

Community Supervision Subgroup Policy Recommendations

- I. **Incentivizing Compliance**
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 - b. Early Discharge
 - c. Good Time for Electronic Monitoring
 - d. Limiting Probation Term Lengths

- II. **Responding to Community Supervision Violations: Swift, Certain, Proportional**
 - a. Graduated Sanctions & Incentives
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- III. **Improving Community-Based Treatment Options**
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 - b. Alcohol Safety Action Program (ASAP)

- IV. **Increasing Use of Discretionary Parole**
 - a. Streamlining Discretionary Parole Process

Incentivizing Compliance

Review of Research Principles

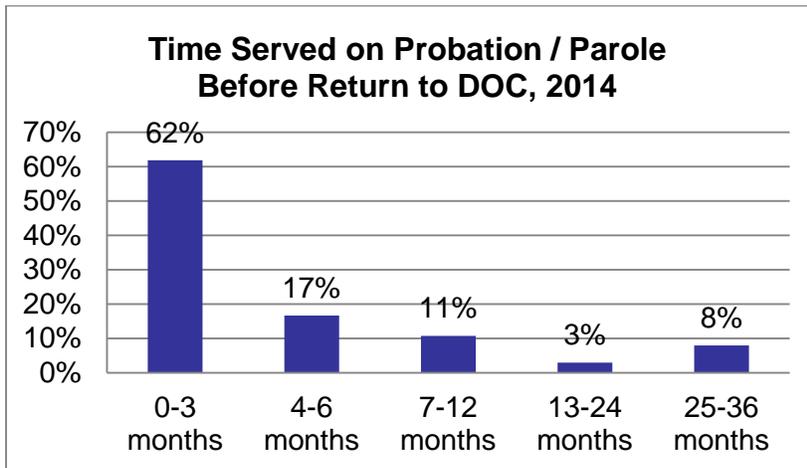
- Provide rewards and incentives for meeting case-specific goals of supervision to enhance individual motivation

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

- 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.

Relevant Alaska Data

- Over the past decade, offenders are spending more time on community supervision.
 - The average length of stay on community supervision is up 13% over the past decade
- Some parolees and probationers are serving long periods of supervision:
 - In 2014, 12% of parolees and probationers supervised by DOC who successfully finished their sentence spent more than 4 years on supervision without a revocation before they were discharged.
- 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.
- If offenders fail, they are likely to fail in the first three months:



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

Policy Recommendation: Earned Compliance Credits

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.

- 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 and/or parole 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.

Policy Recommendation: Early Discharge

- To reduce caseloads, focus supervision on offenders at the highest risk to reoffend, and incentivize compliance with treatment conditions:
 - 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/parole and is currently in compliance with all conditions of probation/parole.
 - For those cases where DOC recommends early discharge because of compliance, amend statute to allow court to terminate probation early, even if the sentence was imposed in accordance with a plea agreement under Rule 11.
 - Amend statute to require that offender serve a minimum of six months (previously was two years) years on parole before being discharged.
 - Require DOC to provide notification to victim when recommending early discharge, with opportunity for victim to give input at court/parole hearing.

Policy Recommendation: Good Time for Electronic Monitoring

- To reduce caseloads, focus supervision on offenders at the highest risk to reoffend, and incentivize compliance:
 - Allow offenders who are placed on DOC-administered electronic monitoring to qualify for good time credits.

Policy Recommendation: Reduce Probation Term Lengths

- To better focus scarce probation and parole resources on offenders at the time they are most likely to re-offend or fail, cap probation term limits at:
 - Felony Sex Offenders: 5 years
 - Other Felonies: 2 years
 - Higher level-misdemeanor (2nd DUI, DV assault): 2 years
 - Other Misdemeanors: 1 year

Responding to Community Supervision Violations: Swift, Certain, Proportional

Review of Research Principles

- Respond to problem behavior in a manner that will change that behavior
- Swift, certain, and proportional sanctions have a stronger deterrent effect than delayed, random, and severe sanctions
- Incarceration is not more effective than non-custodial sanctions at reducing recidivism

Relevant Alaska Data

- Supervision violators make up 22% of Alaska’s prison population
- Number of supervision violators in prison up 15% in last decade
- Large majority of revocation filings are for technical offenses: 77% of revocation filings from Region One and 72% from Region Three are for technical offenses only

Region One PTRP and PVR Filings			Region Three PTRP and PVR Filings		
	N	%		N	%
Technical Only	1144	77%	Technical Only	2423	72%
New Offense and Technical	315	21%	New Offense and Technical	531	16%
New Offense Only	33	2%	New Offense Only	411	12%

Region One TV Types			Region Three TV Types		
	N	%		N	%
Drugs	265	23%	Drugs	532	24%
Alcohol	137	12%	Alcohol	391	18%
Multiple substances (alcohol and drugs)	36	3%	Multiple substances (alcohol and drugs)	43	2%
Rule violations ²	270	24%	Rule violations	648	30%
Program failure	31	3%	Program failure	102	5%
Multiple types	392	34%	Multiple types	477	22%
Unknown	13	1%	Unknown	2	0%

- Petitions to revoke probation take a month, on average, to resolve

Current Practice in Alaska

- PACE program incorporates swift and certain responses
 - PACE probation imposes swift, certain and proportional jail stays for higher-risk offenders who violate supervision conditions
 - Low-level sanction (e.g. failed UA): 1-3 days incarceration
 - Intermediate sanction (e.g. delayed/missed reporting): 4 – 15 days incarceration
 - Higher level sanction (e.g. absconding): 15 – 30 days incarceration
 - However, only applies to a small portion of offenders on community supervision
- For standard probation and parole, no system-wide framework for swift, certain, and proportional sanctions
 - Alaska law does not authorize field officers to respond to technical violations using administrative sanctions
 - ADOC policy does give field officers the authority to address minor violations administratively. However, the policy gives limited guidance to

² E.g. Failure to report; failure to seek/maintain employment; unauthorized contact

field officers in how they should respond to violations, what sanctions should be imposed, and in what time frame.

- Some sanctioning processes are inconsistent with swift, certain, and proportionate principles, including long delays between the problem behavior and the response, and disproportionately long revocation sentences
- Alaska law does not limit the amount of time offenders can serve in prison on a technical revocation.

Policy Recommendation: Graduated 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 Recommendation: Reduce Pre-Trial Length of Stay and Cap Overall Incarceration Time for Technical Violations of Supervision

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:

- For offenders not participating in the PACE program, limit revocations to prison as a potential sanction for technical violations of probation and parole as follows:
 - First revocation: Up to 3 days
 - Second revocation: Up to 5 days
 - Third revocation: Up to 10 days
 - Fourth revocation & subsequent: Up to 10 days & referred to PACE program
 - If PACE not available in that region or offender not suitable for PACE, leave up to judicial/Board discretion.
 - The caps would not apply if the probationer or parolee is a sex offender who has failed to complete sex offender treatment.
 - These revocation caps would apply to offenders on both DOC and court probation/parole (felonies and misdemeanors).

- Require that probationers and parolees who are detained awaiting a revocation hearing for a technical violation of their community supervision be released on personal recognizance after serving the maximum allowable time (3 days on a first revocation, 5 on a second, etc.) unless new criminal charges have been filed.
- Require that courts convert any unperformed Community Work Service directed in a judgment to a fine – and not to jail time - once the deadline set and announced at the time of sentencing has elapsed.
- Stipulate that jail time cannot be imposed because a person failed to complete treatment if, despite having made a good faith effort, they were unable to afford treatment. (Mirroring restitution statute w/ regards to process)
- Require that if a court opts to use jail as a sanction for a misdemeanor who fails to participate in programming, that requirement is subsequently no longer a condition of probation that an offender can be punished for not completing.

Policy Recommendation: Dual Supervision

- To eliminate confusing dual supervision practices:
 - For offenders who are on parole and probation at the same time, grant the Parole Board primacy when it comes to conditions of release and sanctions.
 - Dual supervision would technically continue (probation time would continue to run), but only Parole board conditions would apply while offender is on parole, and only the Parole board would have authority to issue sanctions.
 - If offender has a residual term of probation to follow parole, the offender would be discharged to court supervision following the end of parole.
 - If offender had served at least one year of parole without violations or new charges, and was currently in compliance with conditions of parole, DOC would recommend to the court immediate early termination of probation at the point the parole term is successfully discharged.

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.”³ – 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.

Policy Recommendation: Improve Community Residential Centers (CRCs)

- To reduce recidivism and improve outcomes for offenders placed in CRCs:
 - Require CRCs to provide treatment (cognitive-behavioral, substance abuse, after care and/or support services) designed to address offender’s individual criminogenic needs
 - Adopt quality assurance procedures to ensure CRCs are meeting contractual obligations with regards to safety and offender management
 - Adopt admission criteria for CRCs that:
 - Prioritize placement in CRCs for people who would benefit most from more intensive supervision and treatment, using the results of a validated risk and needs assessment
 - Minimizes the mixing of low and high risk offenders

³ <https://www.uc.edu/content/dam/uc/ccjr/docs/articles/RiskPrinciple.pdf>

Alcohol Safety Action Program

Alaska's Alcohol Safety Action Program (ASAP) provides screening and treatment referral services for thousands of offenders who are referred by the court. Unfortunately, underinvestment in ASAP has limited the program's effectiveness.

This Commission believes that the best policy would be to increase funding for ASAP to allow the agency to provide more robust screening and treatment resources to all offenders struggling with substance abuse. The Commission also recognizes that, in the current fiscal climate, this is unlikely – and in light of that, recommends focusing available ASAP resources on a smaller subset of misdemeanants to achieve better results.

Policy Recommendation: Focus ASAP Referrals on Highest Risk Offenders

- To focus ASAP resources on offenders at the highest risk of taking up future prison resources and to increase the effectiveness of the ASAP program:
 - Statutorily limit the conviction types that courts can refer to ASAP for assessment as a condition of sentencing to those for which referral is currently mandated (DUI, Refusal, MCA).
 - Require ASAP to expand the services it provides to include:
 - Use of a validated risk assessment screening tool for criminogenic risk
 - Performing a brief behavioral health screening
 - Referrals to treatment programs designed to addressing high priority criminogenic needs beyond just substance abuse (e.g. criminal thinking)
 - For offenders who are referred by ASAP to an alcohol education course, compliance would be monitored by the prosecutor rather than ASAP.
 - Require ASAP to provide increased case supervision for a limited number of moderate to high risk offenders, including:
 - Tracking attendance/completion of court-mandated treatment
 - Working with local law enforcement to expedite warrant/arrest process for probationers not in compliance with treatment orders
 - Highest risk offenders would be prioritized for case supervision
 - The number of offenders who could be supervised would be limited by resource availability. Assuming no additional resources, more intensive case supervision would only be available in Anchorage and would be limited to approximately 250 offenders.

Policy Recommendation: Expand Funding to Provide Substance Abuse Treatment for Indigent Offenders

- To expand the availability of substance abuse treatment reduce the likelihood that high-risk offenders in need of substance abuse treatment will re-offend:
 - Maximize the availability of Medicaid funding for substance abuse treatment by increasing the ability of private providers to bill Medicaid and maximizing the enrollment of eligible individuals.
 - Expand funding to provide substance abuse treatment for indigent offenders who are:
 - Referred to ASAP by the court
 - At a moderate to high risk of re-offending and in need of substance abuse treatment, as determined by a validated risk and needs assessment

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.
- The Parole Board holds hearings at each facility on a rotating basis, visiting each facility at least twice per year.

Policy Recommendation: Increasing Use of Discretionary Parole

To streamline the discretionary parole process to eliminate bureaucratic barriers to the use of discretionary parole and provide incentives for inmates to complete treatment programs in the institution:

For First Time Felony C and Felony B Offenders:

- Create a system that allows these offenders to earn parole at their earliest eligibility date by:
 - Completing all educational and treatment requirements as documented in the offender's Individual Case Plan (created at intake based on the results of a validated risk and needs tool)
 - Remaining free of disciplinary action while incarcerated
 - Developing, in partnership with a DOC case manager, an approved parole release plan

- If DOC reports that an inmate has not substantively complied with their case plan and/or has been subject to disciplinary action, or if the victim requests a hearing, the board is required to hold a hearing.
 - The Parole Board can order release or deny release and set a time for a subsequent discretionary parole hearing

- Any inmate not released at the time of the inmate's initial parole date is required to have a discretionary parole hearing at least every two years.

For All-Other Offenders EXCEPT Unclassified Offenders:

- Require that offenders who are eligible for parole receive a hearing at least 90 days before his or her first eligibility date, with the presumption that the offender will be granted parole if he or she has:
 - Completed all educational and treatment requirements as documented in the offender's Individual Case Plan (created at intake based on the results of a validated risk and needs tool)
 - Remained free of disciplinary action while incarcerated
 - Developed, in partnership with a DOC case manager, an approved parole release plan

- The presumption of parole could be overcome with a finding on the record that release would jeopardize public safety.

For Unclassified Offenders

- All unclassified offenders who are eligible for parole are required to receive a hearing before the Parole board at least 90 days before their initial parole eligibility date.
 - Release criteria remains unchanged from current statute
- Any inmate not released at the time of the inmate's initial parole date has a discretionary parole hearing at least every two years.