. Susceptibility to indoctrination
8. Political/moral motivation
9. Opportunistic involvement
10. Family or friends support extremist offending
11. Transitional periods
12. Group influence and control
13. Mental health

INTENT:

1. Over-identification with a group or cause
2. Us and Them thinking
3. Dehumanization of the enemy
4. Attitudes that justify offending
5. Harmful means to an end
6. Harmful end objectives

CAPABILITY:

1. Individual knowledge, skills, and competencies
2. Access to networks, funding, and equipment
3. Criminal history
- + Any other factor (Knudsen, 2018)

When the team has identified the underlying, motivating factors of the individual's radicalization, a complete plan addressing each motivating factor is developed to be carried out through the assigned Probation and Pretrial Services Officer, counselors, mentors, and other necessary community and social services. As previously stated, these contributing team members need to be educated in both the disengagement process and risk assessment to ensure the proper balance of public safety and rehabilitation. Based on the team meetings, the assigned supervising Probation and Pretrial Services Officer will complete the risk assessment tool ERG 22+, narrative reports, and case plans and will record the combined team staffing into the chronological record in the defendant's or offender's case file.

Although the federal Probation and Pretrial Services' Pretrial Risk Assessment tool (PTRA) and Post-Conviction Risk Assessment tool (PCRA) are not designed to assess risk and need for extremist/terrorism-related defendants and offenders, the team will review the tools to address any areas identified. These tools have proven more relevant in white supremacy cases. The team and process still incorporate the basic focus of traditional supervision that includes the risk, needs, and responsivity principle.

Counselors, Treatment Providers, and Mentors

Mentors, counselors, and treatment providers provide program elements to contribute to a network of influence for the disengagement and rehabilitation process of defendants and offenders. This network of influence also acts as a source of information needed for ongoing assessment of positive progress or for identification of signs the defendant/offender may have reengaged in extremism.

Building a specialized network of providers and community resources is critical to the success of working with extremists. It has been a challenge to secure providers in the area, as many of the top-quality service providers have declined involvement due to concerns about the controversy and risks associated in working with extremist/terrorism-related cases. Their concerns are for the safety of their other clients, counselors, and facilities; legal liability; and fear of negative community and media scrutiny. Many providers are not willing to take on the challenge of the specialized training and knowledge required for this type of work.

It is important to be very cautious in selecting service providers and community resources, carefully vetting them. Though there were interested parties seeking involvement with the District of Minnesota's program, many were not stable or appropriate. The motivations varied, as some sought notoriety, attempted to establish themselves as influential community leaders, inquired about funding and grants, or proposed research projects. Some providers have claimed success with programming in this area to gain media notoriety, which is often counterproductive to the treatment process. Many of these programs have failed to meet basic standards to provide proper evaluations, assessment of risk and needs, or required treatment modalities needed for the process. The District has carefully selected a small number of providers initially; and there is a great need for more legitimate providers for the future, due to the growing number of these cases.

The **mental health** and **substance abuse** counselors utilized by the District of Minnesota have been trained in the Koehler model; understand radicalization, intervention, and the disengagement process; and provide their respective counseling and treatment modality.

Mental health providers complete psychological evaluations and counseling to address both preexisting mental health issues and harm inflicted by extremist radicalization tactics and involvement in terrorism. This treatment often addresses post-traumatic stress disorder and trauma from a wide range of traumatic experiences. These experiences often include: physical and emotional abuse, witnessing victimization of family members,

significant loss, terrorism training, terroristic involvement on the battlefield, and other radicalization experiences.

The counselor and team work to help the defendant/offender rebuild a positive identity through a number of methods to include the Koehler mentoring model and guidance from the U.K.'s Healthy Identity Intervention Manual. Mental health and cognitive change can often be apparent in both discussions and actions. The team members continually assess the defendant/offender by reviewing his/her posts on Facebook, blogs, tweets, and ongoing discussions. Counselors and team members are trained and experienced in recognizing dialogue and narratives that demonstrate the defendant's/offender's thinking and mind-set.

Based on the District's experiences, mental health counselors and psychologists without knowledge and/or experience in working with radicalized extremists have proven to be somewhat unequipped to be effective with this population. Thus far, only about two of ten defendants and offenders among Minnesota jihadist cases had preexisting mental health issues that appear to have significantly contributed to their susceptibility to radicalization. These numbers have been consistent with those shared by Mr. Koehler from Germany and trainers from the U.K. This is an area that will require further ongoing research.

With regard to **substance abuse counseling**, controlling substance abuse issues will be critical when working with radicalization and terrorism cases just as it is for rehabilitation in other criminal cases. Some jihadists speak of becoming more devoted Muslims and abandoning smoking, sex, alcohol, and drugs while they were being radicalized, while others report continued or increased use of marijuana, alcohol, and other drug use that contributed to their lowered inhibitions. Substance abuse appears to be more acceptable if not a traditional part of white supremacist culture. Defendants and offenders often report their lowered inhibitions from substance abuse contributed to susceptibility for a shift in their ideas, beliefs, and the acceptance of a violent ideology. Again, substance abuse counselors will need to be trained to address the combined issues of radicalization, extremism, and substance abuse or closely guided by the team for case planning.

Mentors: The Probation and Pretrial Services team utilizes mentors as a key component of the intervention and disengagement process adopted from the Koehler model. The assigned mentors are carefully vetted, credible, trustworthy, and appropriate for the specific needs of the individual. Mentors may be paid or voluntary.

The defendant/offender may be assigned one mentor or multiple mentors based on the need to address underlying factors that influenced the radicalization process. These mentors may range from a life coach to mentors with specialized knowledge, skilled to address underlying radicalization factors or areas of positive, special interest that often include religion and politics. The mentor may also be needed to assist in intervention with family issues and reintegration into the community. In addition to the assigned areas of mentoring, the mentors must be committed to support monitoring the defendant's/offender's actions for any relapse to extremist activities and public safety issues that may arise.

Voluntary Religious Mentor Support

Any mentoring related to religion/theology will be voluntary at the request of the defendant or offender and provided by a carefully selected and vetted source. With regard to jihadists, the focus of mentoring is to change one's commitment to violent extremism and is clearly not directed at changing one's religion/theology. The assigned mentor will need to correct misconceptions justifying violence toward others as an acceptable means to an end. This is not unlike changing one's thinking, beliefs, and attitudes about criminal behavior and substance abuse, which are the foundation and goals for correctional treatment and rehabilitation for all offenders.

Religious mentoring usually involves appealing to the interests of the individual and replacing the desire for involvement in extremist activities with positive involvement that contributes to one's faith and the community. The mentors will need knowledge of the Muslim community and relationships with their leadership to ensure participants are connecting with appropriate influences and do not frequent areas known for extremist influences. When utilizing faith-based resources, knowing and monitoring areas of

community influence are equally as important for working with white supremacists or other types of extremists.

Civic and Political Education Mentoring

Often, radicalized individuals have strong civic and political interests and are open to mentoring, education, and discussions or debates in these areas. Assigned mentors; who are educators, experts, or highly knowledgeable specialists in history, political science, and extremism; are valuable assets for this role. A critical element of the disengagement process is identifying and developing cognitive openings for contemplation on alternatives to a violent cause, ideology, and underlying motivating factors. The mentors in this role will work with the defendant/offender on developing productive, nonviolent ways to express his/her political beliefs which will be reinforced by the activities of all the team members. These mentors, like all other mentors, should be trained in the Koehler model when possible or closely guided by the team.

Family Support and Education

The defendant's or offender's family will be an integral part of the intervention and the disengagement process. The Probation and Pretrial Services team members must be able to assess the family relationships closely for strengths and weaknesses. When necessary, it is critical to strengthen or rebuild the structure of family relationships to support the process. At times, the family relationships may be unsalvageable or a contributing factor supporting jihadists, white supremacists, or other types of extremism and not part of a viable disengagement plan. However, usually, good family counseling and education regarding supportive relationships can be key to a good disengagement process.

The Probation and Pretrial Services team educates family members on the signs and symptoms of radicalization, compliance with the conditions of supervision, and ways to assist in the intervention and disengagement process. The use of written agreements to ensure clear

expectations and commitment to the process can be extremely valuable. Assigned mentors may be able to assist with this process when necessary.

Social Services

A critical part of the intervention and disengagement process is the development of a network of partnerships with community social services to assist with a holistic approach for working with extremists. These services include areas such as family counseling, employment, educational tutoring, residential and basic subsistence, and medical treatment. This requires the Probation and Pretrial Services team to build close partnerships with providers and, at times, educate them on various aspects of the disengagement process, such as radicalization/terrorism issues and public safety concerns, which may go beyond what is required with regular services. This may include precautionary measures to avoid negative public or media attention and risks associated with terrorism related cases in the community. For the District of Minnesota, these services often focus on needs specific to members of the Somali community. These services will need to be coordinated closely by the team to meet the needs of the defendant or offender with the disengagement process.

Employment and Vocational Training

Meaningful employment and educational opportunities may play a significant role in the intervention and disengagement process. A new or positive identity for defendants/offenders can be better developed if they are employed or receiving training or education in an area of interest. The development of long-term occupational goals can fulfill some of the needs or motivating factors that incited or enticed the individual to an extremist ideology. The more one is engaged in multiple interests, such as meaningful employment and education, the better chances of a successful disengagement. The issue of third-party risk can be a challenge with extremist/terrorism cases, as not all employers are willing to hire employees with this background. Having a network of employers and ties to educational institutions will be important. The Probation and Pretrial Services team should be aware of employers and

educational institutions in the community that have been known to have extremist influences or ties.

Expert Consultation

Mr. Koehler's and HMPPS's training, tools, processes, and practices have drastically moved the development of the District's program forward. Mr. Koehler's expert consultations began by providing evaluations for defendants pending sentencing and presenting training to Probation and Pretrial Services Officers to be coordinators in the facilitation of the disengagement process. Mr. Koehler's consultation services included ongoing advice on program development for casework strategies and issues that arise in the District's team approach. Mr. Koehler provides additional follow-up training and consultations in the latest developments and worldwide research for working with extremists. Some of the work he published (Koehler, 2016a); (Koehler, 2016b); (Koehler, 2017) is now included in the program's guidance.

The District continues to work with HMPPS of the U.K. through quality assurance reviews for competency development for the use of the ERG 22+ risk assessment tool, the HII manual for case planning, and Developing Dialogues process. HMPPS conducts ongoing research to further validate the ERG 22+ risk assessment tool and other intervention strategies.

Both sources of expert consultation support the District's Probation and Pretrial Services team through ongoing research, quality assurance assessments, consultation for program adjustments, training, and updates on the latest international developments for working with extremists.

IV. Justice System Model for Intervention and Rehabilitation for Extremists

The scarcity of civil prevention and intervention programs in the U.S. has unfortunately resulted in criminal prosecutions being the nation's almost exclusive intervention response to

extremism thus far. The District of Minnesota's justice system model team process for intervention starts at the point of arrest or criminal charges. Although the federal justice system has worked with domestic terrorism cases such as white supremacists for many generations, this new brand of jihadist extremist involved with foreign terrorist organizations has brought new challenges. The ability within the legal structure of the criminal justice system to incorporate necessary and appropriate responses addressing the effects of a highly sophisticated radicalization process on young defendants and offenders will continue to be a challenge in the U.S. for some time. Included in the justice system team decision-making process is a more elaborate consideration of the underlying motivating factors and levels of radicalization, which is in addition to assessing the motivations or circumstances for other types of criminal behavior.

This intervention process is tailored to follow a statutory path and mandates throughout the criminal justice system beginning at arrest or criminal charges with the provisions for pretrial release set forth in U.S. Criminal Code Title 18, Section 3142; the goals of sentencing mandated under U.S. Criminal Code Title 18, Section 3553; and the structures set forth for probation supervision provided in U.S. Criminal Code Title 18, Section 3563; and for supervised release defined in U.S. Criminal Code Title 18, Section 3583.

The District of Minnesota relies on Probation and Pretrial Services Officers and Supervisors trained in the specialized area of extremism to lead the team in handling the basic statutory mandates and functions of the justice system processes. These Probation and Pretrial Services Officers are equipped with the knowledge and skills to understand both the radicalization process and the necessary interventions to stabilize and disengage defendants from extremism when possible. These abilities enable officers to make critical release or detention recommendations, provide appropriate sentencing recommendations, recommend necessary conditions for supervision, and carry out supervision activities to mitigate danger to the community and facilitate the intervention, disengagement, and rehabilitation process.

Arrest/Suppression

Arrest or criminal charges comprise the first step in a justice system model of intervention for extremists. Arrest and detention only temporarily suppress or limit an extremist's desire for ongoing communication and opportunities to support or commit acts of violence for his/her group, cause, or ideology and do not address one's level of radicalization. For this model of intervention to be most effective, the process of disengagement will need to start at the time of arrest and include a full continuum of services throughout the process of pretrial services, sentencing, incarceration, and community supervision. This process is similar to the practices to address drug addiction and sex offenders currently in place throughout the criminal justice system.

Pretrial Decision-Making

After the arrest or charging of an extremist/terrorism-related defendant, the Court decides to detain or release the defendant into the community while waiting disposition of the case, based on risk of flight or danger to the community as set forth in U.S. Criminal Code Title 18, Section 3142. In many of these cases, the defendants are very young, have good family support, have jobs, are students, and have little or no criminal history or history of violence. At face value, these circumstances would clearly justify pretrial release in most cases. However, in cases where the defendant is highly radicalized, this makes him/her unpredictable and both a risk of flight and danger to the community.

Not all radicalized individuals commit crime, however, radicalization is often a precursor to involvement in terrorism-related offenses. At this point, determining the level of radicalization is critical and should not be mistaken as establishing guilt or innocence of the charged crime. Being radicalized in itself is not a crime. Evaluating the level of radicalization is similar to assessing the level of a defendant's drug use or addiction to determine release or detention and the necessary conditions of supervision to mitigate and manage the risk of flight and danger to the community.

Assessments of a defendant's level of radicalization and intent for continued involvement in terrorism-related activities differ from the focus on more traditional indicators used to determine good candidates for release by Probation and Pretrial Services. In these circumstances, defense counsel often brings numerous motions and proposed release plans to the Court requesting the release of radicalized defendants involved in a terrorism-related offense, due to their youth, the presence of good community support, and limited criminal history. Probation and Pretrial Services is often directed by the Court to evaluate these additional release plans to determine if they are sufficient to stabilize these defendants for release and defend any recommendations based on levels of radicalization or intent to continue extremist activities as they relate to risk of flight and danger to the community.

An even greater challenge for Probation and Pretrial Services than legal disputes over release and detention is the decision by the U.S. Attorney's Office and/or the Court in a terrorism-related case to attempt pretrial diversion or provide special programming for defendants due to their youth or involvement as cooperators. The Court often requires Probation and Pretrial Services to fashion both a treatment plan and special conditions to stabilize the defendant to help facilitate these initiatives. The District of Minnesota Probation and Pretrial Services has responded to numerous requests from the Court and assisted other districts nationally with these types of circumstances.

To determine risk of flight and danger to the community for potential release with intervention programming in extremist cases, the Probation and Pretrial Services team identifies the defendant's motivation and intent level, level of radicalization, and level of capability to carry out extremist acts. In most cases, the case agent, prosecutor, family members, or other reliable sources can provide valuable primary information about signs of the level of radicalization.

Probation and Pretrial Services analyzes the role of the defendant's involvement in the extremist/terrorist group's activities. For example, Probation and Pretrial Services analyzes whether the defendant attempted to obstruct investigative efforts to protect the group or cause, increasing further consequences for himself/herself, or whether the defendant was a lone

actor. Probation and Pretrial Services evaluates the level of sophistication of the defendant's travel plans, such as false passports; contacts with local and international networks and resources; and plans for involvement to carry out acts of violence. Probation and Pretrial Services also must carefully evaluate if substance abuse and mental health issues contributed to the radicalization process when considering release. Ongoing substance abuse or mental health issues can lead to a defendant reverting to extremist activities in some cases if not successfully treated.

Knowing how the defendant was radicalized; the time period the radicalization took place; the level of involvement with contributing relationships and networks; and the specific activities can assist in establishing if pretrial release is appropriate for all types of extremists. For example, white supremacist members of the KKK often have long-term relationships, associations, and generational involvement with family and friends, who contribute to risk as extremist influences and networks. Assessment at this juncture for both jihadists and white supremacists may include determining if the defendant is continuing to recruit others or siblings, which can create further risk to the community, and would not typically be an area of focus in a non-extremist criminal case.

If the defendant is returning from overseas travel, Probation and Pretrial Services evaluates to determine if the defendant was involved in terroristic activities or training, increasing the defendant's risk level. Returnees are closely evaluated to determine the reasons for their return. If the returnee became disillusioned due to a bad experience or expresses remorse and denounces the group or cause, this can be a positive step if it is verifiable. Defendants who continue to protect or voice support for the group, cause, or ideology, or go silent, will need to be closely monitored and contained.

As always in the profession of Probation and Pretrial Services, Officers evaluate the defendant's actions over listening to words. Notable changes in the defendant's behavior and expressed views at this point can assist in determining if the arrest or charges had a negative or a positive impact. A high level of dishonesty, deception, and manipulation are often indicators of the level of commitment to the group, cause, ideology, and level of

radicalization. Evaluating if the arrest or being charged created a desperate state of mind that will result in further attempts to travel outside of the U.S. to fight for ISIL/ISIS or martyr oneself if released is critical.

Within the District of Minnesota terrorism cases, some defendants were stopped or questioned by investigating agents for attempting to leave the country. When word of this law enforcement contact spread among the group members, more sophisticated planning and activities occurred instead of efforts being discontinued. The phrase coined among the terrorist cell members in Minneapolis, “fake it until you make it,” clearly illustrates that the defendants believed in the importance of making their lifestyle look completely normal to avoid raising suspicions. In that way, they could get out of the country to travel to Syria to join and fight for ISIL/ISIS or be involved in other terrorism-related activities.

Some visible signs of radicalization may be a name change to a “combat name” (kunya) in addition to violent extremist propaganda, tattoos, or possession of other extremist symbols or objects. Changes in behavior and narrowing of friends to only jihadist Muslims or white supremacists are common in extremist cases. Activities like selling property, raising money, or obtaining a passport can all be indicators of the level of involvement in mobilization to extremism/terrorism activities. Drastic changes, such as going completely silent on previously protested issues or concealing behaviors, could also reveal a defendant has a plan or is taking action in keeping with the “fake it until you make it” strategy.

Postings on social media that profess jihad, white supremacy, or other areas of heated political debates can be very telling. Reviewing messages and communications on Facebook, texts, and other social media at the time of arrest can reveal the level of radicalization. Posted messages and chatter with friends can provide significant information, as some defendants may post commentary on terrorist attacks around the world or police shootings that result in civil unrest, for example. Probation and Pretrial Services should obtain screenshots of social media and texts at this point to properly assess the defendant’s mind-set for release and future intervention. The use of encrypted messaging software can also expose the level of sophistication of a defendant when determining his/her circumstances to evaluate risk levels.

Deception among these defendants can be very sophisticated, due to the mind-set of radicalization. In a number of cases, defendants misled or withheld information from government agencies for lengthy periods of time during the proffer and cooperation activities to protect themselves, the group, and cause. This behavior may demonstrate some remaining loyalty to the group and level of radicalization even after what appears to have been a change of heart and mind set.

In one example case, the potential risks of a defendant were especially challenging to assess and a learning experience. This pretrial releasee was believed to be a fully cooperative and compliant individual, a model pretrial releasee. In reality, the defendant orchestrated the radicalization process for a number of young people in a local Muslim school. Such an act is hard to detect. In this instance, it was a lesson learned on the need for close communication between agencies. When considering pretrial release at this stage, close contact with both the case agent and prosecutor can be crucial to determine if there will be ongoing investigations, surveillance, or cooperation activities to support community supervision efforts to mitigate risk of flight and danger to the community.

If it can be determined that a defendant is appropriate for pretrial release, with proper intervention programming and ongoing assessment, the defendant may be able to make progress that would mitigate the need for a lengthy prison sentence. Pretrial release could allow the defendant to be involved in positive activities that include ongoing cooperation with the government, participation in counseling, extraordinary acceptance of responsibility to include involvement in community service projects, reestablished family relationships, and drastic changes in lifestyle. A number of defendants in the District of Minnesota have been successful on pretrial supervision; and a number of others were appropriately detained, due to their high level of radicalization creating risk of flight and danger to the community. Thus far, 12 of the first 30 defendants involved with foreign terrorist organizations have been deemed appropriate for pretrial release. Of these 12 defendants, 10 of them, or 83 percent, successfully completed pretrial supervision.

Plea of Guilty

The choice to plead guilty can be an important part of the disengagement process. The practice of Senior U.S. District Judge Michael J. Davis is to carefully canvas defendants at the public plea hearing regarding their experiences in the radicalization process, offense conduct, reasons for pleading, and expressed remorse. Through careful inquiries requiring defendant responses beyond the scripted statements prepared with the assistance of legal counsel, the Court gains a deeper understanding of the defendant's mind-set. Defendant responses at this point give further insight to assess if there has been a cognitive shift and to establish a factual baseline for the disengagement process. This questioning process can also demonstrate one's level of honesty and any remaining loyalties to the group, cause, ideology, or other individuals involved in the case. This testimony is especially valuable to set the course for follow-up, in-depth interviews by Probation and Pretrial Services.

The plea hearing and proffer information can contribute to the ongoing disengagement planning to include decision-making regarding continued pretrial release status or detention, an appropriate sentence recommendation, and the needed special conditions of supervision. If the plea of guilty comes without a forthright proffer and cooperation, it can be telling of the mind-set of the defendant, as he/she may be continuing to protect the group or cause. Some individuals may accept a prison sentence and the consequences of their refusal to plead as a form of sacrifice for the group, cause, or their friends, giving them meaning and significance, which further demonstrates their level of radicalization.

Cooperation with the Government

The plea of guilty and cooperation can have both significant legal meaning and benefits to the extremist/terrorism defendant. However, these acts can also be very significant in the process of intervention and disengagement. The level of cooperation with the government can reveal the mind-set of defendants. If defendants are very forthright about the offense and even willing to testify as a witness, they have taken significant steps toward a shift away from their commitment to the group, cause, or ideology. Defendants who continue to be untruthful and

withhold critical information to protect friends, the group, or cause are often affirming their devotion to extremism. The group may be local friends, a cell, network, or an organization, such as Al-Qaeda, Al-Shabaab, ISIL/ISIS, or the KKK. These behaviors will need to be examined closely in intervention planning to determine their meaning and the intent of defendants.

Cooperation and testifying are acts that can represent a change in mind-set and result in limiting the individual's ability to return to the group at any level. Evaluating the significance of cooperation involves reviewing several aspects. The first is to determine if the defendant provided forthright, detailed admissions and had remorse for breaking the law that went beyond scripted responses. The second is evidence of contemplation about one's actions, which includes reflection on harm to others, such as one's family, communities, and oneself. Expressed relief about leaving one's commitment to the cause or ideology can also be an indicator of a cognitive shift. These indicators of a change in mind-set can often be determined in in-depth interviews and by the defendant's actions. Court testimony as a witness can be one of the most significant tests, demonstrating legitimacy of change for a defendant.

Close communication with the case agents and prosecutor working with the defendant will be critical to this process. There have been cases where defendants have developed close bonds with agents and prosecutors. Oftentimes during the cooperation process, the time spent with agents and prosecutors exposes defendants to positive prosocial values and influence. These relationships have proven to be very significant to further the disengagement process, providing positive experiences to counter radicalization narratives.

Denounce Violent Extremism

A significant action by a defendant or offender is to publicly denounce the group, cause, or ideology in a manner that would lessen the ability to return to involvement with other extremists. Such an act of denouncing the group or cause, especially during a public plea hearing or testifying in open court proceeding can reveal the defendant's current level of

commitment to leaving extremism behind. However, defendants sometimes have been scripted in denouncing their cause as a legal strategy to mitigate their potential sentence. During a probation and pretrial interview, multiple levels of questions and further discussion about the denunciation of extremism are valuable to determine if there has been a true cognitive shift from extremism. Most defendants who have experienced a cognitive shift can delve deeply into their thinking and feelings on reasons why their cause or ideology has shifted. Consistency in narratives and honesty must be more closely monitored in extremism/terrorism cases.

Should the defendant be willing to take a significant step that may limit the option of returning to the group, this action is no guarantee the individual is “cured” forever. Denouncing one’s group, cause, or ideology is only one step in the disengagement process, which will need to include multiple layers and actions over time. Some defendants have denounced their affiliation with the group or cause and expressed remorse only to be followed by posturing to the crowd in the courtroom by flashing a jihad hand gesture when leaving a court hearing. A thorough understanding and knowledge of extremists’ cultures coupled with close observations are critical aspects when working with these defendants and offenders.

Those who denounce their group, cause, or ideology will need monitoring with the proper levels of supervision and special conditions, as do all other defendants who denounce and express a desire to discontinue criminal activity. The levels of dishonesty and deception by some extremist/terrorist defendants and offenders have been notably high and very sophisticated. For this reason, many times it is necessary to order reoccurring polygraph testing as a special condition of supervision. Ultimately, should a defendant or offender choose not to renounce, plead, cooperate, or demonstrate a change in mind-set, this act sends a clear message of the high level of risk they pose to the community.

Sentencing Process

Probation and Pretrial Services faces a difficult challenge of determining appropriate sentence recommendations for defendants in extremist/terrorism-related cases. Terrorism-related

offenses call for lengthy sentences. For example, the offense of providing material support carries up to a 20-year prison sentence, while conspiracy to commit murder outside the U.S. has provisions for a sentence of up to life imprisonment. The U.S. Sentencing Guidelines call for a 12-level adjustment with a criminal history category VI, when calculating the sentencing guideline range for any felony offense that involved or was intended to promote a federal crime of terrorism under U.S. Sentencing Guidelines, Section 3A1.4(a) and (b). In the United States vs. Amina Ali and Hawo Hassan, the Eighth Circuit Court of Appeals concurred with the Second Circuit Court of Appeals finding Congress and the U.S. Sentencing Commission “had a rational basis for concluding that an act of terrorism represents a particularly grave threat because of the dangerousness of the crime and the difficulty of deterring and rehabilitating the criminal, and thus that terrorists and their supporters should be incapacitated for a longer period of time, even terrorists with no prior criminal behaviors are unique among criminals in the likelihood of recidivism, the difficulty of rehabilitation, and the need for incapacitation (United States v. Ali, 2015).”

Sentencing recommendation judgment calls are further complicated by the reoccurring and devastating terrorist attacks in both the U.S. and around the world. A number of these attacks have been carried out by individuals not only included on a watch list but also involved in criminal justice system interventions that included sentences of incarceration and/or some type of community supervision that failed to prevent these individuals from carrying out attacks.

The District of Minnesota and many other criminal justice professionals are committed to developing effective alternative solutions to lengthy incarceration alone to best deal with extremism/terrorism-related cases. There is no need to debate on how critical it is to incapacitate radicalized individuals involved in and committed to carrying out terrorism-related offenses. However, in terrorism-related activities, there are a number of differing types of offenses and levels of involvement. Failing to develop sentencing and supervision practices at the appropriate, varying levels for these defendants and offenders could have catastrophic future consequences.

Terrorism defendants generally fit no set profile. However, many terrorism defendants seen in the District of Minnesota and in other districts have been young, often first exposed to the radicalization process as teenagers, and have little or no history of criminal behavior or actual violence. Dissecting the underlying motivations and understanding the level of radicalization of terrorism-involved defendants are factors criminal justice professionals must consider when recommending an appropriate sentence.

Treating this population ineffectively may result in dire, catastrophic consequences that range from freeing a dangerous offender to commit an act of terrorism in the community to unnecessarily overincarcerating very young offenders, possibly creating long-term breeding grounds for terrorists in prisons. Probation and Pretrial Services faces the challenge of determining a defendant's level of radicalization and intent to pinpoint actual, potential harm to the community through acts of violence in addition to the threat he/she could pose to national and international security. Determining if a sentence within the guideline range of imprisonment greatly increased by the Chapter 3 terrorism adjustment is greater than necessary to accomplish the statutory goals of sentencing is a complex and concerning process.

In response to this challenge, the District of Minnesota's expert consultant Mr. Koehler assisted with evaluations for the Court and trained Probation and Pretrial Services on understanding radicalization and development of intervention and disengagement programming. The evaluation was in accordance with provisions set forth under U.S. Criminal Code Title 18, Section 3552(b), that allows the Court to have a report prepared by a qualified consultant to assist in determining an appropriate sentence. In addition, the evaluations assisted Probation and Pretrial Services in tailoring and recommending necessary conditions of supervision to both ensure public safety and support the disengagement and rehabilitation process.

The initial program instituted by the Court for the District of Minnesota included Mr. Koehler's evaluations and training detailed as follows:

PROGRAM MISSION: To provide information to the Court that is otherwise not available as a basis for determining the sentence of a defendant convicted of a terrorism offense; to provide purposeful pretrial and post-incarceration supervision that ensures public safety by monitoring defendants to verify that they have not reverted to any involvement with terroristic activities; and to further the process of disengagement from extremist ideology while rehabilitating them to become successful, law-abiding citizens.

CONSIDERATION FACTORS IN DISENGAGEMENT:

- Maintain proper balance between public safety and rehabilitation
- Tailor approach to individual circumstances
- Provide multiple reasons to abandon radical activities and group ideology
- Consider local culture, i.e., economic, political, religious, and racial diversity
- Develop program components to rehabilitate radicalized individuals

PROGRAM COMPONENTS:

- Identify case-specific, driving factors of radicalization for defendants
- Develop presentence examination and study to evaluate risk assessment and intervention needs for use in preparing reports to be used for sentencing purposes
- Work with defendants in a jail setting; halfway house placement; or under GPS monitoring. Develop community contacts with family members, friends, teachers, agents of the government, or other involved parties.
- Administer risk assessment tool on the defendant to assess:
 - Level of engagement
 - Level of intent to commit acts of violence and mental state
 - Level of capability to commit violence
- Identify level of risk of reoffending and stage of radicalization

- Identify specific, individualized target areas for the disengagement process
- Develop prognosis for success for intervention and disengagement process
- Establish disengagement intervention program tailored to each defendant's circumstances and underlying radicalization factors
- Develop graduated phase process needed for intervention and disengagement of the defendant
- Identify resources needed for a structured team approach, such as psychological counseling, social services, educational needs, and mentoring programs
- Establish contact frequency and process duration by involved parties for intervention and disengagement of each defendant

With the aforesaid evaluations and prescribed programming, it is clear that these types of evaluations did not exist in the U.S. justice system and could bring great value to both the Court and Probation and Pretrial Services. The evaluations completed by Mr. Koehler assisted in providing the Court possible alternatives to an overreliance on long prison sentences and helped facilitate the development of community programming and special conditions for supervision.

The format of the presentence investigation report prepared by Probation and Pretrial Services was modified for the assigned cases to include the radicalization biography portion and risk assessment sections of Mr. Koehler's evaluations. When an evaluation report by Mr. Koehler was not available, trained Probation and Pretrial Services Officers conducted a special defendant interview focusing on the biography of the defendant's radicalization experience and included a detailed description in the mental health section of the presentence report.

For sentence recommendations, Probation and Pretrial Services considered traditional elements of the offense, relevant conduct, and the defendant's criminal history to calculate the appropriate range under the sentencing guidelines which included the prescribed

enhancements for terrorism-related offenses at U.S. Sentencing Guidelines, Section 3A1.4(a) and (b). The challenge for Probation and Pretrial Services is determining if there are circumstances that establish a rational exception in a terrorism-related offense that justifies a departure under the guidelines or a variance under U.S. Criminal Code Title 18, Section 3553.

As defined at U.S. Criminal Code Title 18, Section 3553,

(a) Factors To Be Considered in Imposing a Sentence.--The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider—

- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) the need for the sentence imposed—
 - (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
 - (B) to afford adequate deterrence to criminal conduct;
 - (C) to protect the public from further crimes of the defendant; and
 - (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner

In cases in which the defendants qualify for the terrorism adjustment at U.S. Sentencing Guidelines, Section 3A1.4, adding a 12-level increase and mandating a criminal history category of VI, the guideline range of imprisonment may be limited only by the statutory maximum sentence. This is especially true if defendants plead guilty to or are convicted of a single count of Conspiracy to Provide Material Support to a Designated Foreign Terrorist Organization, with a statutory maximum sentence of 20 years (previously 15 years). As a result, multiple defendants could have the same guideline range of imprisonment, even though their involvement and culpability in the conspiracy may be significantly different. The goals of sentencing at U.S. Criminal Code Title 18,

Section 3553(a) include “the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct,” and this factor can both justify and inform the degree to which a variance or departure from the guideline range of imprisonment should be considered for sentencing recommendations in order to better distinguish defendants with the same guideline range of imprisonment from each other and reflect the commensurate severity of their involvement.

In determining the appropriateness of a departure or variance in a sentence recommendation, consideration of the offense and defendant’s behavior requires an in-depth analysis of the aggravating and mitigating factors unique to extremist/terrorism-related offenses and a review of how they relate to the factors set forth in U.S. Criminal Code Title 18, Section 3553.

The aggravating factors in terrorism-related cases could include:

- expressed beliefs in injuring, killing, or martyring oneself for the group, cause, or ideology;
- involvement in sophisticated and lengthy ongoing conspiracy;
- multiple and highly calculated attempts to carry out the offense;
- multiple attempts to travel outside the U.S.;
- discussions of attacks against the U.S.;
- ongoing contacts with individuals involved in a foreign terrorist organization;
- continued efforts to carry out terrorism-related activities after intervention attempts by family or law enforcement;
- expressed high levels of anti-sentiment against the U.S. Government and Americans;
- ongoing deception throughout the process to protect the group members and cause;
- expressed high levels of commitment and devotion to group, ideology, or cause;

- facilitating others' attempts to travel or commit acts of terrorism;
- recruiting and radicalizing others;
- contributing to radicalization propaganda;
- posturing as a political prisoner victim of targeted entrapment by the government;
- posturing as a sacrifice for the group or cause;
- posturing as a righteous jihadist to the younger generation of the community;
- minimizing involvement;
- failure to accept responsibly for actions or show remorse

The mitigating factors in terrorism-related cases could involve:

- high level of cooperation with the government;
- testifying at trial;
- pleading guilty;
- providing forthright proffers about involvement and activities;
- having a minor role in conspiracy;
- lacking actual actions or attempts to carry out activities;
- early disengagement from the group;
- publicly denouncing one's violent cause, group, or ideology;
- accepting responsibility for one's actions and showing remorse;
- demonstrating desire to change by speaking out against extremism;
- pursuing programming and rehabilitative efforts after arrest;
- mental health issues;
- having limited or no criminal history or history of violence

These mitigating factors can help determine if a defendant is a suitable candidate for a variance from a lengthy period of imprisonment. At times, defense counsel may attempt to

script the defendant with these mitigating factors, requiring the Probation and Pretrial Services Officer to be very thorough during defendant interviews.

The available options in reducing the lengthy prescribed sentences are government-sponsored departures for substantial assistance/cooperation or other departure provisions (such as age or mental and emotional conditions present to an unusual degree); plea agreements to charges with a lower statutory maximum sentencing; and variances based on U.S. Criminal Code Title 18, Section 3553 factors. The District Court of Minnesota and other District Courts have also extended the period of pretrial/presentence release to conduct intervention and rehabilitation efforts and/or facilitate government cooperation.

Extended periods of pretrial supervision allow for ongoing assessments and interventions, which prepare defendants for a local program and/or shorter period of imprisonment when appropriate. The sentence recommendation could include local custody or credit for time served, in combination with a community placement and programming with a gradual return to the community. These types of transitions have been closely monitored with regular assessments by the District of Minnesota's specialized Probation and Pretrial Services' team to ensure public safety and continued steps toward disengagement and rehabilitation.

Through a continued evolution of experience, training, knowledge, and ongoing research for working with extremist/terrorism defendants, Probation and Pretrial Services will become more equipped to recommend sentences that better meet the goals of sentencing prescribed by statute in U.S. Criminal Code Title 18, Section 3553. These sentencing recommendations can be tailored not to be greater than necessary and overreliant on lengthy prison terms while including appropriate conditions for supervision to help ensure public safety, disengagement, and rehabilitation of defendants and offenders to become successful, law-abiding citizens.

Thus far, there have been a number of variances and departures from the enhanced sentences in the District of Minnesota, demonstrating that a one-size-fits-all approach was not justified based on U.S. Criminal Code Title 18, Section 3553 sentencing factors. District of

Minnesota sentences for the first 30 jihadist-type, terrorism-related cases ranged from 3 years' probation for cooperators and those with minor involvement to 35 years' custody with life terms of supervised release to follow for the most serious offenders.

Term of Incarceration

If not properly managed, prisons could become breeding grounds for young jihadists and other types of extremists who, upon release to the community, may carry out terrorist acts as part of a group or as lone actors. When incarcerated, there is a great risk that untreated, radicalized individuals will become more militant and recruit others for involvement in violent extremist activities. Radicalized groups or cells in the institution can easily inspire and/or direct attacks to occur in the community. Probation and Pretrial Services' future success for working with extremists could hinge on whether the Bureau of Prisons adopts the use of specialized evaluations and treatment programming for radicalized, extremist offenders.

Since many extremism/terrorism defendants are young, they enter prison life with limited criminal experience and survival skills. Offenders having served prison terms for involvement in jihadist-type terrorism offenses have expressed their default survival mechanism was to become part of the Muslim Brotherhood in Bureau of Prisons institutions. It has been reported that these groups consisted of both conservative and extremist Muslim factions. This same dynamic has been historically true for many offenders involved with white supremacist groups or gangs prior to prison life or during imprisonment for survival. Unfortunately, those radicalized in prison for the first time can create an even greater risk to future public safety if this new affiliation is not identified prior to their release to the community.

The issue of criminal groups, gangs, and networks throughout the Bureau of Prisons that conduct criminal activities which transcend into the community is not a new phenomenon. These types of prison gangs or groups often include white supremacists like the Aryan Brotherhood, skinheads, Aryan Nation, and the Ku Klux Klan; criminal organizations

like La Cosa Nostra and drug cartels; biker groups like Hells Angels; and street gangs like the Mexican Mafia, and a variety of Bloods and Crips.

Treating imprisoned extremists ineffectively and without specialized evaluations and treatment could contribute to their further radicalization and involvement in violent extremism/terrorism upon their return to the community. These types of terrorism-related activities have already occurred in the U.S. by both jihadists and white supremacist-type offenders having returned to the community under supervision.

Reentry and Community Supervision

Reentry is a difficult process for most offenders returning to the community with the label of convicted felon; and the challenge becomes even greater with the label of a terrorist. The negative notoriety and media exposure with these cases often discourage employers and community members from employing or taking a risk on such offenders, due to trust issues and unwanted attention. On occasion, the media has discovered an offender's place of employment or residence and broadcasted the information, raising concerns about his/her risk to public safety.

Offenders have spoken of unwanted negative attention even with community interface at the mosque where they were treated with the suspicion of being a terrorist or approached by those supporting militant groups or anti-American sentiments. Reentry challenges can easily lead to disillusionment from lack of identity, lack of belonging, shame, and a lack of meaning and status. At times, such dynamics can lead to future involvement in violent extremism. Relapse due to failed attempts at developing a new identity or fulfilling life can easily lead to desperation with a way out through the promise of fulfillment by death as a martyr for a cause or reinvolvement with an extremist group. Monitoring all aspects of the reentry process is critical.

The District's specialized Probation and Pretrial Services team begins the reentry planning process for extremism\terrorism cases during the prison prerelease investigation phase. The team reviews proposed family support, residential setting, employment, and

education; begins risk and needs assessment; and completes the disengagement process planning through team staffing. The team addresses the underlying motivating factors of radicalization identified through the ERG22+ risk assessment tool and Koehler methods of environmental analysis. Through the case planning process, the team will devise a plan that includes counselors, mentors, and all necessary team resources.

The team will ensure the proper conditions of supervision are in place, balancing public safety with disengagement and rehabilitation under the structures and conditions set forth for probation supervision provided in U.S. Criminal Code Title 18, Section 3563, and for supervised release defined in U.S. Criminal Code Title 18, Section 3583. These statutes allow the Court to impose discretionary special conditions that are reasonably related to the sentence factors and reasonably necessary for the purposes of sentencing as articulated in U.S. Criminal Code Title 18, Section 3553, previously discussed in the sentencing section of this article.

Although the conditions of supervision are tailored to the specific individual's circumstances, many of the following special conditions are found to be appropriate in extremist cases to facilitate the reentry process and community supervision:

1. Residential Placement with Global Positioning System (GPS) Tracking
2. Global Positioning System Tracking in the Community
3. General Search of Residence or Occupied Area
4. Computer and Internet Use Restrictions, Monitoring, and Search
5. Online Communications Restrictions and Monitoring
6. Prohibited Access to Extremist or Terroristic Materials
7. Restriction from Media Contact or Interviews
8. Mental Health Counseling Combined with Mentoring
9. Polygraph Truth Verification
10. Chemical Dependency Assessment, Treatment, and Testing
11. Full Financial Disclosure
12. Not Possess or Obtain a Passport

13. No Possession of Weapons

The community supervision process for reentry often involves a gradual transition for returning offenders to the community that includes close monitoring usually with an extended placement in a community residential facility or halfway house with GPS tracking for higher risk offenders.

The challenge with extremism/terrorism cases will continue to grow with increasing numbers of these cases placed on community supervision with many of these offenders sentenced to terms of supervision that range from 20 years to life. The District's disengagement programming is in its infancy with approximately 25 identified extremists currently in various phases of programming that will need continued tracking. At the present time, the District is challenged with shifting budgetary priorities, as Probation and Pretrial Services has not been allocated resources for research and development of programming for working with extremists, and no funding has been made available for quality assurance or program evaluations.

The success of the District's disengagement programming for the time being will be measured with the goals and protocols used to measure success for all Probation and Pretrial Services cases. This tracking includes the primary goal of defendants/offenders successfully completing the Court-ordered term supervision with the development of a successful, law-abiding lifestyle. Extremist cases will be coded for separate tracking from the general caseload for monitoring ongoing progress that includes measuring completion of their conditions of supervision, such as counseling, mentoring goals, honesty on polygraph testing, employment, education, and other supervision requirements.

This tracking of extremist cases also includes any violations of the conditions of supervision requiring sanctions, revocations with a return to custody, and any arrests or convictions for a new offense. Special attention is given to any violation that involves relapse to involvement in extremist activities as a primary goal of disengagement programming. Team meetings will address both the progress of the disengagement programming for needed

adjustments and individual case staffing. The team will consult with Mr. Koehler for program adjustments and HMPPS representatives for quality assurance reviews of the ERG 22+ risk tool assessments. By including the Bureau of Prisons and the Administrative Office of the U.S. Courts, Probation and Pretrial Services Office, in the District of Minnesota's disengagement training, it is hoped that a close partnership can be developed. Ideally, the practices for working with extremists could be initiated at the time of arrest and would be a full continuum of services throughout pretrial services; sentencing; incarceration; and community supervision, as exists for substance abuse and sex offenders. These services would include constant information-gathering for continued assessments to develop the best possible case plans for disengagement, rehabilitation, and public safety measures throughout the criminal justice process.

V. Conclusion and Recommendations

The U.S. and many other nations throughout the world continue to pursue the development of evidence-based practices for responding to the challenge of treating a new generation of extremist/terrorist defendants and offenders radicalized through both sophisticated narratives and high-tech methods. It was apparent for the District of Minnesota that, without the development of practices for working with this rapidly growing population of young, radicalized offenders in the U.S., the default response was going to be automatic detention for pretrial purposes, long prison sentences, and high-risk community supervision to follow.

The District of Minnesota conducted both national and international research for interventions for working with extremist/terrorism-related cases. There are currently limited programming and statistical data for actuarial level evidence based practices available for working with extremist/terrorism cases. However, there has been significant progress made, such as that of Mr. Koehler of Germany's GIRDS and Her Majesty's Prison and Probation Service (HMPPS) of the U.K. Based on continuing research and ongoing practices, these two

sources have developed structured, professional judgment level risk assessment and intervention methods for working with extremists.

This article shares the development of a model for working with extremist\terrorism cases in the federal Court system developed by the U.S. District Court of Minnesota's Probation and Pretrial Services. In response to this challenge, the District merged current probation and pretrial services practices with some of the most advanced evidence-based practices in the world by selecting the programming of Expert Consultant Mr. Koehler combined with risk assessment and intervention strategies of HMPPS.

The District's programming will need to continue to evolve with research and development. The District closely tracks success rates and makes adjustments as necessary to meet the challenges of this dynamic population to provide the best possible services for protection of the community and rehabilitation of these defendants and offenders. The District maintains ongoing consultations with Mr. Koehler and HMPPS for training purposes, program-related quality assurance assessments, and ongoing validation studies. Both resources provide cutting edge, international research and developments for working with extremists. The District also continues consultations with additional, internationally known experts evaluating other promising tools and practices.

The District of Minnesota model offers a starting point for Probation and Pretrial Services, however, some of the greatest challenges may lie ahead. The future challenge will be implementing and sustaining practices for working with extremists for the national system. The District of Minnesota's experience from the field and training have been shared with the Federal Judicial Center; the Administrative Office of the U.S. Courts, Probation and Pretrial Services Office; the Bureau of Prisons; treatment providers; and numerous districts from around the country faced with the challenges of working with extremist cases. This sharing has occurred with great optimism that there can be specialized training for practices developed into a full continuum of services for working with extremists from the time of arrest to completion of post-conviction supervision.

The Probation and Pretrial Services national system must remain diligent on developing contemporary practices in addressing extremism, or Probation and Pretrial Services Officers in the field may be unprepared for working with these defendants and offenders with catastrophic results. This initiative cannot be derailed by shifting priorities or become hollow rhetoric as a substitute for ongoing progress. The national system must avoid falling prey to territoriality and exclusive or exclusionary partnering. The Federal Judicial Center has taken a significant, promising, first step by forming a national working group comprised of the District of Minnesota; the Administrative Office of the U.S. Courts, Probation and Pretrial Services Office; and a number of districts throughout the federal system currently working with extremist cases. The members of this working group are collaborating to design and plan the delivery of programming for working with extremist cases for the Probation and Pretrial Services' national system.

The District of Minnesota's pioneering approach has been the subject of both national and international media, other government entities, and public interest alike. The perspectives of this notoriety range from optimism for rehabilitative efforts to extremely critical due to public safety concerns. The public wants to feel safe in their communities without the threat of those with intent to harm others on the largest scale possible and/or martyr themselves in acts of terrorism. The stakes are high when one individual or a few can cause catastrophic damage. Many may question programming in this area and highlight any potential failures, fearing a possible, homegrown attack carried out by a terrorist offender.

First, the public's concern regarding the possibility of releasing someone to the community who could carry out acts of violence is shared by Probation and Pretrial Services. However, regardless of our shared concerns, Probation and Pretrial Services will continue to receive terrorism defendants and offenders ordered to terms of supervision from the Court or released from the Bureau of Prisons' custody. Of the defendants and offenders received by Probation and Pretrial Services, there are those amenable to change and others who are not, often requiring further or extended incarceration. Comparable to other cases, the District will carefully assess risk and needs and monitor offenders to mitigate possible threats to public

safety, continue rehabilitative efforts, and extend or return offenders to incarceration when needed.

The outcome regarding terrorism cases occurring in the future in the U.S. does not fall on Probation and Pretrial Services alone. Extremism/terrorism will continue to grow in the U.S., creating greater risk to public safety with increasing numbers of defendants and offenders without the development of effective prevention and intervention programs. The federal government must combine its efforts with individual communities and grassroots efforts to combat this issue at all levels to include initiatives for prevention, intervention, and rehabilitation programs. The U.S. currently has few, if any, successful, legitimate prevention or intervention initiatives and has not allocated adequate resources for growth in this area.

There have been increased resources allocated for the investigations and apprehension of terrorism-involved offenders and enhanced penalties put in place to address the threats of these offenders to include longer terms of incarceration and up to lifetime terms of supervised release. However, there have not been specific, corresponding resources for civil-level prevention and intervention programs to curtail future extremists or intervention work with these defendants and offenders during incarceration or on community supervision. There will need to be increased resources to develop programs to prevent extremism and to develop practices to evaluate, treat, and supervise these defendants and offenders to ensure both further protection of the community and rehabilitation.

Programs have been started in a few communities like Minneapolis, but none have had significant success due to a lack of necessary financial resources and community support. Funding and focus on this issue will be needed before terrorism becomes a pandemic that will change the security of communities long into the future. The Prevent and Channel programs in the U.K. are examples of community-based programs currently addressing prevention of extremism. In addition, there are other European nongovernment organizations that exist with successful programming which could be replicated as well.

Of significance, the Prevent program has, at times, had an annual budget of 67 million dollars, which demonstrates a substantial commitment by the U.K. Prevent and Channel

programs struggle with public trust issues, and there is a contingency of media, activists, and academics, perpetuating public criticism of the programs. However, these programs are currently operating and making adjustments as they continue to tackle this complex issue. The point is that millions of dollars in resources will need to be allocated to better protect our communities and country from extremist attacks. The direct and indirect costs of an attack usually run in the billions, per the Assistant Secretary for Threat Prevention and Security Policy Elizabeth Neumann (E. Neumann, lecture, November 5, 2018). In addition, these attacks result in trauma from injuries, loss of life and limbs, and a loss of sense of security in our homeland, resulting in a compromised way of life.

There is no magic formula when it comes to managing extremist cases. A national plan and strategy in the U.S. must be developed and followed for a coordinated approach comprised of a full continuum of services that begins with public education and prevention and continues throughout the completion of post conviction supervision. The future of this issue will require a greater commitment of resources, close partnerships, and healthy communication throughout the justice system and civil government. These relationships will need to include inclusive partnerships between the Probation and Pretrial Services districts and the national system; the Bureau of Prisons; and a number of other federal, state, and local agencies. The lessons learned from the 9/11 attacks about the importance of communication, collaboration, and teamwork throughout the criminal justice system and intelligence community must guide the future; or further incidents of terrorism may transpire, which could have been prevented or thwarted. The alternative to taking action on this issue is perpetuating hollow rhetoric or doing nothing, which will create the greatest liability and future consequences.

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Statutes and Guidelines

- U.S. Criminal Code Title 18, Sections 951 through 970
- U.S. Criminal Code Title 18, Section 2331(1) and (5)
- U.S. Criminal Code Title 18, Section 2332b(g)(5)
- U.S. Criminal Code Title 18, Sections 2332 through 2339
- U.S. Criminal Code Title 18, Section 3142
- U.S. Criminal Code Title 18, Section 3552(b)
- U.S. Criminal Code Title 18, Section 3553
- U.S. Criminal Code Title 18, Section 3563
- U.S. Criminal Code Title 18, Section 3583
- U.S. Sentencing Guidelines, Section 3A1.4(a) and (b)

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