

Agenda: 10.14.15

Community Supervision Subgroup

Meeting #2

1. Welcome

2. Member Introductions

3. Policy Discussion – Items from Meeting #1

- Earned Compliance Credits
- Early Discharge
- Administrative Sanctions & Incentives
- Use of Incarceration for Technical Revocations

4. Policy Discussion – New Items

- Probation Term Limits
- Dual Supervision
- Discretionary Parole
- Improving Community-Based Treatment/Supervision Options
 - Community Residential Centers (CRCs)
 - Alcohol Safety Action Program (ASAP)

5. Subgroup Calendar: Rescheduling Meeting #3

**** Discussion Draft – Not for Distribution *****

Policy Discussion: Items from Meeting #1

Policy Option: Earned Compliance Credits

- To reduce caseloads, focus supervision on offenders at the highest risk to reoffend, and incentivize compliance:
 - Statutorily establish a system of earned compliance that grants probationers and parolees one month credit towards their probation term for each month they are in compliance with the conditions of supervision.
 - Establish an automated time accounting system wherein probationers/parolees automatically earn the credit each month unless a violation report has been filed in that month.

Additional Question for Group Discussion:

Offenders who are placed on electronic monitoring currently do not qualify for good time credits (33.20.010). Should these offenders be eligible for earned compliance credits as well?

Policy Option: Early Discharge

- To reduce caseloads, focus supervision on offenders at the highest risk to reoffend, and incentivize compliance with treatment conditions:

Option 1: Change DOC Requirements; Leave Court/Board Requirements As-Is

- Statutorily require DOC to recommend early termination of probation or parole to the court/Parole board for any offender who has completed all treatment programs required as a condition of probation.
- Decision to discharge (or not) remains in hands of court/Board; for probation cases prosecution retains ability to oppose if sentence was imposed under Rule 11. [12.55.090 (f)]

Option 2: Change DOC Requirements; Remove Rule 11 Exception

- Statutorily require DOC to recommend early termination of probation or parole to the court/Parole board for any offender who has completed all treatment programs required as a condition of probation.

- Amend statute to allow court to terminate probation early in cases where the sentence was imposed in accordance with a plea agreement under Rule 11.

Option 3: Grant DOC Decision Authority with Judicial Notification

- Grant DOC the authority to terminate probation or parole for any offender who has completed all treatment programs required as a condition of probation/parole and has served at least 6 months.
- Require DOC to provide notice to the court/Board of the action, with opportunity for court/Board to object and hold a hearing.

Option 4: Automatic Termination with Judicial Notification

- Require DOC to terminate probation or parole for any offender who has completed all treatment programs required as a condition of probation/parole and has served at least 6 months.
- Require DOC to provide notice to the court/Board of the action, with opportunity for court/Board to object and hold a hearing.

Policy Option: Administrative Sanctions & Incentives

- To reduce recidivism and increase success rates on probation and parole through the use of swift, certain, and proportional sanctions and incentives:
 - Statutorily authorize the DOC to create a graduated sanctions and incentives matrix using swift, certain, and proportional responses and to use the matrix when responding to technical (non-criminal) violations of supervision.
 - Require field agents to be trained on principles of effective intervention, effective case management and how to properly target criminal risk factors with administrative sanctions and incentives.

Policy Option: Revocation Caps for Technical Violations

To preserve prison space for the most serious offenders and respond proportionately to non-criminal behavior, limit the use of prison as a sanction for technical violations:

Option 1: Eliminate Prison as Option for Technical Violations

- Eliminate revocation to prison as a potential sanction for technical violations of probation/parole.
- Grant DOC the authority to place offenders on DOC-provided EM as violation response.

Option 2: Give DOC Authority to Impose Short Jail Stays; Cap Revocation Time for Cases Referred to Court/Board

- Grant DOC the authority to impose short jail stays as a sanction for:
 - Repeated violations that have previously been addressed with lower level sanctions through the administrative sanctions grid.
- DOC-issued jail stays could be up to 3 days per violation report, with a monthly cap of up to 5 days
- Require DOC to provide notice to the court/Board when imposing a jail sanction, with judge/Board retaining discretion to release probationer/parolee sooner.
- If DOC seeks a longer period of incarceration, and/or if the offender requests a court/Board hearing, the matter would be referred to the court/Board, and the maximum sanction would be capped at:
 - 15 days for a first revocation
 - 30 days for second and subsequent revocations
- Require that probationers and parolees who are detained awaiting a revocation hearing for a technical violation of their community supervision be released from custody after serving 15/30 days -- even if the hearing has not yet taken place -- unless new criminal charges have been filed.

Option 3: Cap Use of Prison for Technical Violations

- Limit revocations to prison as a potential sanction for technical violations of probation as follows:
 - First revocation: Up to 3 days
 - Second revocation: Up to 15 days
 - Third & subsequent revocations: Up to 30 days
- Require that probationers and parolees who are detained awaiting a revocation hearing for a technical violation of their community supervision be released from custody after serving 3/15/30 days -- even if the hearing has not yet taken place -- unless new criminal charges have been filed.

Limiting Probation Term Lengths

Review of Research Principles

- Target the group of offenders with the highest risk of recidivism.
 - Focus resources where they can have the biggest impact.
 - Give offenders with the most severe risk factors the most supervision and access to the best programming and treatment.
 - Violating this principle (targeting low-risk offenders) can actually *increase* recidivism.

- Focus supervision and programming resources during the initial weeks and months following release from prison when violations and arrests are most likely to occur.

Relevant Alaska Data

- Average length of stay on community supervision up 13% (now 26.54 months) over past decade.

- 39% of probation/parole population are classified as low-risk.

- Failure on supervision most likely to occur in first three months.

- From court file sample:¹
 - Felons sentenced to average of 3.69 years (44.28 months) probation.
 - Misdemeanants sentenced to average of 2.96 years (35.52 months) probation.
 - Seventeen percent of misdemeanants sentenced to five or more years (60 months) of probation.

Misdemeanor Probation Sentences		
	N	%
Two years or less (24 months)	95	38%

¹ A random sample of 400 case files (usable N=310) from Anchorage, Juneau, Bethel, Fairbanks, and Nome Courts were selected and reviewed to examine pretrial releases conditions and sentence lengths. Data entry and analysis were conducted by Pew and the Alaska Judicial council.

Case files were reviewed and coded by Pew and ACJC staff to obtain information about bail conditions and probation sentence lengths.

Three years (36)	98	39%
Four years (48)	14	6%
Five years (60)	41	16%
Seven years (84)	2	1%
Ten years (120)	1	0%

Current Practice in Alaska

Probation terms in Alaska are statutorily limited to:²

- Up to 25 years for felony sex offenses
- Up to 10 years for all other offenses, including misdemeanors

State Examples

Delaware: Delaware limits the maximum term of probation as follows³:

- Violent felonies: Two years
- Controlled substance offenses: 18 months
- All other offenses: One year

Exceptions: For sex offenses and violent felonies, term may be extended if court rules on the record that a longer period would enhance public safety. However, the total period of probation still cannot exceed the maximum term of commitment provided by law for the offense.

Under Delaware law, the term of probation can be extended up to 90 days past the limit for the purposes of treatment.

Wisconsin: Wisconsin limits the maximum term of probation as follows⁴:

- Felonies: Three years or maximum length of confinement (whichever is greater)
- Higher level misdemeanors: Two years
- All other misdemeanors: One year

² A.S. 12.55.09

³ Del. Code tit. 11 § 11-4333

⁴ Wis. Stat § 973.09(2)

Exceptions: If offender is convicted of multiple crimes, term may be extended by 1 – 2 years (depending on number of crimes).

Alabama: Alabama limits the maximum term of probation as follows⁵:

- Felony: Five years
- Misdemeanor: Two years

Policy Questions for Discussion

- Could Alaska better focus scarce probation and parole resources on offenders at the time they are most likely to re-offend or fail on supervision by reducing the maximum limit for a term of probation?
- If so, what probation term limits are appropriate?

⁵ Ala. Code. § 15-22-54

Dual Supervision

Current Practice in Alaska:

- Some offenders who are eligible for parole are also sentenced to a term of post-prison probation.
- In those cases, if the offender is released on mandatory parole, and/or if that offender is granted discretionary parole, that term of parole will be served concurrent with the period of probation.
 - In practice, this means that the offender is supervised by the same field agent, but violations (PTRPs) can be reported to both the court and the Parole board.
 - The court and the Parole board can and in some cases do impose separate, consecutive sanctions for the same violation report/behavior.
 - In some cases the parole conditions of release and the probation conditions of release will be different, which can cause confusion for both the offender and the supervising officer.
- If the period of parole expires before the end of the period of probation, the offender will be discharged from parole, but remain on probation supervision.

Policy Questions for Discussion:

- What is the purpose of a post-release probation sentence if mandatory/discretionary parole is the post-release supervision mechanism?
- How long do offenders need to be supervised after release from prison?
- Which body – court or the Parole board – is the most appropriate body to have jurisdiction/control over offenders leaving prison?

Discretionary Parole

Relevant Alaska Data

- On any given month in 2014, an average of 462 inmates were eligible for discretionary parole, and an average of 14.8 parole hearings were held. (Every offender who applies is entitled to hearing).
- Of the 178 individuals seen by the Parole Board in 2014, approximately 56% received discretionary parole.

Current Practice in Alaska

- Inmates who are eligible have the option to apply for discretionary parole; the process is not automatic.
 - 8 weeks prior to eligibility date, the inmate is notified and either fills out the application or signs a waiver stating that they do not wish to apply for parole
- Filling out the application requires significant effort from the inmate and especially the correctional officer working with the inmate. Packet elements include:
 - Parole Progress Report
 - Offender Management Plan
 - Parole Application
 - Treatment Assessment/Discharge Summaries
 - Mental Health Reports/Medical Abstract
 - Letters (*Judge Response, District Attorney Response, Defense Attorney Response, Victim Response, other letters*)
 - Other Relevant Material (*i.e. include most recent evaluations and/or discharge summaries, current programming completion certificates, etc.*)
 - Request for Mandatory Parole Conditions Form
 - Time Accounting Sheet
 - All Judgments
 - Appellate Court Decisions
 - All Presentence Reports (*if unavailable include police report, sentencing transcripts, or informational complaint*)
 - Petitions to Revoke Probation (*on parole cases only*)
 - Current Classification
 - Current Criminal Convictions Summary
- The Parole Board holds hearings at each facility on a rotating basis, visiting each facility at least twice per year.

Examples of Discretionary Parole Systems in Other States

In many other states, the parole review process is more streamlined: either the state has a presumptive parole system that allows some offenders to be released on parole without a hearing, or parole hearings are automatically scheduled for all eligible inmates at their initial parole eligibility date.

Presumptive Parole:

South Dakota⁶

- Within 30 days of admission, each inmate eligible for parole is given an initial parole eligibility date and an Individual Program Directive (IPD), which establishes standards and criteria for the inmate's initial parole decision.
- If the inmate behaves while incarcerated and successfully completes the work, education and treatment programs in the IPD, has agreed to supervision conditions and has an approved parole release plan, then they will be released at their initial parole date.
 - No board hearing necessary
- If DOC reports an inmate has not substantively complied with the Individual Program Directive, the board holds a hearing.
 - Board can order release or deny release and set time for subsequent discretionary parole hearing
- Any inmate not released at the time of the inmate's initial parole date has a discretionary parole hearing at least every two years.

Automatic Hearings:

Ohio⁷:

- An inmate's initial parole eligibility date is calculated by the DRC's Bureau of Sentence Computation.
- Once an inmate becomes parole-eligible, the Board must consider the inmate for release.
- Each month, Ohio's correctional institutions provide the Board with a list, known as "call sheets", identifying all inmates who are statutorily eligible for parole. The inmates identified on the monthly "call sheets" are then scheduled for parole release consideration hearings.

⁶ SD Code 24-15A-32

⁷ Ohio Parole Board Handbook, July 2015. Ohio Department of Rehabilitation.
<http://www.drc.ohio.gov/web/ParoleBoardHandbook2013.pdf>

- In advance of the hearing, institutional staff prepare reports relating to the inmate's personality, social history, and adjustment to institutional programs and assignments.
- The Board also reviews criminal and probation records, psychiatric examinations, sentencing recommendations, victim impact statements, and any written or oral statement by the inmate.

Colorado:⁸

- All eligible inmates are scheduled to be seen by the Parole Board at least 90 days prior to their parole eligibility date.
- Before an inmate can be released from a DOC facility or community corrections program, the inmate must have a parole plan that details where he or she will live and work, and who will be responsible for the inmate upon release.
- DOC case managers are responsible for preparing an inmate's parole plan, which is further investigated by a community parole officer before the hearing.

Policy Question for Discussion:

- Are there opportunities to create a parole system that incentivizes and rewards inmates for participating in programming that will reduce their risk of recidivism and better prepare them for re-entry?
- Are there opportunities to streamline Alaska's discretionary parole process to ensure that all offenders who meet Alaska's statutory parole criteria⁹ are considered and released?

⁸

<http://www.colorado.gov/cs/Satellite?blobcol=urldata&blobheader=application/pdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1251618278339&ssbinary=true>

⁹ Inmate ability to succeed on parole, furthering rehabilitation, protecting public safety, not diminishing seriousness of crime

Improving Community-Based Treatment Options

Review of Research Principles

- Use supervision and programming to address the risk factors (“criminogenic needs”) that can be changed.
- Incorporate treatment into supervision case plans rather than using surveillance alone.
- Target the group of offenders with the highest risk of recidivism.
 - Give offenders with the most severe risk factors the most supervision and access to the best programming and treatment.
 - Violating this principle (targeting low-risk offenders) can actually *increase* recidivism.

“Low-risk offenders should be excluded, as a general rule, from residential programs...if a program finds that it is receiving low-risk placements, the program should divert such offenders to interventions that are more accommodating and sensitive to the disruption in prosocial contacts that such programs might cause.”¹⁰ – Lowenkamp & Latessa study on Ohio Halfway Houses

Community Residential Centers

Relevant Alaska Data/Current Practice: Community Residential Centers

- 30% of halfway house population unassessed for risk level:
 - 30% pretrial
 - 70% sentenced
- CRCs not required to provide treatment addressing criminogenic needs.

State/Federal Examples

Pennsylvania¹¹

In 2013 Pennsylvania, as part of the state’s JRI process, made changes to focus the state’s Community Corrections Centers on high-risk offenders who would most benefit from the intensive treatment resources available in these settings:

¹⁰ <https://www.uc.edu/content/dam/uc/ccjr/docs/articles/RiskPrinciple.pdf>

¹¹ <http://www.cor.pa.gov/Administration/Documents/DOC%20Policies/08.01.01%20Community%20Corrections%20Centers.pdf>

- Placement:
 - Limited to parolees who are transitioning back to the community as well as parole violators in need of additional treatment.
 - Prioritizes those offenders most in need of treatment.
- Treatment:
 - Offender plan developed using LSI-R to determine treatment and re-entry needs.
 - Programming directed at offender's specific criminogenic needs.
 - CCCs required to offer evidence-based programming, including cognitive-behavioral programming (Thinking for a Change).
 - Substance abuse treatment, offered at some facilities, is required to be evidence-based and delivered in accordance with department standards.
- Accountability:
 - In 2013, DOC rebid its contracts with Community Corrections Centers, requiring them to reduce recidivism or risk losing their contract.
 - Overall recidivism for PA's contracted centers is down 11.3% from July 2014 to June 2015.¹²

*Ohio*¹³

Following studies demonstrating that Ohio's halfway house programs were not proving effective at lowering offender recidivism because they were not filtering out those participants who would not benefit from the intensive programming, Ohio as part of its JRI process in 2011:

- Adopted statewide admission criteria for community corrections programs that prioritized placement for people who would benefit most from intensive supervision and treatment.
- Required programs to administer risk, needs and responsivity assessments and target offenders' specific criminogenic needs with programming.
- Adopted minimum standards for treatment staff qualifications and training as well as treatment group size.
- Required treatment groups to be separated by risk and need level, and more intensive services to be directed at higher risk offenders.

*Federal Halfway House System*¹⁴:

In 2014, the federal government announced it was updating its halfway house standards to require contractors to provide cognitive behavioral programming (CBP) to address criminal thinking. Specifically, the regulations now require halfway house programs to:

¹² http://www.media.pa.gov/pages/corrections_details.aspx?newsid=225

¹³ https://csgjusticecenter.org/wp-content/uploads/2013/08/REVOhio_summary-FINAL.pdf

¹⁴ <http://www.justice.gov/opa/pr/new-step-fight-recidivism-attorney-general-holder-announces-justice-department-require>

- Make use of information provided by the Bureau of Prisons regarding an offender's risk and individual needs and to create an individual program plan using that information.
- Provide CBP programming for all offenders, with specific regulations regarding staff qualifications, class size and length, and training.

Policy Questions for Discussion

- What is the most effective way to use Alaska's Community Resources Centers?
 - What services/treatment could CRCs offer to help reduce recidivism?
 - What population would most benefit from placement in CRCs?
- How can Alaska minimize mixing of low and high risk offenders?

Alcohol Safety Action Program (ASAP)

Current Practice: ASAP

- ASAP works with offenders who are referred to the program by order of the court.
- ASAP conducts an initial brief screening for substance abuse issues to all offenders referred to the program.
 - Those who score above a certain level are referred to an outside provider for a full assessment.
 - Those who score below that level are referred to a 12-hour alcohol safety education course.
 - ASAP's screening does not include any assessment of criminogenic risk; only need for substance abuse treatment.
- ASAP monitors cases to determine whether offenders followed through on ordered treatment and issues a notice to the court when the offender has not completed a required treatment program.
 - If the offender has not completed the required treatment, a PTRP (passive warrant) is typically filed.
 - Offender is unable to regain driver's license until treatment/education course is complete.
- Last year, ASAP launched a ~\$1 million pilot treatment voucher program called Access to Recovery.
 - Targeted toward second DUI offenders at high risk of committing a felony (third DUI) who could not afford treatment (restricted to Anchorage).
 - Currently being evaluated by Judicial Council.

Relevant Data

From July 2014 – June 2015, ASAP received 7243 referrals, 57% (4132) of which were statutorily-mandated referrals (DUI/OUI, Refusal, MCA).

The remaining 3111 were referrals that were not mandated by statute, for changes include:

Alcohol to Dry area	
Assault + DV Assault	False Info
Family Violence	Forgery
Child Neglect/Abuse	Furnish liquor to minor
Control Substance	Harassment
Conceal Merchandise	Import alcohol
Criminal Misch./Trespass	Indecent Exposure
Disorderly Conduct	Leaving scene of crash
DWLS/DWLR etc.	Malicious Dest. Of Property
Drunk Person on License Premises	MIW
Destroy Communication Equip.	MICS
Discharge of Firearm	Under 21 on Lic. premises
Eluding	Resisting
Endanger Welfare of Child	Theft
Escape/attempted	Trespass
Fail to Obey Citation	Vio. Cond. of Release
Fail to register as sex offender	

Policy Questions for Discussion

- Is there an opportunity to focus ASAP resources on offenders at highest risk of recidivism and highest risk of taking up future prison resources (becoming felons)?
- Is there an opportunity to expand the services ASAP offers (screening for criminogenic risk, increased case supervision, providing substance abuse treatment) by reducing the number of referrals the agency handles?
- What is the best way to focus limited funding for treatment, including any additional funding that may be provided (reinvestment)?