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Policy-Driven Responses to Probation and Parole Violations

National Institute of Corrections

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by

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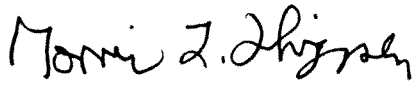
FOREWORD

For probation and parole to be effective sanctions, reasonable controls must be placed on offenders. They take the form of either general or special conditions of supervision. Probation and parole officers, courts, and parole boards have always responded to violation of conditions of supervision in good faith, but the responses were often inconsistent and not guided by agency policy or sanctioning philosophy. The typical decision was either to return the offender to supervision with little or no change or to revoke supervision and incarcerate the offender--and nothing in between. In some jurisdictions, more admissions to prisons annually are for probation and parole violations than for all new offenses committed.

The National Institute of Corrections has for several years assisted agencies in developing a system of explicit, policy-driven responses to violations of probation and parole. Each jurisdiction has taken a somewhat different approach to problems it identified. This report shares some of what was learned concerning the violation process, potential impact of changes, and some of the tools developed to introduce more policy-driven consistency in responses.

We hope this information will encourage other jurisdictions to evaluate current probation and/or parole violation practices and will provide practical guidance as to how changes can be implemented in an effective manner.



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PREFACE AND ACKNOWLEDGMENTS

Over the past 7 years, the National Institute of Corrections has funded a program of technical assistance for both paroling authorities and probation agencies. The goal of the assistance was to support agencies interested in developing policy-driven intermediate sanctions as responses to the technical violation of probation and parole. Interest in the topic has been very strong. Over the course of five projects, 61 applications were received from probation and parole agencies. Resources allowed 19 to participate. At the same time as these projects, other probation and parole agencies focused on this issue as well, some completely independently, and others drawing upon the experiences of the NIC-supported effort.

Interest in the issue of violation and revocation springs from many sources. These include:

- The responsibility to protect public safety by appropriately managing the risk posed by offenders who do not comply with the conditions of their probation or parole,
- Crowded prisons and jails,
- Overburdened court and parole board dockets,
- The desire for more consistency in handling violations, and
- The desire to intervene in offenders' lives in ways that truly affect future criminality.

Given the degree of interest in the field and the extensive innovation and experimentation taking place, the National Institute of Corrections concluded that a report summarizing current practice would be helpful to practitioners.

The goals of this report are to:

- Synthesize the experience of probation and parole agencies from across the country that have experimented with innovative approaches to policy regarding violations and revocations,
- Identify critical learnings or issues emerging from this experience,
- Document the impact of these innovative approaches to the degree possible from the experiences of the agencies and from the existing literature, and
- Consider the future implications of these changes for community corrections.

No original research was attempted as part of the development of this report. Rather, the intent was to glean whatever is possible from the experiences of operating agencies as they have made and studied changes in their practice.

The author would like to express appreciation to the National Institute of Corrections, and in particular to Kermit Humphries, for providing the opportunity to be involved with its technical assistance efforts and to gather the experiences of many practitioners in the form of this report. Thanks are also due to the many individuals working in probation and parole agencies around the nation who labored so hard on these difficult issues and who shared their experiences with their colleagues by providing information for this document.

INTRODUCTION: A GROWING INTEREST IN PROBATION AND PAROLE REVOCATIONS

Recent years have revealed a flurry of activity among community supervision agencies to revise and refine their handling of violations and revocations. The interest stems from a number of concerns key to community corrections.

The Community Corrections Dilemma

On any given day in 1995, roughly 3.8 million individuals in this country were under some sort of correctional supervision in the community--on probation, parole, or some other type of community corrections supervision.[1] That is more than double the total number of offenders in American prisons and jails.

Probation and parole agencies are asked to supervise and manage these individuals safely and economically. Every judge, prosecutor, parole board, probation agency, and parole agency knows that ultimately the safety of our communities and the credibility of the criminal justice system are at stake.

The fact that community supervision case loads vastly outnumber incarcerated offenders makes the task of probation and parole agencies even more challenging. The fiscal and operational reality is that not every individual on probation and parole can--or should--be removed from the community at the first sign of a problem. It is important to know which of those problem probationers and parolees need to be quickly removed from the community. At the same time, it is just as important to know which problem probationers and parolees can safely continue in the community with some other response. If jails and prisons are filled with merely non-compliant offenders, there will be no room for the dangerous offenders.

It is not surprising, then, that parole and probation agencies are taking a new look at how they respond to violations of parole and probation--particularly technical violations that do not involve, of themselves, new criminal behavior. The National Institute of Corrections (NIC) received 61 applications from probation/parole agencies interested in this issue and was able to work with 19 of them over the last 8 years. Exhibit 1 identifies agencies that participated in five NIC projects to develop a policy-directed range of intermediate sanctions for violators.

Prison and Jail Crowding

A quick look at statistics on admissions to prison suggests that concern about the impact of revocations on prison and jail populations is not an idle one. The Bureau of Justice Statistics (BJS) reports that revocations of parole and other conditional release accounted for 120,545 or 28 percent of all admissions to state prisons in 1989. That number grew to 167,828 or 33 percent in 1994. That is a growth rate of almost 40 percent--far outstripping the growth in court commitments, which grew only 8 percent during the same time period. (See Exhibit 2.)

In California in 1987, over 50 percent of admissions to prison (31,581) were parole violators.[2] In Oregon in 1991, more than 80 percent of all prison admissions were revoked community supervision cases.[3] In North Carolina in 1993, 13 percent of prison admissions were reported as probation or parole violators--and 80 percent of these were technical violators.[4] The percentages vary, and it is often difficult to sort out just what proportion of prison admissions are due to technical violations. In many jurisdictions, however, violators comprise a significant enough portion of prison admissions to warrant a closer look.

The picture in jails is somewhat more difficult to document. However, a review of jail population pressure in numerous jurisdictions suggests that offenders awaiting parole or probation violation hearings or transfer to state institutions after revocation hearings contribute significantly to jail crowding--and are a source of friction between local and state corrections agencies.

Exhibit 1. Agencies Receiving NIC Technical Assistance

PAROLE--1988-1989
New York Board of Parole
South Carolina Department of Probation, Parole, and Pardon Services
Tennessee Board of Paroles
Utah Board of Pardons and Paroles
PAROLE--1989-1991
Georgia Board of Pardons and Paroles
New York Board of Parole
Tennessee Board of Paroles
District of Columbia Board of Parole
PROBATION--1991-1993
Office of Adult Probation, Connecticut Judicial Department
Sixth Judicial District, Cedar Rapids, Iowa
Macomb County Probation, Michigan Department of Corrections
Adult Probation, Superior Court of Arizona in Pima County (Tucson)
PROBATION--1993-1995
Adult Probation, Superior Court of Arizona in Maricopa County (Phoenix)
Multnomah County (Portland, Oregon), Department of Community Corrections
New York City Probation Department
Williamsburg and Virginia Beach, Virginia Department of Corrections
PROBATION AND PAROLE--1994-1996
Connecticut Board of Parole
Adult Probation, First Judicial Circuit, Honolulu, Hawaii
Adult Probation, Montgomery County (Dayton), Ohio
Division of Field Operations, Utah Department of Corrections
Milwaukee Probation and Parole, Wisconsin Department of Corrections

Workload

In addition to the burden that parole and probation violators place on crowded jail and prison facilities, the handling of violators by supervision agencies, the courts, and parole boards has drawn attention in and of itself. Particularly probation violators--who must be processed through crowded courtrooms and may in some jurisdictions require multiple appearances for arraignment, violation, and dispositional hearings--can comprise a significant portion of total court workload. Violation hearings are often not scheduled but simply "worked into" an already-crowded calendar, requiring probation officers to use valuable time waiting in the courthouse for a hearing to be called. In one jurisdiction participating in NIC's projects, it was estimated that the equivalent of a full-time judge, prosecutor, and courtroom staff and more than two full-time probation officers was consumed by the various stages of the probation violation process.

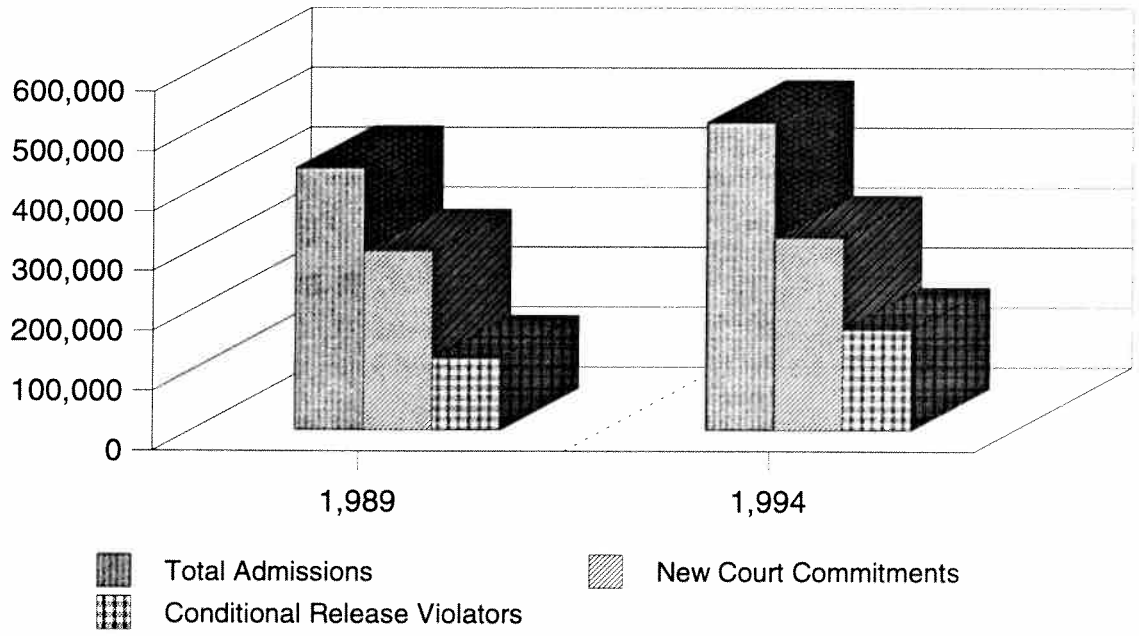
Responding to Violations in a Timely Fashion

Given the due process requirements of handling violations, along with the general backlog found in most courts and parole dockets, it can sometimes take months from the time a violation occurs until some formal disposition occurs. In the case of a technical violation, the violation may be a positive drug test, failure to stay in treatment, or the loss of a job. It stretches the bounds of common sense to imagine that a response several months later can achieve a desired result. If the intent is to deal more effectively with a drug problem, to get a person into a different or more intensive treatment regime, or to insist on employment, the formal violation process is a slow and ineffective tool. Many agencies have been seeking to either streamline the formal hearing process or replace it with a more informal procedure to intervene quickly in the course of an offender's supervision.

Consistency and Equity in Handling Violations

Another reason often given for an interest in the violation issue is the need and desire for a certain amount of consistency or equity in handling violations. In an agency with dozens or hundreds of probation or parole officers, there is clearly opportunity for similar violations to be handled quite differently, even when everyone is operating in good faith. Differences in personal philosophy, supervision

Exhibit 2. Admissions to Prison for Revocation vs. New Court Commitments



Source: Criminal Justice Sourcebook, Bureau of Justice Statistics, 1990 and 1995

style, and interpretations of agency policy can generate unintentional disparities in handling violations. Agency policymakers have cited such disparity as one of their key interests in looking more closely at the handling of violations. Indeed, among those jurisdictions that have completed an empirical look at the practice of responding to violations, it is common to find considerable inconsistency in the handling of violations. One offender may have a record of numerous technical violations and still be on supervision. Another may be revoked after a minor technical violation. This raises questions of fairness and can undermine the credibility of an agency.

A Window on Supervision

Many of the agencies involved in the NIC projects discovered that a thorough review of how a jurisdiction responds to violations cannot be undertaken without also reexamining the entire approach to supervision. When is a violation serious or dangerous enough to warrant revocation? That probably depends on what is intended to be accomplished with supervision. Why supervise? What is successful supervision? What is unsuccessful supervision? Where is the line drawn? When are responses other than revocation appropriate?

This reexamination of violation responses fits well with the visioning work that many parole and probation agencies are undertaking during the 1990s. As one agency director advises, prior to revamping violation practice, "Make sure you have your philosophy in order. Understand what you want to do in supervision and what you want to achieve. That forms the basis for going forward. The rest of it is just strategy. People have to know where they're going and what they want as outcomes."

A Reemerging Interest in Treatment

Motivated by a primary concern for public safety and discouraged by the constant recycling of offenders through the system, many probation and parole policymakers are looking for better answers to the question, "What works?" Will revocation of probation make a drug-using offender less likely to re-offend in the future? Or would some other intervention be more effective? Many probation and parole agencies are beginning to question the assumption that revocation will in fact "get the offender's attention" and result in better performance in the future.

What policymakers are seeing and feeling on an individual basis is echoed in the research literature authored by D.A. Andrews, James Bonta, Paul Gendreau, and others. This literature, coming to be referred to as the "what works" literature, highlights the results of literally hundreds of research studies over the last few decades that confirm that official punishment (i.e., incarceration, supervision, surveillance, etc.) without treatment has not been demonstrated to be a specific deterrent to future criminal behavior.[5] This same literature also confirms that appropriate correctional treatment can be effective in reducing future recidivism with certain types of offenders. Given this insight, policymakers are asking, "What types of interventions with technical violators will be most effective in reducing future crime?" And, "How can we make sure that our agency policies support such interventions as responses to technical violations of parole and probation?"

WHY SO MUCH INTEREST NOW?

One might well ask why these issues are surfacing at this time. They seem so critical that one would think they would have been dealt with years ago. Two reasons appear. First, the issues are being brought to a head by the inexorable growth in workload and correctional populations. Correctional populations have more than quadrupled in the last 15 years. Enormous resources are required to accommodate prison and jail admissions generated by even a small revocation rate among a population of 3.8 million probationers and parolees.

Second, for many years the major attention paid to violations and revocation had to do with establishing the procedures and protections mandated by the

Supreme Court in the early 1970s. In 1972, the Supreme Court in *Morrissey v. Brewer* (408 U.S. 471) set the basic expectations about the procedural safeguards required to protect the liberty interests of parolees. Those expectations were similarly set with probationers in *Gagnon v. Scarpelli* (411 U.S. 778) in 1973.

Until the late 1980s most attention regarding violations was focused on procedural issues--timing of hearings, due notice, allowability of witnesses, representation, and the like. All of those related to establishing guilt or innocence around the violation and protecting the offender's rights to due process given the fact that their liberty was in jeopardy. There seemed to be very little interest in the dispositional phase of the revocation process. In the literature on violation and revocation from the 1970s and early 1980s, almost no attention is placed on selecting the appropriate response. A popular college text on probation and parole dispenses with violation and revocation in a few pages with not a single reference to any other disposition besides revocation and incarceration.[6]

The unspoken assumption seems to have been that if a violation occurred, there would either be revocation and incarceration or revocation and reinstatement. This parallels the sentencing decision of a court. For many years, the sentencing judge's options were either probation or prison. With the advent of greater interest in intermediate sanctions at the sentencing stage, it was inevitable that more systematic intermediate responses to violations would begin to be considered as well. If criminal behavior falls along a continuum to which a continuum of sanctions is appropriate, so too might technical violations. This is a departure from the procedural preoccupations of the past and offers innovations in several key dimensions.

WHO SETS POLICY ON RESPONSES TO VIOLATIONS?

Responses to violation of probation and parole are virtually always a shared responsibility. Granting probation or parole along with the setting of conditions--and ultimately the ability to revoke probation or parole--usually lies either with the court in the case of probation or with a parole board in the case of parole.

Supervision of the offender's compliance with those conditions is a responsibility delegated to probation and parole agencies, which may or may not be within the direct control of the court or parole board. In fact, in 25 states, probation and parole supervision are both administered by a state-level, executive branch agency--usually a department of corrections that also administers prisons. An additional 3 states have separate executive branch agencies that administer probation and parole (AR, GA, TN). Another 16 states split responsibility for probation and parole, leaving parole at the state level in an executive branch agency, with probation supervision handled by the courts, usually at the circuit or county level. There are 4 exceptions to this (CT, HI, NE, SD) where the state court administers probation. In another 5 states, there are hybrid systems with a state executive agency administering probation and parole services in some counties, but other counties providing their own probation services (MN, OH, OR, PA, WA). And 1 state (IA) created special purpose units of government at the judicial district level to provide the full range of community correctional services--parole, probation, halfway houses, residential community corrections facilities, etc. In only 8 jurisdictions (CT, DC, GA, HI, MA, PA, SC, TN) do paroling authorities have direct authority over parole supervision staff, and only 14 states have courts with direct authority over probation supervision staff.

The arrangements present a dizzying variety of shared responsibilities and challenges to clarity of purpose and authority. This situation in itself creates a need for clear thinking, communication, and policy about the handling of violations. (Exhibit 3 summarizes the location of probation and parole supervision responsibility in each state, the District of Columbia, and the federal system.)

Exhibit 3. Probation and Parole Supervision Location by State

State	Function	State Agency	Local Agency	Judicial (J) or Executive (E) Branch
AL	Parole & Probation	Board of Pardons and Paroles		E
AK	Parole & Probation	Department of Corrections		E
AR	Parole Probation	Department of Corrections Department of Community Punishment		E E
AZ	Parole Probation	Department of Corrections Administrative Office of the Courts	Court	E J
CA	Parole Probation	Department of Corrections	Court	E J
CO	Parole Probation	Department of Corrections	Court	E J
CT	Parole Probation	Parole Board Judicial Dept.		E J
DE	Parole & Probation	Department of Corrections		E
DC	Parole Probation	Parole Board Court		E J
FL	Parole & Probation	Department of Corrections		E
GA	Parole Probation	Parole Board Department of Corrections		E E
HI	Parole Probation	Parole Board Judiciary		E J
IA	Parole & Probation		Judicial Districts	E
ID	Parole & Probation	Department of Corrections		E
IL	Parole Probation	Department of Corrections	Judicial Circuits	E J
IN	Parole Probation	Department of Corrections	County Courts	E J
KS	Parole Probation	Department of Corrections	Judicial Districts	E J
KY	Parole & Probation	Department of Corrections		E
LA	Parole & Probation	Department of Public Safety & Corrections		E
ME	Parole & Probation	Department of Corrections		E
MD	Parole & Probation	Department of Public Safety and Correctional Services		E
MA	Parole Probation	Parole Board Judicial Branch		E J
MI	Parole & Probation	Department of Corrections		E
MN	Parole & Probation	Department of Corrections	Counties	E
MS	Parole & Probation	Department of Corrections		E

Exhibit 3. Probation and Parole Supervision Location by State (continued)

MO	Parole & Probation	Department of Corrections		E
MT	Parole & Probation	Department of Corrections		E
NC	Parole & Probation	Department of Corrections		E
ND	Parole & Probation	Department of Corrections		E
NE	Parole Probation	Department of Corrections Court		E J
NH	Parole & Probation	Department of Corrections		E
NJ	Parole Probation	Department of Corrections	 Courts	E J
NM	Parole & Probation	Correction Department		E
NV	Parole & Probation	Department of Parole & Probation		E
NY	Parole Probation	Division of Parole	 Counties	E E
OH	Parole Probation	Department of Corrections Department of Corrections	 Courts	E J/E
OK	Parole & Probation	Department of Corrections		E
OR	Parole Probation	Department of Corrections Department of Corrections	County Courts County Courts	J J
PA	Parole	Board of Probation and Parole	County Courts	J
RI	Probation & Parole	Department of Corrections		E
SC	Probation & Parole	Department of Probation, Parole, and Pardon Services		E
SD	Parole Probation	Department of Corrections Unified Judicial System		E J
TN	Parole Probation	Parole Board Department of Corrections		E E
TX	Parole Probation	Texas Department of Criminal Justice	 District Courts	E J
UT	Parole & Probation	Department of Corrections		E
VA	Parole & Probation	Department of Corrections		E
VT	Parole & Probation	Department of Corrections		E
WA	Parole Probation	Department of Corrections Department of Corrections	 Courts	E J
WV	Parole Probation	Department of Public Safety	 Circuit Courts	E J
WI	Parole & Probation	Department of Corrections		E
WY	Parole & Probation	Department of Corrections		E
US	Parole & Probation	Federal Court	Courts	J

Source: American Correctional Association 1996 Directory

INNOVATIONS AT WORK

Parole and probation agencies have many reasons to examine and improve their responses to technical violations. With dozens of jurisdictions exploring this area, there is now enough experience to begin to characterize the activities under way, some of the innovations being tested, and some of the lessons emerging from the experience. The following summaries are drawn from the experience of working with 19 jurisdictions under the NIC technical assistance projects (listed in Exhibit 1), from interviews with 5 other jurisdictions, and from the literature.

Systematic Review of Current Practice

As mundane as it sounds, the first step that agencies have taken in trying to improve revocation responses has been to look carefully and systematically at the way they are currently doing business. Not surprisingly--given the state of most agencies' information systems--the first discovery was how little anyone really knew about the violation and revocation process. Many agencies could report how many individuals were revoked over the course of a year and sometimes whether the revocations were for new crimes or for technical violations. But beyond that, very little information was available.

Mapping--Qualitative Analysis. One helpful task that some agencies undertook was a careful mapping or flowcharting of the violation process. This highlighted the key decision points in the process, the timing of specific steps, where and how information was made available, and the complexity of the entire process. It particularly highlighted the importance of the line officer in initiating violation efforts and showed how key the line officer is in acting as a gatekeeper. If he or she feels an offender's violation behavior warrants initiating the formal violation process, then a whole series of activities is set into motion. On the other hand, if he or she does not initiate the formal process, the court or the parole board will never see a violation. Exhibit 4 presents an example of a "map" drawn of a violations process in an operating community supervision agency.

The Current Norms--Policy Analysis. A second aspect of understanding current practice is to examine exactly what policy is in place to guide the line officer and his or her supervisor in deciding what violation behavior warrants attention--and what type of attention. When the NIC technical assistance project began in the late 1980s, the typical policy guidance found in most agency manuals was not very specific. In some jurisdictions, the language would direct a probation or parole officer to file a violation report "...whenever the probationer commits a violation in a significant respect...," leaving the officer to decide what "significant" meant. In other instances, policy language would appear to be completely inflexible, directing that a violation report be filed "...in the case of a violation...," suggesting that the officer had no discretion whatsoever. In reality, the line officer had enormous discretion with, in most instances, very little formal policy direction. Exhibit 5 provides two examples of fairly typical language from policies in effect prior to the development of "new generation" policy on violations and revocation.

In exploring these uncharted waters, agencies encountered a variety of situations. Some found that practice varied widely within a single department and varied clearly on the basis of individual officers, supervisors, or judges. Other agencies found that unwritten policies were being observed. Such was the case in one parole agency where officers indicated that they adhered closely to the letter of the law, quickly bringing virtually every violation to the attention of the Board. At the same time, the Board members indicated that they typically revoked anyone brought to them by their officers because they knew that "...the officers had already tried everything possible and we feel that it is important to back them up." Clearly there were unspoken assumptions at work that may have been in conflict.

Exhibit 4. Illustrative "Map" of the Violations Process in an Agency

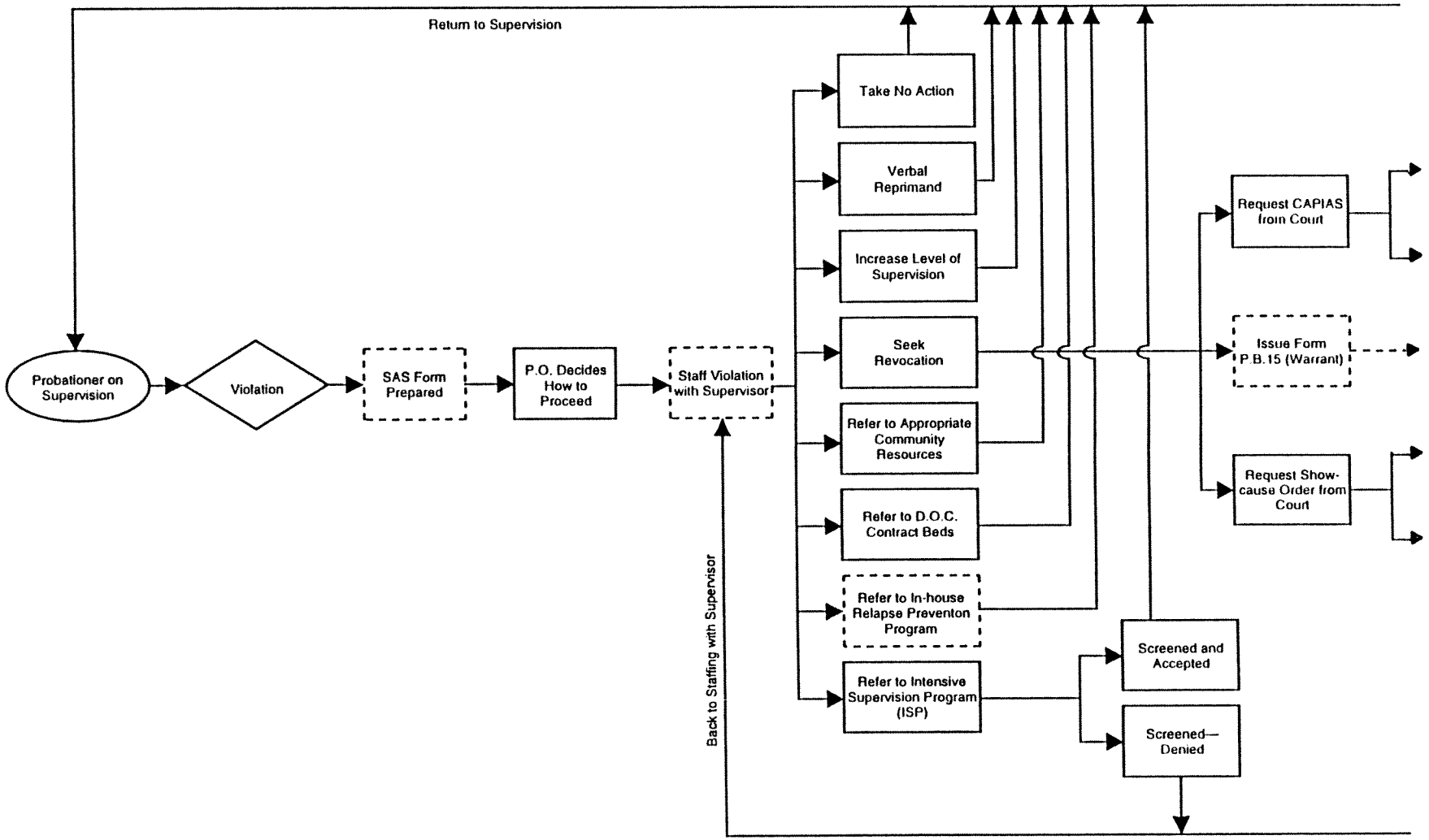


Exhibit 4. Illustrative "Map" of the Violations Process in an Agency (continued)

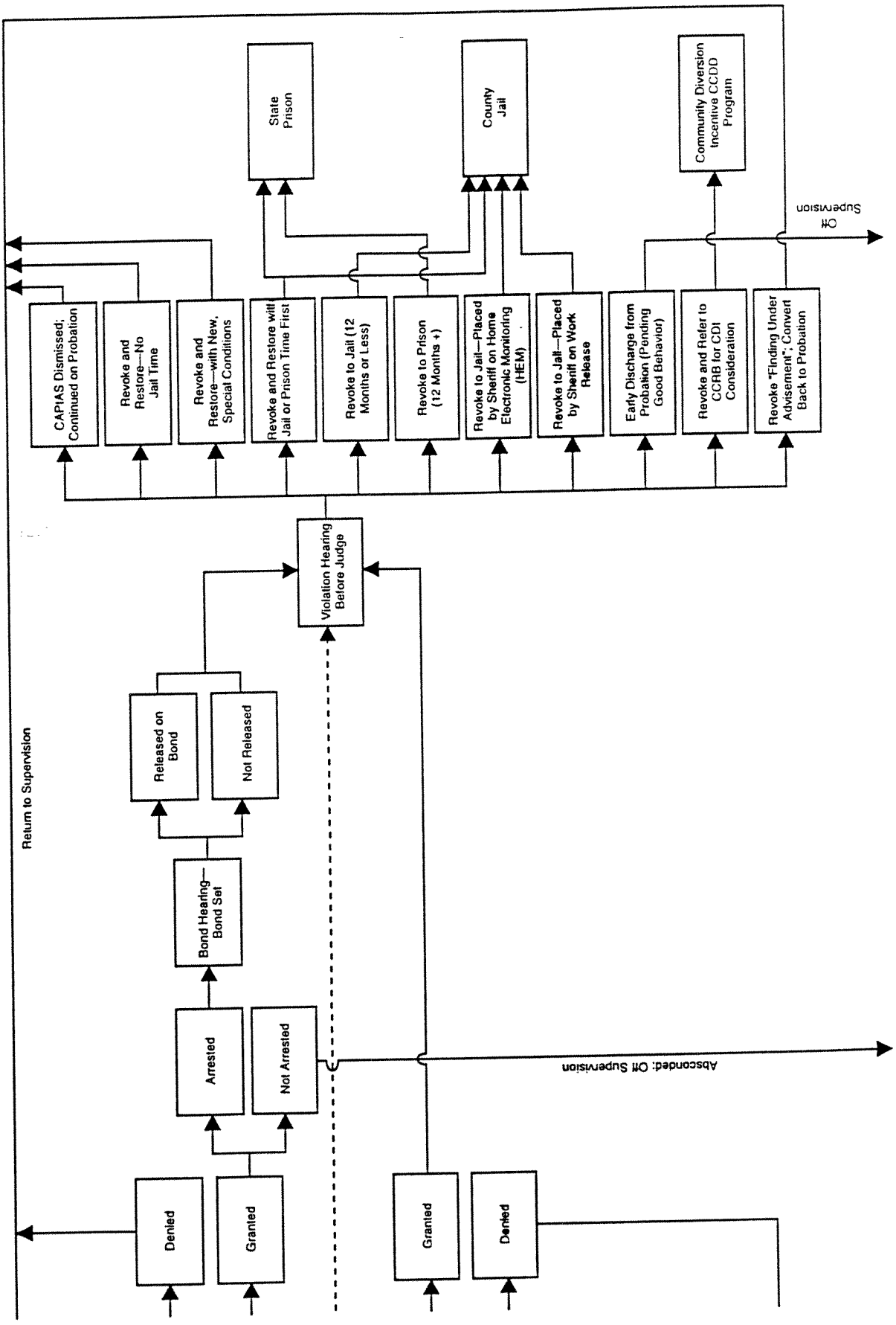


Exhibit 5. Examples of Traditional Policy Language Regarding Violations

"The purpose of the parole officer's investigation is to obtain sufficient information to determine whether release conditions were violated in an important respect, and whether proof of this can be established at parole violation hearings." New York State Revocation Process, New York Board of Parole, 1988, p. B-4
Regarding the outcomes of preliminary revocation hearings..."Where the hearing officer finds probable cause he is permitted to allow the parolee to remain free and under supervision if this is in the best interest of all parties and the community." Tennessee Board of Paroles, Administrative Policies and Procedures 506.10, July 1, 1986

Statistical Information--Quantitative Analysis. Beyond understanding the flow of the process and the policy--or lack of it--that guides the process, agencies also found it instructive to examine violation practice from a quantitative dimension. Some agencies conducted extensive research, including the assembly of a data base of past cases--including ones that had been through the violation process--to understand exactly who was on probation or parole, who was violating, with what types of violations, and with what types of responses by the agency. This began to give a more detailed picture of the violation behavior with which the agency was faced, typically what resources were brought to bear, a profile of the violator population, and so forth.

Not surprisingly, the findings varied from one agency to another. One found that youthful offenders were particularly at risk for quick revocation. Others found that drug use was a major violation problem. In most cases, however, at least some findings dispelled the myths that had been held previously. In one jurisdiction, for instance, officers were convinced that most violators were high risk offenders with a history of serious, violent crime. The analysis revealed quite a different violator population, with high levels of technical violations, drug use, and very little incidence of person crimes in the backgrounds of those revoked.

Exhibit 6 provides examples of the types of information that can be generated through a thorough statistical analysis of violation practice. These examples are drawn from a probation agency that participated in the NIC projects. Prior to the completion of the analysis, everyone involved knew that it was a complex process and that there were some inconsistencies. The analysis revealed, however, how long it took to dispose of each petition to revoke, who was involved, and what proportion of violators were in custody while their petition moved through the process. The analysis also revealed what types of violations were moving through the process and what responses were typically used. There had

Exhibit 6. Examples of Results of Statistical Analysis of Violation Practice

Length and Complexity of the Revocation Process
How long does it take to move from detection of a violation through court disposition? Estimated average ranges from 44 to 64 days
Who is involved in the process? Probation Officer, Supervisor, Prosecutor, Judge, Law Enforcement, Jail Administration, Service Providers
What mechanism is used to bring probationer into the violation process? 18% receive summons 82% have warrants issued against them

Dispositions of Motions to Revoke			
Disposition	Number	Percent of Dispositions	Percent of Total Probation Population
Prison	94	36.0	2.5
Jail	8	3.0	.21
Jail with Probation	56	21.0	1.5
Probation with Conditions	4	1.5	.1
Probation	100	38.0	2.6
Incarcerative Sanctions	158	60	4.2
Non-Incarcerative Sanctions	104	40	2.7

For What Violations Do Probation Officers File Motions to Revoke?	
Types	Percent
Positive Urinalysis	27.0
Failure to Participate in Treatment	20.0
Absconding	18.5
New Felony	12.0
Failure to Report	10.0
New Misdemeanor	4.0
All Other Technical	8.5

been a general understanding that drug use was a high frequency violation and that failure to report was also fairly common. It was startling to find, however, that failed drug tests, failure to participate in treatment, and failure to report accounted for almost 60 percent of **all** violations. New criminal behavior represented just 16 percent of petitions to revoke. The analysis also indicated that 60 percent of petitions to revoke yielded incarcerative sanctions. Suddenly, the agency had a much better understanding of its practices and began a much more informed process of assessing and refining its work.

This first innovation--**systematic review of current practice**--has proven a powerful tool as agencies move to restructure how they respond to violations of parole and probation conditions.

Assessment of Violation Severity

An innovation employed by almost all agencies examining their violation practices is the use of a violation severity scale. Many jurisdictions are developing explicit catalogues of "serious" and "less serious" violations or "A" and "B" violations. In the past, policies were largely silent with respect to some violations being more serious than others. While violations of special conditions imposed by the court or parole board for very specific community safety reasons might be more serious than others, gradations of seriousness were largely left unspoken. In practice, that translated to enormous discretion and variation among line probation and parole officers since not everyone agrees on what constitutes a serious or non-serious violation--unless it is explicitly articulated and agreed upon formally. The ratings of seriousness vary greatly from one jurisdiction to another for specific violations. Also, some severity scales rely on listings of specific violations, while others suggest categories.

These differences are entirely appropriate, as they reflect individual agencies' differences in goals, priorities, and the values of the communities they serve. The similarity--and value--across jurisdictions lies in the explicitness of the scales. They serve to provide clear guidance to probation and parole staff, assure consistency, and target resources to the more serious violation behavior. Exhibits 7 and 8 provide two examples of severity scales developed by agencies participating in the NIC projects. The reader will note the differences in format and content. Exhibit 7 lists descriptive violation categories (e.g., positive drug test, failure to pay restitution/other fees) and assigns them either a "high" or "low" severity rating. In some instances repetitions of the same violation can raise them from a low to a high category depending on the number (as indicated by the columns on the right side of the table).

The example in Exhibit 8 is a bit more complex, including four levels of severity and violation definitions that sometimes rely on the type of sentence received or the type of supervision the probationer is receiving. The highest level specifies the appropriate action--bypass of the Misconduct Review Board (MRB), an administrative hearing body, and automatic issuance of a Violation of Probation (VOP) or warrant. This categorization rates some new criminal behavior--conviction of a misdemeanor with a sentence of 15 days or less--as low severity.

The variation between these two examples is a good illustration of why revocation policy is a highly individualized tool. What makes sense in terms of severity rating in one jurisdiction may be wholly inappropriate in another. The same can be said for all of the other elements of violation policy--risk assessment, levels of authority, and the policy that guides action. Agencies can learn from one another, but must build their own policy approach to achieve their agency goals.

Assessing Violations and Violators--Adding Risk to the Equation

Perhaps one of the most striking innovations that has been embraced in the field is the use of risk assessment as part of deciding how to respond to a violation. While it sounds so sensible, including risk assessment in the violation/revocation equation is a major shift in emphasis. The earlier focus on due process and procedural protections mandated by

Exhibit 7. Illustrative Violation Severity Scale #1

Severity Rating	Violation	1	2	3
High	NEW OFFENSE (excluding traffic violations)	H	H	H
High	POSSESSING WEAPONS	H	H	H
High	DENYING ACCESS TO RESIDENCE & SEARCHES	H	H	H
High	ABSCONDING	H	H	H
High	POSITIVE DRUG TEST	H	H	H
High	POSITIVE ALCOHOL TEST	H	H	H
High	FAILURE TO REGISTER AS SEX OFFENDER	H	H	H
Low	ASSOCIATING WITH FELONS, GANGS, ETC.	L	H	H
Low	POSSESSING CONTRABAND	L	H	H
Low	TRAVEL VIOLATIONS	L	H	H
Low	FAILURE TO PARTICIPATE IN TREATMENT	L	H	H
Low	FAILURE TO SUBMIT TO URINALYSIS OR BLOOD ALCOHOL TEST	L	H	H
Low	FAILURE TO TAKE ANTABUSE	L	H	H
Low	FAILURE TO REMIT PAYCHECK (Intensive Probation Supervision)	L	H	H
Low	FAILURE TO MAINTAIN EMPLOYMENT	L	L	H
Low	FAILURE TO PAY RESTITUTION/OTHER FEES	L	L	H
Low	FAILURE TO PARTICIPATE IN EDUCATION PROGRAM	L	L	H
Low	FAILURE TO PARTICIPATE IN COMMUNITY SERVICE	L	L	H
Low	CHANGING RESIDENCE W/O NOTICE OR PERMISSION	L	L	H
Low	FAILURE TO REPORT	L	L	H
Low	VIOLATING CURFEW/APPROVED SCHEDULE	L	L	H
Low	MAKING FALSE STATEMENTS	L	L	H
Low	FAILURE TO FOLLOW ORDERS	L	L	H
Low	VIOLATING JAIL RULES	L	L	H
Low	FAILURE TO NOTIFY SHERIFF OF CHANGE OF ADDRESS (Sex Offender)	L	L	L
Low	BEING FINANCIALLY IRRESPONSIBLE	L	L	L

Exhibit 8. Illustrative Violation Severity Scale #2

LEVEL 1 MISCONDUCT (High) Automatic Violation of Probation Does not go to Misconduct Review Board	**LEVEL 2 MISCONDUCT** (Moderately High)	**LEVEL 3 MISCONDUCT** (Medium)	**LEVEL 4 MISCONDUCT** (Low)
New Felony Conviction	New Indictment for Other Than Violent Offense	Continued Failure to Abide by Special Condition(s) After Restoration of Probation	Misdemeanor Conviction or Conviction for Disorderly Conduct ("Violation") with Sentence 15 Days or Less
Indictment for Violent Offense	Misdemeanor Conviction & Straight Jail Sentence in Excess of 3 Months to 6 Months	Failure to Comply with Special Conditions Enhanced Through Admonishment	Failure to Comply with Stipulations Agreed to During Unit Administrative Hearing
Misdemeanor Conviction (More than 6 Months Sentence)	Failure to Appear (FTA) on Rearrest and Outstanding Warrant (90 + Days) & Whereabouts are Known	Failure to Comply with Stipulations Agreed to During Misconduct Review Board Hearing	Unacceptable patterns* of: • Reporting • Employment • Attendance/Participation • Residence
Need for Forthwith Warrant	Arrested Again While Rearrest Pending	Unsatisfactory Termination From Treatment Required as Special Condition	Poor Overall Attitude Reflecting Willful Defiance and/or Non-Compliance
Absconder (Violent Offender)**	Violent Misdemeanor Conviction	Unsatisfactory Termination or Failure to Complete Community Service	
AWOL (45 Days or Longer)		3 Months in Arrears in Restitution Payments	
		Failure to Participate in Any Treatment Deemed Necessary (Acute Need) or to Satisfactorily Participate in Program Designed to Meet a Specific Need Linked to Recidivism	
		Misdemeanor Conviction (Sentence in Excess of 15 to 90 Days)	
		Rearrest Pending for Violent Offense - Not Yet Indicted or Convicted	
		Non-Violent Track Absconder**	
		Leaving Jurisdiction w/o permission by Making Whereabouts Known & Resuming/Making Contact While Away or Upon Return	

* Third or More Incidence of Misconduct with Earlier Documented Intervention

**In this jurisdiction, probationers are assigned to either a violent or non-violent supervision category or "track." These entries on the scale indicate that absconding is considered a "high" severity offense for a violent offender--resulting in the automatic issuance of a warrant. For offenders assigned to a non-violent track, however, absconding is considered a "medium" severity violation.

Morrissey and *Gagnon* tended to create an emphasis on the determination of fact--did a violation occur and, if so, what was it? Little attention was paid to other factors--how the offender performed on supervision to date, the underlying offense of conviction, what the violation behavior communicated about dangerousness or risk to the community? Once the fact of a violation was established, there was little guidance as to the best course of action. Of course, the overarching sentencing philosophy of desert that was so prominent in the 1970s and beyond also focused attention on scaling of severity--both in the original offense and in any violations of conditions. Indeed, some of the earlier attempts at developing consistent policy around the use of alternatives to revocation focused exclusively on the violation and whether it was "deliberate or chronic."[7]

Many factors are now directing attention to the issue of risk. First, community safety is a paramount concern for all criminal justice agencies. Second, scarce resources demand that priorities be set when allocating prison and jail beds, as well as community corrections resources. These priorities, along with the availability and acceptance of empirically based risk assessment tools in the parole and probation field, emphasize risk as a major consideration in defining appropriate responses to violations.

Technical violations by two different offenders may be comparable in severity--for instance the violation of a no-alcohol condition--but may have quite different risk implications. For the offender with a history of violence while under the influence of alcohol, such a violation may be good cause for issuance of a warrant and quick placement in custody. For another offender, the same violation may be cause for a reprimand and adjustment of conditions. The difference is not in the violation, but in the risk it presents to the community or even to specific victims.

Many agencies revising their approach to violations have begun to incorporate a specific risk assessment step in the violation process. Exhibit 9 provides an example of a risk assessment scale that corresponds to the violation severity scale shown in Exhibit 8. It combines the use of violence assessment **and** the severity of the misconduct to generate risk categories from A to E, with A being the highest. Therefore, an offender with an initial assessment as violence prone, plus higher severity violations, and supervision in the violent track, surfaces quickly as the highest risk violator. On the other hand, a probationer initially assessed as non-violence prone, currently supervised in the non-violent track, and with a low level of violation severity is defined in the lowest risk level.

There are many approaches to the issue of risk assessment. Some agencies use an existing classification tool or supervision level as a measure of risk--without any other formal consideration of risk. Others include--either as a substitute or as an additional step --a specific assessment by the officer of "community stability" or "situational risk" in order to capture other factors not recognized by a classification instrument. This addresses factors that might be known by the officer to indicate a particularly risky or dangerous situation. This encourages the officer to focus on imminent risk in recommending a response to a violation.

The merits of the various approaches have yet to be studied empirically. And there is ample evidence that many agencies are using various types of risk assessment tools that have not been specifically validated for use on their populations. However, attempting to fashion an objective risk assessment instrument is a step in the right direction. It at least makes the factors upon which risk is rated explicit and open to question and analysis. Such instruments can serve to emphasize the concern for risk and to get everyone on the same page when it comes to definitions. Much work remains to be done to assure the validity and reliability of the instruments, however.

"Staffings" and Administrative Hearings

Another innovation emerging among agencies interested in refining their violation practices is the

Exhibit 9. Illustrative Risk Assessment Scale

"A" Risk	"B" Risk	"C" Risk	"D" Risk	"E" Risk
Type #1 Misconduct constitutes "A" Risk irrespective of initial assessment of probationer's proneness to violence and subsequent classification and status within ASR	Initially Assessed Violence Prone + Currently in Non-Violent Track + Type #2 Misconduct	Initially Assessed Non-Violence Prone + Currently in Non-Violent Track + Type 2 Misconduct	Initially Assessed Non-Violence Prone + Currently in Non-Violent Track + Type #3 Misconduct	Initially Assessed Non-Violence Prone + Currently in Non-Violent Track + Type #4 Misconduct
Initially Assessed Violence Prone + Currently in Violent Track + Type #2 Misconduct	Initially Assessed Violence Prone + Currently in Violent Track + Type #3 Misconduct	Initially Assessed Violence Prone + Currently in Violent Track + Type #3 Misconduct	Initially Assessed Violence Prone + Currently in Violent Track + Type #4 Misconduct	
		Initially Assessed Violence Prone + Currently in Violent Track + Type #4 Misconduct		

development of formalized stages in the violation process, including a "staffing" and/or an "administrative hearing" to:

- emphasize for line officers--and supervisors--the importance of considering intermediate responses to violations and revocation,
- create opportunities for formal review and quality control to assure consistency and adherence to agency policy,
- allow specific delegation of authority for application of intermediate sanctions, and
- keep violations that can be handled at a lower level off court and parole board dockets to relieve workload pressures and speed responses to violations.

Among agencies interested in assuring consistent handling of violations by officers, the development of a formal "staffing" procedure has emerged. This usually involves a formal meeting between line officer and supervisor to consider a violation report. The facts of the violation, background of the case, progress under supervision, and response options are considered. In this way the supervisor can reinforce the agency's policy about the nature and type of violations that officers should handle themselves, as well as the responses appropriate to a particular type of violation and risk. An official record is kept of the meeting.

This procedure is a fairly informal process, whereby the line officer reviews a violation, chooses a course of action, and makes it more formal by involving the supervisor. This assures a formal record of the staffing and creates an opportunity to reinforce policy.

A second innovation works in just the opposite direction, by downgrading the formality of some violation hearings from the courtroom to an administrative procedure. The thinking behind this innovation is that many violations that end up in court or before a parole board can be handled at a lower level. In fact, many violations that go to court or to a parole board result in reinstatement on supervision--sometimes with changed conditions and sometimes with no changes. This is often the desired outcome on the part of the probation officer and the court or

board. In those instances, the administrative hearing offers a less cumbersome, less costly, and more expeditious method to achieve the desired result.

The administrative hearing process is 1) a tool to allow intermediate sanctions to be imposed quickly and with less procedure and 2) a formal screening step to assure that those violations that go to court more nearly approximate the ones the judge or the parole board really wants and needs to see. It creates another, quasi-formal level of review where slightly more onerous sanctions may be imposed--more so than those that can be imposed by the officer and supervisor--but less serious than those that can be imposed by the court or the board. Exhibit 10 illustrates the possible outcomes of both a "staffing" and an administrative hearing as newly designed by the South Carolina Department of Probation, Parole, and Pardon Services.[8]

Citations vs. Warrants

Offenders in custody awaiting violation hearings are often a significant portion of local jail populations. For those offenders who have jobs, custody may disrupt their ability to care for their families and cause them to lose employment. At least one of the jurisdictions revamping violation procedures examined the process--particularly the decisions around the issuance of warrants and use of custody awaiting hearings--and made a significant modification to past practice. It began using citations--or summons to appear--in place of automatic warrants. Officers were still able to use a warrant when they felt flight was a risk or community safety was in jeopardy. However, the presumption for custody was removed. Rather than automatically allowing offenders to waive a preliminary hearing and stay in custody until the final hearing, the presumption is now that a citation will be issued. As a result, a significant amount of jail space is saved. Exhibit 11 is an example of a citation used in the probation violation process in South Carolina.

Providing for the Delegation of Authority to Impose Conditions

Another significant innovation in handling violations is the delegation of specific authority to adjust conditions of probation or parole without returning to court or to the parole board for formal revocation proceedings. Such proceedings often require long periods of time to schedule and consume large amounts of court and board time. In at least two jurisdictions, specific legislative action was taken to provide statutory authority to delegate this authority. In South Carolina, in response to a legal challenge, state legislation was passed in May 1996 specifically authorizing the Director of the Department of Probation, Parole, and Pardon Services to enhance the conditions of probation or parole, but not to decrease them. In Illinois, legislation was enacted in 1995 directing each judicial circuit to adopt a structured system of administrative sanctions for probation violators and creating statutory authority for probation officers to impose such sanctions as a consequence of non-compliance with the conditions of probation, conditional discharge, and supervision. Exhibit 12 is an example of language used to delineate the legislative delegation of authority to change probation conditions.

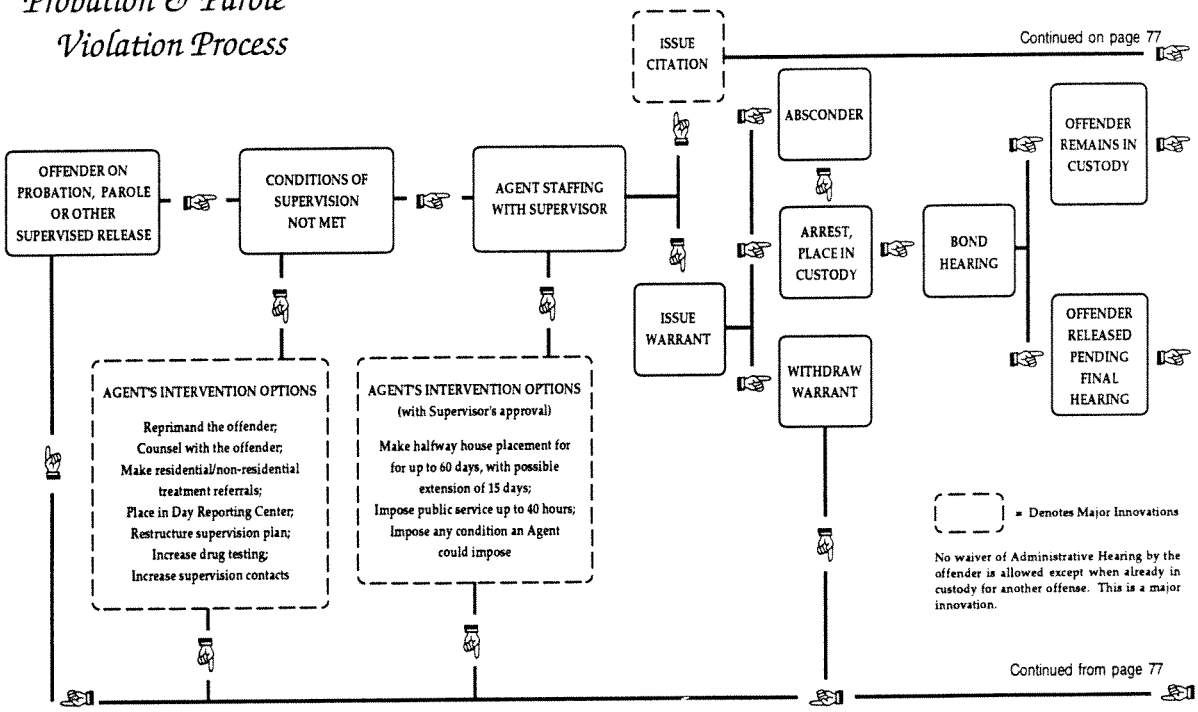
Some jurisdictions have achieved the delegation of such authority through the rule-making and policy-making authority already available to supervision agencies. In other jurisdictions, adjustments in conditions are authorized by the court or board through a review of the record and affirmation of the action **after** the sanction has been imposed. The court or board always retains the authority to not affirm, and reverse, the action taken by the supervision agency.

Regardless of the specific approach, agencies are using a variety of legislative, procedural, and policy tools to introduce more flexibility into their responses to violations, to speed the process, and to decrease the administrative burden of responding.

Exhibit 10: Possible Outcomes of "Staffings" and Administrative Hearings

South Carolina Department of Probation, Parole, and Pardon Services

Probation & Parole Violation Process



Probation and Parole Violation Process, continued

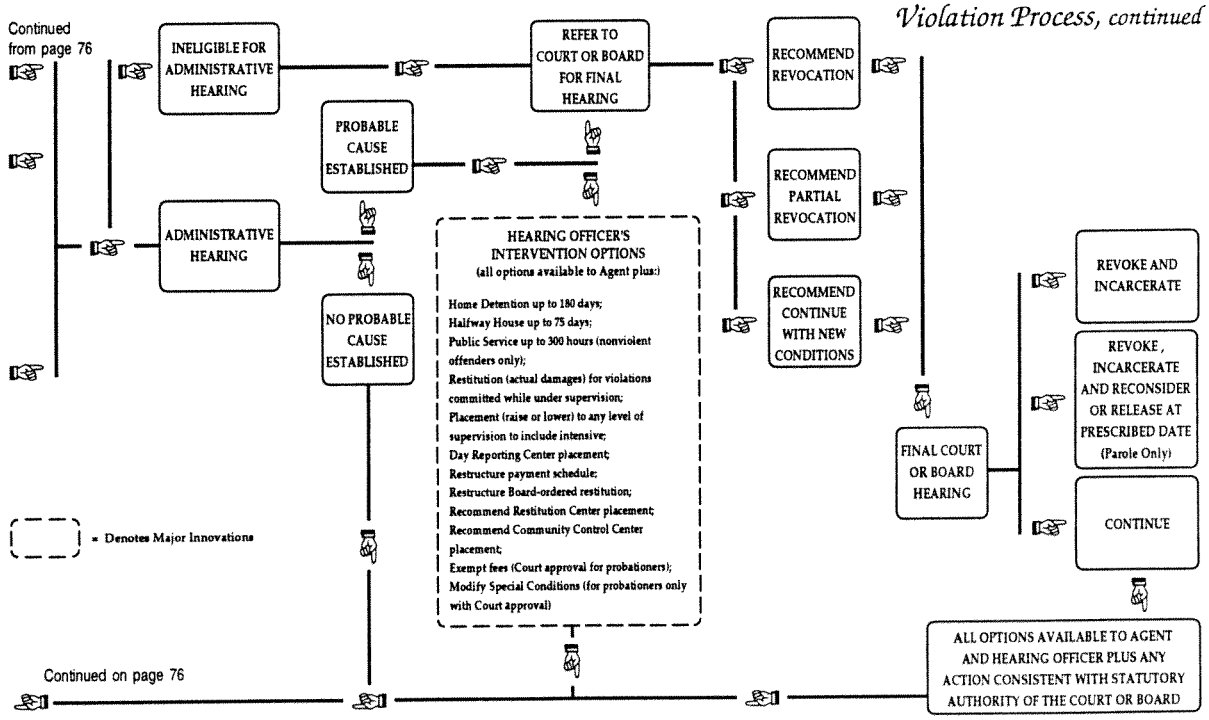


Exhibit 11. Probation Citation

Form 16.2
Form Approved by
Attorney General
May 1988

_____ -GS- _____ - _____

PROBATION CITATION

SOUTH CAROLINA V.	COUNTY:	
	SCDC #	SID #

TO: _____

YOU ARE HEREBY NOTIFIED to appear in the above named case at the time, date, and place specified below.

Place	Room
	Date and Time

YOU ARE HEREBY NOTIFIED that you are charged with violating the conditions of your supervision as stated below.

Violations Charged

YOU ARE HEREBY NOTIFIED that you have the rights listed below.

List of Rights: You have the right at the hearing to question any person who appears as a witness against you and to have witnesses appear in your behalf. You may present evidence on your behalf. You may have an attorney represent you. If you cannot afford an attorney, an attorney will be appointed for you. You must advise the agent or the court in writing of your desire for an attorney. It is your responsibility to make arrangements for your witnesses and your attorney to appear at the hearing.

IF YOU FAIL TO APPEAR AT THE TIME, DATE, AND PLACE SHOWN ABOVE, THE HEARING WILL BE HELD IN YOUR ABSENCE AND YOU MAY BE INCARCERATED.

, South Carolina	Probation and Parole Agent
Date	Agent #

A copy of the citation was served by the undersigned and given to the individual named therein at the time, date, and place indicated below.

Place	Time and Date
	Serving Officer's Signature

Sworn to and subscribed before me this _____ day of _____, 19_____

_____ My Commission Expires _____

Signature of Notary Public

Exhibit 12. Statutory Language on Intermediate Sanctions for Violations and Delegation of Authority

> "Public Act 89-198 mandates that 'each circuit shall adopt a system of structured, intermediate sanctions for violations...' and that 'the court...impose as a condition of a sentence of probation, conditional discharge, or supervision, that the probation agency may invoke any sanction from the list of intermediate sanctions adopted by the chief judge of the circuit court for violations...subject to the provisions of Section 5-6-4...' Entry into an Administrative Sanctions Program therefore becomes a statutory condition of probation subsequent to the adoption of an intermediate sanctions system by the chief judge of the circuit."
>
> Administrative Office of the Illinois Courts, *Administrative Sanctions Program Guidelines,* Nov. 1995

Specifying a Range of Intermediate Sanctions

Sentencing judges, parole boards, and probation agencies have become more familiar with the use of intermediate sanctions as credible options at the sentencing stage. It is only natural that intermediate sanctions would begin to be considered as credible options in response to violations of probation or parole. If criminal activity falls along a range of seriousness and risk warranting a range of sanctioning responses, so too will technical violation behavior. To date, many agencies have relied heavily on revocation as the sole response to violations. Many agents take the approach of letting technical violations "stack up" until there are "enough" to go after revocation. That picture is changing.

Jurisdictions pursuing a range of intermediate sanctions for violations found that part of the initiative required an effort to 1) identify existing sanctions available in the community, and 2) consider how those sanctions could be logically arrayed along a continuum of increasing punishment, control, and/or intensiveness of treatment. These, then, needed to be matched against a continuum of severity/risk of violation behavior. In many ways, this effort mirrors the efforts of local policy groups attempting to array a system of sanctions to be used at the sentencing stage.

Inevitably, those sanctions that include loss of liberty (e.g., house arrest) or serious constraints upon movement (e.g., electronic monitoring) are found toward the top of the continuum, while less onerous or controlling sanctions such as increased reporting or screening for substance abuse are found more toward the middle or lower end of the continuum. But, again, there are significant differences from one jurisdiction to the next that reflect local practice and availability of resources. Exhibit 13 provides a fairly typical example of a range of suggested responses to violations, arrayed along a continuum of increasing control, punitiveness, and intensiveness. The continuum is also arranged according to the level at which decisions about the sanction should be made--with the more punitive, intrusive, and expensive sanctions requiring court action, mid-level sanctions requiring the approval of a supervisor, and low-level sanctions available to the probation officer on his or her own authority. Exhibit 14 illustrates how violations are assessed and assigned to the appropriate level of decisionmaker and sanction. Moving from left to right on the exhibit, the reader can see how Severity, Risk, and Behavior Risk are assessed sequentially to "sort" violators to the appropriate level.

Explicit Policy

The "glue" that holds all of these different elements in place is policy. Policy is the official language that identifies the factors to be considered, with what weights, and what action should typically be taken given a particular configuration of factors. For instance, with a high severity violation and a high risk offender, particularly with an indication of community instability, the policy might indicate quick issuance of

Exhibit 13. Illustrative Range of Sanctions Authorized at Various Levels of Decisionmaking

LEVEL OF DECISIONMAKING	SANCTIONS TO BE APPLIED TOWARD VIOLATION SEVERITY
(HIGH) **COURT**	Prison Jail Jail with Work Furlough Residential Treatment Intensive Probation Supervision Electronic Monitoring - House Arrest (for more than 30 days) All Listed Below*
(MEDIUM) **SUPERVISOR & PROBATION OFFICER CONFERENCE**	Direct Program Community Service (20 - 40 hours) Electronic Monitoring - Release for Work (up to 30 days) Curfew (up to 30 days) Increase Supervision Level All Listed Below*
(LOW) **PROBATION OFFICER**	Curfew (up to 7 days) Community Service (up to 8 hours) Loss of Travel or Other Privileges Counseling/Treatment Begin/Increase Drug/Alcohol Testing Increased Reporting Counseling or Reprimand by Unit Supervisor Counseling or Reprimand by Probation Officer

*"All listed below" indicates that all of the sanctions listed as available to the supervisor or the probation officer are also available to the court. Similarly, all of the sanctions listed as available to the probation officer are also available to the supervisor and probation officer in conference.

Exhibit 14. Illustrative Policy Indicating the Level at Which Decisions Should Be Made Given Various Combinations of Risk, Severity, and Behavior Risk of Violators

Violation Severity Level	Offender Risk High = Maximum Low = Moderate or Minimum	Behavior Risk High = Offense related, Avoid PO, Prior revoc., Unstable Low = Less than two factors	Decisionmaking Level
HIGH	High	High	Court
		Low	Court or Supvr-PO Conference
	Low	High	Supvr-PO Conference
		Low	Probation Officer
MEDIUM	High	High	Court
		Low	Supvr-PO Conference
	Low	High	Probation Officer
		Low	Probation Officer
LOW	High	High	Supvr-PO Conference
		Low	Probation Officer
	Low	High	Probation Officer
		Low	Probation Officer

a warrant and recommendation for revocation. On the other hand, with a low severity and low risk violation, the typical course of action might be adjustment of a reporting schedule, along with a verbal counseling session. Exhibit 15 provides an example of some typical language found in policy directives concerning "new generation" responses to violations.

Clarity of Goals

It may seem disconcerting to list "clarity of goals" as an innovation for probation and parole. Being clear about goals, however, is one of the most difficult aspects of any criminal justice agency's operations. The various consumers of probation and parole services have widely divergent expectations of probation and parole supervision. Such expectations might include monitoring and identifying non-compliance with court or board conditions, controlling admissions to prison or jail, protecting community safety, assuring offender accountability, or rehabilitating the offender --all at the same time and with a shrinking budget.

Most agencies that have undertaken a review and refinement of their violation practices have found that a careful rethinking of supervision itself is required: what is the goal of supervision and how do we define success and failure? Exhibit 15 also illustrates how one agency carefully links its policy on violations to the overall goals of supervision.

IMPLEMENTATION STRATEGIES

Jurisdictions that have developed innovations in this field can offer instructive examples--not just about what they have done, but also about how they did it. Strategies cluster in several areas.

From the Bottom Up

One hallmark of the NIC technical assistance effort directed at innovations in handling violations was the chartering of internal working groups. Groups of staff drawn from various levels of the organization--but particularly including line probation/parole officers, first-line supervisors, and policymakers--provided the staff support to assess current practice, gather data about it, consider current policy, and fashion new approaches. Such a strategy assured that the changes were based on practical line experience and also developed a sense of ownership in the changes by the working groups. Subsequent implementation, training, monitoring, and evaluation became smoother using such a development strategy.

Additions to the Probation/Parole Tool Bag

As agencies faced the challenge of changing the way in which they handle violations, they found creative ways of expressing the policy foundation to guide their practices. They revised policy and procedures manuals to communicate policy on the topic. They also used graphic depictions of the decision process they expect officers to follow. They invested a good deal of effort in creating tools for line agents and supervisors to use. Some designed documents and reference materials to give form and life to their policy.

These "tools" illustrate the substantive aspects of how agencies are handling violations and translating policy into practice. The tools include:

- booklets that assemble all of the "pieces" of the violation process in one document--severity scales, risk assessment scales, sample violation report formats, violation logs, forms to record "staffings," listings of available intermediate sanctions, etc.;
- laminated cards for staff to carry, summarizing violation guidelines;
- new formats--violation logs--that change the way probation and parole agents keep their "running record" in order to highlight violations and their responses;
- charts listing violations and their severity levels;
- charts listing risk levels; and
- charts arraying severity/risk ratings with appropriate sanctions and levels of decisionmaking.

Exhibit 15. Typical "New Generation" Policy Language Regarding Violations

II. PURPOSE: The purpose of this policy is to provide a framework to guide officer decision making when a violation of probation has occurred. A clear, consistent understanding of the steps to be taken when responding to violation behavior should increase officer autonomy and reduce the filing of petitions to revoke probation in cases where a response short of revocation and incarceration is appropriate.

Administrative violations of the conditions of probation are inevitable. It is unrealistic to believe offenders, even if they sincerely desire to develop drug-free, pro-social lifestyles, will immediately have the skills or abilities to do so. The issues and forces which brought them into the system will most likely continue to impact their behavior to some extent until they learn new skills and methods of dealing with these forces.

All responses to violation behavior should be considered in light of the agency's mission and philosophy, as well as the goals of the supervision process. While protection of the community must always be the primary consideration, it does not follow that revocation is always, or even usually, the most effective or efficient way of achieving this goal....

The goal of community supervision is to selectively and proactively intervene with offenders so as to reduce the likelihood of future criminal activity and promote compliance with the supervision strategy. Strategies involve holding offenders accountable for their actions, monitoring and controlling offender behavior, and developing rehabilitation programs specific to offender needs. Another significant piece of the supervision strategy is ensuring an appropriate and proportionate departmental response to all violations of the conditions of probation, taking into account offender risk, the nature of the violation, and the objective of offender accountability.

The basic expectations underlying the department's policy regarding probation violations are:

- There will be a response to every detected violation.
- Responses to violations will be proportional to the risk to the community posed by the particular offender, the severity of the violation, and the current situational risk.
- The least restrictive response necessary to respond to the behavior will be used.
- There should be consistency in handling similar violation behavior given similar risk factors.
- Responses to violations should hold some potential for long-term positive outcomes in the context of the supervision strategy.
- While response to violation behavior is determined by considering both risk and needs, risk to the community is the overriding consideration.
- Probationers who demonstrate a general unwillingness to abide by supervision requirements or who pose undue risk to the community should be subject to a Petition to Revoke Probation.

The appendices provide a selection of tools created and used by probation and parole agencies as they implemented new practice regarding violations and revocations:

- Appendix A is a chart that summarizes one agency's thinking about the various purposes of responding to violations and which sanctions are appropriate.
- Appendices B and C are logs of violations and of "staffings" between line officer and supervisor. Each was designed to highlight violations and the responses made to each in the written record.
- Appendix D is a set of instructions that leads a probation officer through the steps to be followed in assessing offender risk, violation severity, situation risk, and the appropriate decisionmaking level for the response.
- Appendix E is a listing of community sanctions available to the probation officer, along with examples of behavior and situations for which they are appropriate.
- Appendix F is a document developed to be an attachment to the standard conditions of probation. This attachment is a simple way for the court to indicate that the probation officer is authorized to impose a certain set of intermediate sanctions--as deemed appropriate--without having to come back through a formal violation hearing.
- Appendix G is an example of a notice to the court of technical or administrative violations and the actions taken in lieu of filing a formal petition to revoke. This keeps the court informed and also provides the opportunity for the court to order that a formal revocation petition be filed.

These documents are examples of the ways in which probation and parole agencies are implementing innovations in handling violations. Many other examples are in use around the country. Any agency embarking on a refinement of violation policy should consider these as reference points, but is cautioned to develop its own tools appropriate to its own practices and goals.

System Support

As any practitioner is aware, responsibility for almost everything in the criminal justice system crosses agency boundaries. Handling violations may involve more than one level or branch of government **and** the private sector. Even issues that can be viewed purely as a matter of internal agency policy often can better be addressed with the cooperation, support, information, or resources of other agencies and decisionmakers.

An approach some agencies have taken to assure the success of efforts to respond to violations was to include policymakers and staff from other agencies in their development and implementation efforts. It is more the rule than the exception that the body responsible for the final revocation decision (i.e., the judge or parole board) is distinct from the agency providing supervision (e.g., departments of corrections, independent probation or parole agencies, etc.). In those instances, it is key for probation agencies to understand the expectations of judges about what matters should be brought before the court, and what matters they can best handle internally. Likewise, agencies providing parole supervision should clearly understand the expectations of the parole board regarding what should be brought back through the formal violation process. Judges and boards, too, must understand and support the internal policies of their respective supervision agencies. Otherwise, they may be operating at cross purposes.

Beyond the obvious shared concerns of supervision agency and decisionmaker, however, are many other cross-system relationships that are important for violation/revocation practice. Prosecutors may be key in the handling of probation violations, especially in considering appropriate sanctions. The defense bar will also be vitally interested in the sanctions available to offenders. Sheriffs and jail administrators will be concerned about how violation practice impacts jail space. County board members will be concerned about the costs of local incarceration. Service providers will be concerned about criteria for admission to their programs and criteria for failure.

And if greater access to services in the community is part of an agency's change efforts, involving private sector service providers will also be important.

Many agencies have made the effort to involve other key policymakers in their deliberations. One approach, taken by a probation agency located within a judicial district of a state court, was to convene an advisory board comprised of key policymakers--the chief administrative judge, the chief prosecuting attorney, and the chief public defender, as well as the head of the probation agency. The role of the advisory board was to provide overall direction to the staff committee supporting the effort, react to its recommendations, and give credibility to the initiative both inside and outside the court itself.

Another approach, which has been used in combination with an advisory committee, is the involvement of other key agencies/actors in the context of a working conference on new policy. One agency, after working for a number of months on assessing current practice and developing suggested policy, presented a full-day seminar for its entire bench, directors of the criminal divisions of its prosecutor's office, all staff from its public defender's office, and all of its own staff. The seminar presented the findings of the agency's analysis, outlined its goals for the violation process, introduced new policy, and solicited feedback and support during implementation.

Probation and parole agencies may approach this issue as purely an internal policy matter, guiding how their officers will handle violations and when they will initiate the formal violation process. On the other hand, even if the policy is primarily an internal matter, assuring that the prosecutor and defense bar are informed and securing support from the bench and/or board are key to success.

Training

Policy changes must be accompanied by a significant training effort to assure that policy is translated into practice. In those jurisdictions where changes in practice were observed, significant effort was put into training line officers--often using members of the original working group as trainers. Another key strategy is to train supervisors and they, in turn, train line officers. This assures that both levels of the organization are thoroughly familiar with the new policy's goals and operation. Training tools include the use of sample cases to illustrate how violations might be handled; introduction of new forms, formats, and data collection instruments; and practicing "staffing" procedures.

Because response to violations is such a key aspect of agency operations, it is important to incorporate it into routine training for new staff and into periodic updates for veteran staff. Aspects of the policy and practice will change over time. Keeping all staff up to date on changes is an important aspect of implementation.

IMPACT: A VARIETY OF MEASURES

As the saying goes, the proof is in the pudding. With several years' experience, there must be some documentation of the effect of these innovations. For example, what has been the impact when:

- Reduced use of incarceration as a response to revocation is the goal?
- Greater use of intermediate sanctions is the goal?
- Better targeting of revocation to high severity and high risk violations is the goal?

The discouraging news is that demonstrating impact depends heavily on good data systems and adequate attention to monitoring. Unfortunately, management information systems in probation and parole agencies --along with most other parts of the criminal justice system--leave much to be desired. The weak link in these efforts has been in the design of monitoring systems to capture good impact data. The author has found no comprehensive evaluation efforts completed to date.

The good news is that there are a few noteworthy exceptions and a few instances where the data is very limited but still encouraging. The types of impact observed by agencies as they made changes are

discussed in this section. Some of the illustrations highlight the available quantitative impact data. Others highlight the available descriptive and qualitative information. They suggest that, in addition to measurable impact on revocation rates, admissions to prison, etc., new thinking about violations and revocations is having a significant effect on the way probation and parole agencies go about their work. It is stimulating efforts to target resources, change offender behavior, and define agency missions and goals. These, too, are important effects.

South Carolina Department of Probation, Parole, and Pardon Services (DPPPS)--Impact on Risk to the Community, Court Resources, and Jail Use

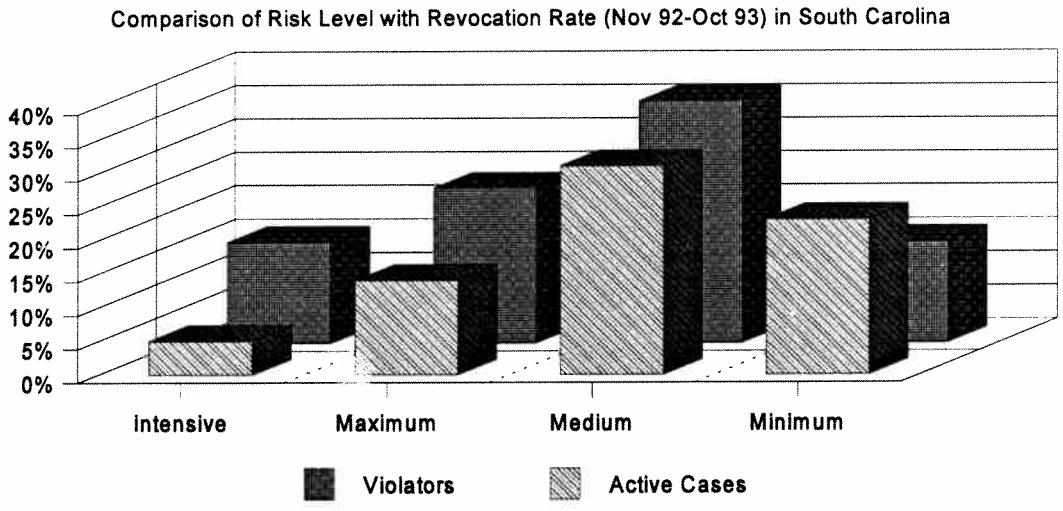
The South Carolina experience is noteworthy for a number of reasons. Beginning its work in 1988, DPPPS was an early participant in NIC's national technical assistance efforts and, as such, became a mentor for many other agencies that participated. It did a good job of translating its innovations into policy documents that not only guide practice, but also provide others with information about its progress. South Carolina has continued to collect information on its violation practices so that a number of encouraging conclusions about impact can be drawn.

An important goal of the South Carolina initiative on violations was to focus revocation more clearly along lines of risk. DPPPS was one of the first agencies to explicitly separate an assessment of risk from an assessment of violation severity and included indicators of "community instability," such as recent instances of assaultiveness, increased patterns of drug and alcohol use, etc.

DPPPS's policy is crafted so that, all other things being equal, violators demonstrating higher levels of risk will be revoked and incarcerated at higher rates than those with correspondingly lower levels of risk. South Carolina has been keeping statistics on the types of offenders coming through the revocation process and found that in fiscal year 1992-93, 85 percent of violators revoked to prison were designated in the higher risk categories (supervised at the intensive, maximum, or medium levels) and 15 percent were designated at lower risk levels of supervision. Exhibit 16 presents the percentage of total active cases that fall into each category, and the percentage of all those revoked in each category.

These data indicate that higher risk offenders are much more likely to be revoked than lower risk offenders. For instance, probationers on intensive supervision--the highest risk group under supervision--represent

Exhibit 16. Impact of Violation Policy: Reducing Risk to the Community



about 5 percent of the total probation population. However, they represent 15 percent of those revoked to prison. DPPPS's current practice on violations is clearly meeting its expectations that incarcerative sanctions will be used more frequently on higher risk offenders.

Another hallmark of South Carolina's revamped approach to violations is that for every violation there will be a response. In contrast to past practice, where violations were often allowed to accumulate awaiting "enough" to issue a warrant, the practice is now to respond to each one. Intermediate responses are encouraged and specified. One danger of this approach is that revocation activity might actually increase. However, South Carolina's monitoring of the situation indicates a different picture. When the violation effort began in 1989, about 28,500 probation and parole offenders were under supervision. In that year, 5 percent of the population was revoked to prison. In 1995, with 37,000 offenders on probation and parole and a new policy of responding to every violation in effect, still about 5 percent of the population was revoked to prison.

At one level, then, DPPPS managed to "hold the line" and avoid increases in the proportion of offenders revoked. Looking below the surface of these figures, however, one finds a significant change that is saving enormous court time. Prior to the implementation of the new policy, only about 35 percent of DPPPS's requests to the court for revocation of probation were granted. Although only 5 percent of probationers were revoked, many times that number went to court for revocation hearings. Today, DPPPS reports that over 80 percent of its requests to the court for revocation of probation are granted. The same 5 percent of offenders are revoked, but only a small number brought to court for revocation are denied. Clearly, DPPPS is doing a better job of identifying offenders the court feels should be revoked to prison and those who can be handled through its new administrative hearing process. Richard Stroker, Deputy Director of DPPPS, points out that "thousands of violation cases a year were diverted from court dockets by [being] disposed of at administrative hearings."[9]

In addition, because DPPPS now handles many violators by issuing a citation to appear at a violation hearing rather than routinely taking them into custody awaiting a hearing, Stroker reports that "...6,000 offenders who otherwise would have been incarcerated in a local jail while awaiting bond or some disposition to their case can now await their hearing while remaining in the community."

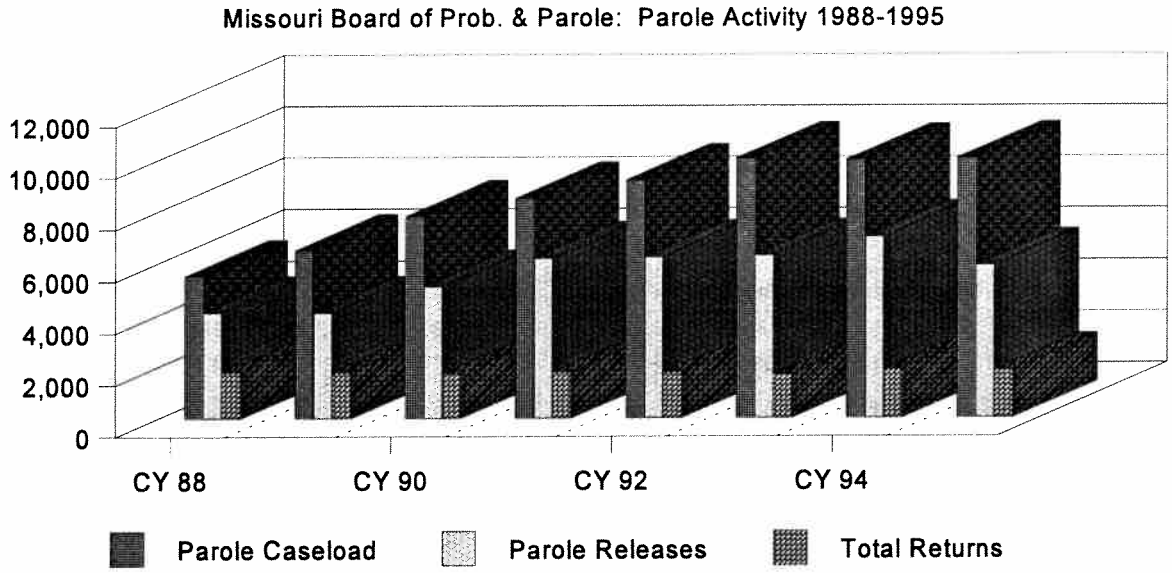
Missouri Board of Probation and Parole--Impact on Prison Admissions

Like South Carolina, Missouri's probation and parole supervision services are provided by a single, state-level agency--the Missouri Department of Corrections. In 1988, the Missouri Board of Probation and Parole's statistics indicated that over the previous 10-year period, parole violators admitted to the Department of Corrections had more than doubled, from 10 percent to 22 percent of total admissions.

The Board began a significant revamping of its policy on violators. It focused first on absconders, reviewing them on a case-by-case basis rather than automatically revoking them. It decreased by half the average time spent in prison as a result of revocation for absconding, greatly reducing the number of prison beds allocated to absconders. The Board also initiated a combination of new supervision strategies for violators, including residential centers, electronic home monitoring, and intensive supervision. It encouraged its officers to recommend the use of alternatives instead of revocation and allowed officers to place violators quickly into alternatives pending the Board's approval. In January 1992, the Board initiated a violation guidelines matrix, which corresponded with its Offender Strategy Continuum.

The Board's management information system reports extremely encouraging outcomes. Between 1988 and 1995, the Board's parole caseload had almost doubled from 5,644 to 10,081. At the same time, the number of returns to prison as a result of revocation remained virtually stable. (See Exhibit 17.) The Board and its

Exhibit 17. Impact of Violation Policy: Reducing Prison Admissions



field supervision staff were able to manage an increasing population of parolees in the community, respond to violations with intermediate sanctions, and limit the number of violators returned to prison.

The question always arises as to whether this modified approach to technical violations is taken at the price of higher risk to the community. In Missouri, during the period when these changes were taking place with respect to parole violators, the parole supervision caseload grew by 78 percent. At the same time, returns to prison as a result of new arrests increased by only 9 percent. Not only was the Board able to avoid using precious prison resources for technical violators, but it actually witnessed a decrease in the rate of new arrests that might have been expected in light of the increasing number of offenders on parole.

Missouri's information about its supervised population and violators is more extensive than that available to many jurisdictions, largely because of its considerable efforts to build and maintain a management information system. This system, in conjunction with internal research, has also given the Board insights into which of its alternative sanctions programs appear to be most successful for violators.

Macomb County Probation, Michigan Department of Corrections--Impact on Jail Use

In 1989, the Macomb County Probation Office and its parent agency, the Michigan Department of Corrections, joined the NIC project and began a careful review of its violation and revocation practices. Assembling one of the best data bases in the nation on its probation and parole violator population, Macomb County Probation staff developed a profile of their entire violator population for 1991. The analysis indicated that current violation practice was unguided by policy and there was significant variation in how probation officers and judges handled violations. The analysis also indicated that 54 percent of technical violators received some type of incarceration as a response to a violation, and 65 percent of those who received incarceration as a sanction received 90 days or more of jail or prison time. In fact, violators who received county jail time as a sanction for a probation violation received an average sentence of 176 days. The analysis further indicated that neither severity of the violation nor risk of the offender was a significant factor in the decision to revoke and incarcerate.

New policy was designed and implemented in Macomb County that prescribed intermediate sanctions for less serious violations and lower risk offenders. Probation staff analyzed what the outcomes of their revocation practice would have been in 1991 if the new guidelines had been in place. They discovered that an average of 83 jail days would have been saved per violator. The savings would have been realized primarily through reduced incarceration of the least serious and lowest risk violators.

Although limitations in the jail data systems in the county have prevented the Michigan DOC from continuing to track the revocation picture in as much detail as in the original analysis, probation staff have continued to gather information on commitments to jail and prison as a result of revocations. From 1991 through 1994, commitments to the county jail for revocation of probation dropped from 28 percent to 18 percent of those sentenced (see Exhibit 18). County officials attribute this to the new policy and emphasis on intermediate sanctions.

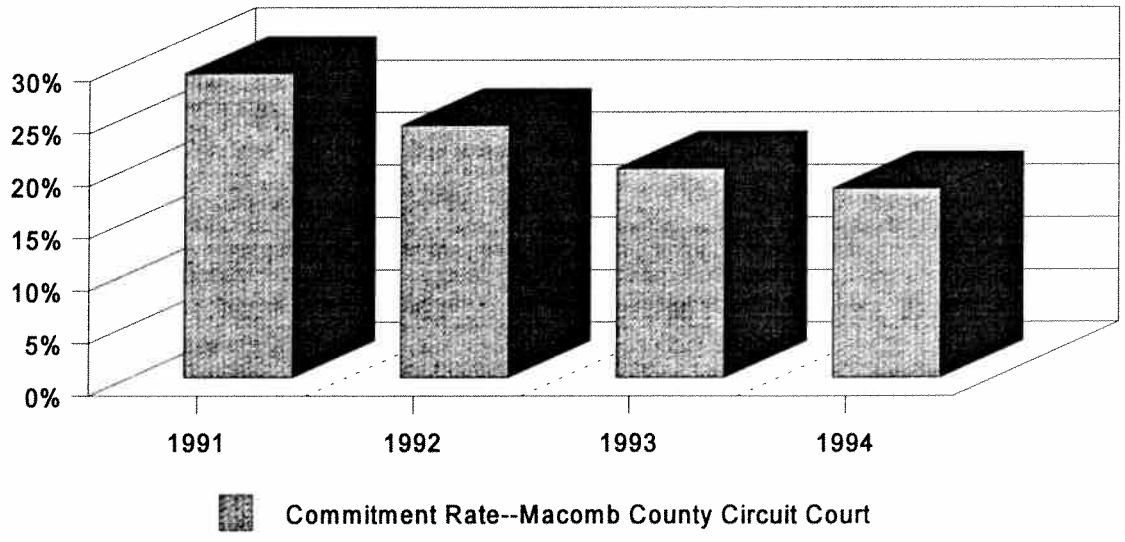
The DOC estimated that during 1994 alone, the new policy resulted in savings to the county and state of approximately $580,650. The former chief probation officer in the county reports that the commitment rate hovers at 10 or 11 percent of those sentenced, far below the 28 percent rate experienced before the change. He is also convinced that because probation officers are systematically considering intermediate sanctions as responses to violations, they are also more likely to consider them as recommendations at the sentencing stage. As a result, the local jail is operating with enough capacity to house offenders on contract from other counties. The county received an award from the National Association of Counties for its achievements in local government efficiency as a result of its violation policy initiative.

North Carolina Department of Correction--Impact on Revocation Rates

In July 1993, supported by federal funding through the Governor's Crime Commission, the North Carolina Department of Correction established a Revocation Task Force to undertake a thorough review of its violation and revocation practices. The primary goal of the Task Force was to "...develop and implement a structured decisionmaking process to expand the use of graduated community sanctions for probation and parole violators."[10] A review of the DOC's data systems revealed that 54 percent of

Exhibit 18. Impact of Violation Policy: Reducing Jail Use

Macomb County, Michigan (1991-1994)



prison admissions were attributed to probation and parole violations in 1993, and 80 percent of those were technical violations. Further examination determined that the types of violations for which offenders were revoked varied greatly across the state, and from officer to officer. In addition, revocation was sometimes the first response to a technical violation, but in other cases was recommended only after a series of other intermediate sanctions was attempted. The conclusion drawn by the Task Force was that "...many revocations could be avoided, especially those that might occur as the first response to the offender's unacceptable conduct."[11]

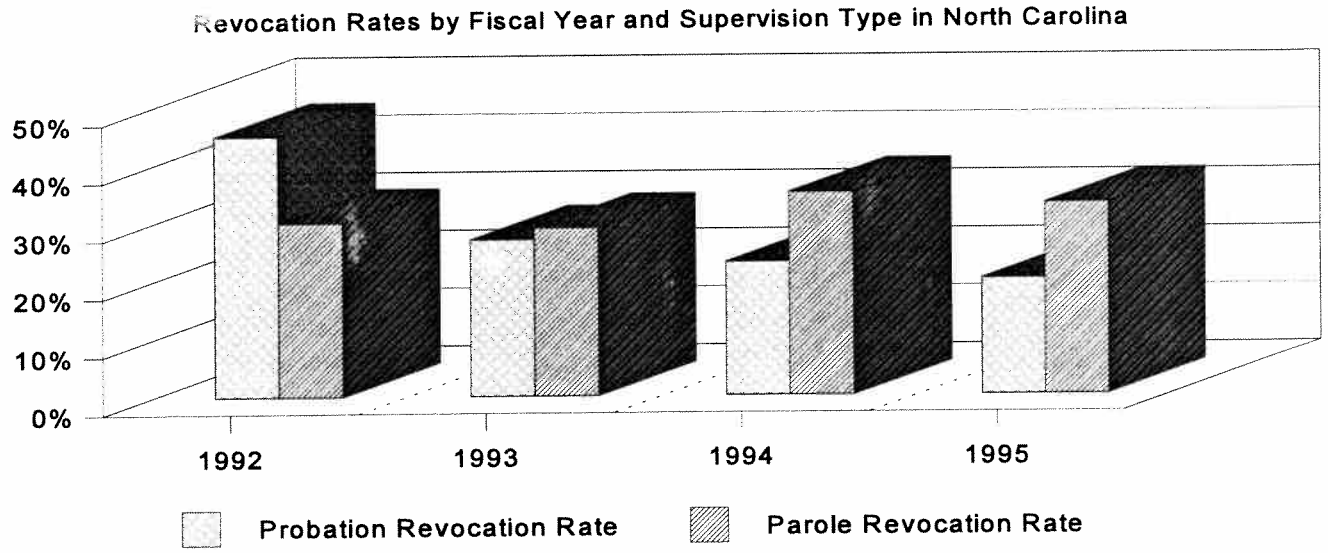
During the course of the Task Force's work--when its goals were being disseminated and emphasized in the DOC, but before the new violation policy was fully established--the DOC recorded a significant downturn in revocations to prison. In fact, the Task Force Report found that "Despite a 4 percent increase in the probation population from 1993 to 1994, the number of imprisoned probationers decreased by 16 percent and the number of technical revocations decreased by 26 percent" (see Exhibit 19).[12]

That trend appears to be continuing. When examined across four fiscal years (1992-1995), the probation revocation rate as reported by the Department steadily and significantly decreased from 42 percent in 1992 to 22 percent in 1995. In contrast, parole revocation rates remained steady. During this period, violation policy was effective only for probation--parole procedures had not yet been developed. In the words of a Department official, "The drop in probation revocation rate during this time period was significant."

Adult Probation Department of the Superior Court of Arizona, Pima County (Tucson)--Impact on Reducing Delay in Responding to Violators

In 1991, the Adult Probation Department of the Superior Court of Arizona in Pima County (Tucson) joined NIC's violation/revocation project. The Department was concerned that revocations were being sought for cases that might well be managed in the community and that violations were being handled inconsistently. A thorough review of current practice revealed two other issues that the Department wanted to address. First, many petitions to revoke filed with the court did not result in actual revocations. Second, the violation/revocation process was consuming an inordinate amount of time on the part of probation staff, judges, prosecutors, and other court personnel.

Exhibit 19. Impact of Violation Policy: Reducing the Revocation Rate

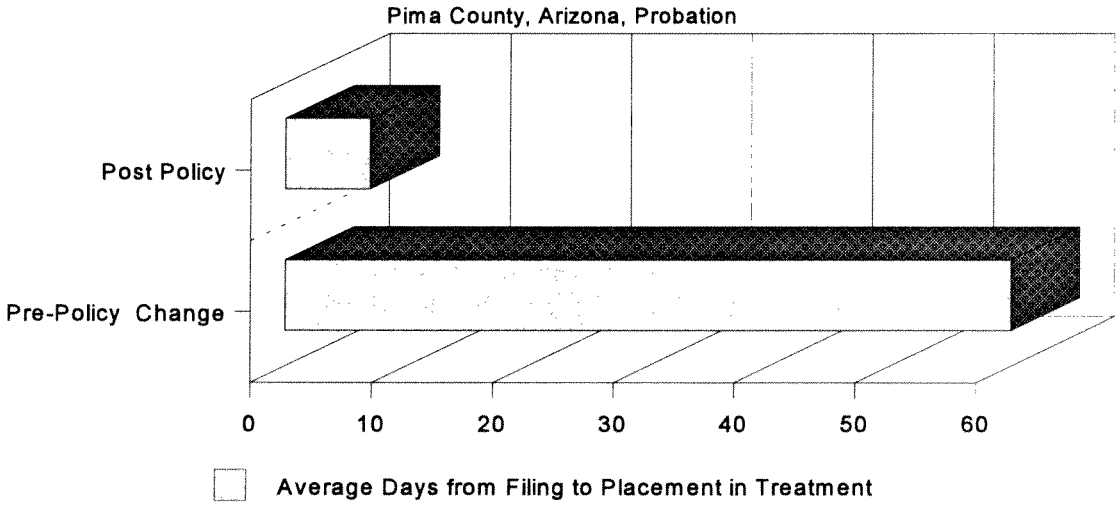


Analysis indicated that the revocation process--which required as many as three separate court appearances for each petition to revoke probation--occupied the equivalent of one entire court room. In the medium-sized city of Tucson and its surrounding Pima County, this was a surprisingly large investment of resources. At the same time, almost 60 percent of petitions to revoke were **not** resulting in revocation. The majority of violators were being returned to supervision with the same or modified conditions. In essence, the petition to revoke was being used most frequently to continue or adjust conditions--at great expense in court resources and with unnecessary delays in achieving the desired modifications. Whatever the outcome--revocation or modified conditions--the process took an average of 2 months from the filing to the disposition of a petition.

One group of violators particularly affected by the delay in responding to violations were candidates for placement in the Department's specialized, intensive drug supervision program. This "Direct" program is tailored for probationers with continuing drug problems. It offers a suitable "intermediate" response to probationers whose violation behavior is related to drug use. As a result of the Department's new violation/revocation policy, probationers with drug-related violations can now be placed in the Direct program without going through the formal revocation process. They can now be referred, screened, and placed in the program in less than a week. In comparison with past practice, this allows probationers experiencing serious drug problems to be quickly sanctioned and treated (see Exhibit 20).

One concern the Department has about this new approach is that the judge's admonishment of the violator is eliminated. Feeling that a court appearance may be an important aspect in the drug user's recovery, the Department is considering including an appearance before the bench for a "counseling" session with the judge as part of the referral process. This would still allow referrals and placements to be handled less formally and more quickly, but it would include the judge in a counseling and admonitory role that may render the Direct placement more successful.

Exhibit 20. Impact of Violation Policy: Reducing Delay



Adult Probation Department of the Superior Court of Arizona, Maricopa County (Phoenix)--Crafting Innovative Responses to Probation Violations

The Adult Probation Department of the Superior Court in Maricopa County (Phoenix), Arizona, was another participant in the NIC violation/revocation project. The Department, already involved in significant efforts to use intermediate sanctions as sentencing alternatives, began to focus on its violator population in 1992.

The Department formulated an explicit set of goals and objectives for the violation process. It emphasized immediate responses to all violations, effective interventions that respond to offender needs, quickly identifying offenders who must be removed from the community, and returning to court only those offenders for whom additional judicial action would be recommended. Violations were categorized by severity, and an existing risk assessment tool was used to further categorize violators by risk. The Department's policy and procedure manual was revised accordingly and extensive training of new and existing staff was initiated.

A newly designed "petition worksheet" requires the officer to go through the options available short of revocation and encourages consideration of alternatives. The Department has seen a modest drop in revocations--from 20 percent in 1994 to 18 percent in 1996. However, because a more significant drop was hoped for, the Department is exploring alternative strategies. One option under discussion is adapting some of the strategies and methods involved in alternative dispute resolution into a "compliance facilitation" process that could assist officers in crafting innovative responses to probation violations.

New York City Department of Probation--Impact on Outcomes with Youthful, High-Risk Violators

As case loads continue to grow among community supervision agencies, discussion of how to do more with less continues. One landmark example can be found in the New York City Department of Probation. This agency was challenged to function in one of the largest and most crime-ridden cities in the nation, while laboring under significant staff reductions.

The Department undertook a major restructuring and "reengineering" of its approach to supervision. Assigning large numbers of lower risk offenders to routine and automatic reporting, the Department focused on higher risk, youthful offenders who might be expected to respond to group counseling that used a cognitive restructuring approach.

The Department encountered a difficult issue. Given this "adult supervision restructuring," how would it respond to technical violations--or "misconduct"? As part of its restructuring effort, the Department developed a major new policy regarding misconduct, including the design of a Misconduct Review Board and the use of intermediate sanctions for many types of misconduct. The issue was clear--a supervision agency cannot revamp its entire approach to supervision without examining its responses to violations.

Although the restructuring and misconduct policy are only in the early stages of implementation, there is encouraging anecdotal information that this new approach is having observable effects on hard-to-supervise young probationers. In one of the city's boroughs, within a unit that supervises probationers identified as high risk for violence, encouraging results have been seen. One probationer with arrests for assaulting a neighbor and a record of sporadic attendance in drug treatment was finally persuaded to stay in treatment, largely as a result of the personal involvement of the probation officer and supervisor in the administrative hearing. Another offender who had failed to keep appointments for a court-ordered psychiatric evaluation finally began to cooperate in the evaluation and treatment--again because of the intervention of an administrative hearing.

Department managers feel that the new policy requires officers and supervisors to become much better informed about their high-risk cases. Armed with the principles underlying cognitive-behavioral

approaches to treatment, officers and supervisors are beginning to see real behavior change among their technical violator population.

As one high-level Department official put it, "Dealing with misconduct is one of the most important things you do in changing behavior. If you don't do that, you'll never see success. What people are seeing is that...even in a tough place like New York, it has a payback."

Illinois Administrative Office of the Courts, Utah Department of Corrections, and Virginia Department of Corrections--Impact on Statewide Practice

In Illinois, probation is administered through the 19 judicial circuits and overseen by the Administrative Office of the Illinois Courts. In Virginia and Utah, probation and parole are administered by Departments of Corrections.

Virginia and Utah were involved in the NIC technical assistance effort but Illinois was not. These three states have several significant things in common, however. They have each recently promulgated statewide initiatives to encourage the use of a range of intermediate sanctions for technical violations of probation. (In Utah, this initiative covers both probation and parole populations.) They are all encouraging the assessment of violation severity and risk. They are all specifically seeking interventions that will have the effect of reducing future criminal behavior.

In Illinois, recent state legislation directs the chief judge of each circuit to adopt "...a system of structured, intermediate sanctions for violations."[13] The Virginia Department of Corrections recently distributed its new Probation and Post-Release Supervision Violations Guidelines for statewide implementation. In Utah, statewide training for all probation and parole staff was held recently to facilitate Department-wide implementation of new policy guidelines on violations.

What was only recently an issue relegated to a line or two in rarely read policy manuals has emerged as a widely accepted and implemented innovation in probation and parole supervision. Entire statewide systems are implementing innovations in handling violations and revocations. The development of policy-driven intermediate sanctions for probation and parole violations has focused agencies on their goals for supervision, added significantly to the language with which agencies communicate about their work, and affirmed the community protection role of community corrections.

Adult Probation, First Circuit, Judiciary, State of Hawaii--Integrating Supervision and Treatment

In the First Circuit Court's Adult Probation Division, an internal policy team worked for almost 2 years to analyze its revocation practice and to fashion revocation guidelines. As plans to implement the guidelines moved forward, it became apparent that probation officers would be asked to continue working with some drug-involved offenders who were not fully compliant with court-imposed conditions regarding the use of alcohol and other drugs.

Recognizing the difficulty of this challenge for line staff--who continue to manage increasing case loads--Adult Probation designed training to familiarize them with some of the principles of relapse prevention and the cyclical characteristics of addiction, relapse, and recovery. The significance of this effort lies in its acknowledgment that successful supervision requires not simply monitoring compliance, but understanding problem-solving interventions, sensitivity to the cultural dimensions of drug- and alcohol-using behavior, and knowledge of the variety of resources available in the community. This is one example of how developing policy regarding violations can reshape community corrections' definition of its role.

CONCLUSION

Many probation and parole agencies around the nation have begun to reshape how they handle technical violations of probation and parole. Most of these agencies were motivated initially by concerns about resources, particularly in view of the number of admissions to prison and jail attributed to technical violations. Experience indicates that exploring and updating responses to violations can result in:

- reduced admissions to prison,
- reduced use of local jail space,
- reduced delays in placing offenders into treatment, and
- unburdening court and parole board dockets so that more attention can be focused on the more serious and risky violator.

More importantly, all of these results have been observed without accompanying indications that criminal violations are increasing. Anecdotally in New York City and Illinois--and based on statistical information in Missouri and South Carolina--the good news is that these changes in probation and parole are associated with better offender outcomes and are able to claim the twin prizes of community safety and more judicious use of resources. Rigorous evaluation research is clearly needed, but practitioners' assessments of their own experiences are quite encouraging.

The implications of this experience, however, are much more far-reaching than even these impressive achievements. The real promise of these innovations does not lie just in their ability to target resources, assure better offender outcomes, and enhance community safety. It is, for those who are willing to "think outside the box,"[14] the beginning of a radical rethinking of community corrections. It begins to view the community as the customer.[15] The simple notion that responses to violations should be geared primarily by their implications for the community--rather than simply as a compliance matter with the court or parole board--is quite a departure.

In the course of reworking violation policy, agencies are rethinking supervision and, in some instances, "re-inventing" themselves. In the same way that law enforcement agencies have begun to redefine their work as "community" or "problem-oriented" policing, probation and parole agencies are beginning to see themselves as more in the business of "community justice."[16]

Innovative responses to violation behavior hold the seeds of such a revolution in community corrections. Some agencies have come to see their role as working toward the "success" of a probationer. And that includes not simply responding to non-compliance, but actively working to assure community safety, mobilizing community resources to break the cycle of addiction and violence, facilitating "restoration" of the community through community service and victim restitution, and partnering with law enforcement and other community agencies to respond to the demands of the community for a greater sense of security and safety.

What began as a modest attempt to fine-tune violation policy may prove to be an important step for probation and parole agencies into the arena of "community justice."

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Appendix A.
SANCTION PURPOSE CHART

	Control (Incapacitation)	Accountability (Retribution)	Rehabilitation
HIGH **COURT**	•Prison/Jail •Residential Treatment •Drug Court •HD/EM* •New probation period •Add/change to conditions	•Jail/Prison •HD/EM* •New probation period •Add/change to conditions	•Residential Treatment •Drug Court •New probation period •Add/change to conditions
MEDIUM **SUPERVISOR-PROBATION OFFICER CONFERENCE**	•Level of supvsn increase •Community treatment program •Community service •Curfew •Travel restriction	•Level of supvsn increase •Community service •Supervisor intervention •Curfew •Travel restriction •Warned of consequence (written)	•Community treatment program •Community service •Supervisor intervention
LOW **PROBATION OFFICER**	•Increase field contact •Increase drug testing •Increase reporting	•Increase field contact •Increase drug testing •Attorney intervention •Counsel offender w/family •Increase reporting •Counsel offender •Reprimand •Verbal warning •Deadline	•Increase drug testing •Attorney intervention •Counsel offender w/ family •Increase reporting •Counsel offender

*Home Detention/Electronic Monitoring

Appendix B. VIOLATION LOG

PROBATIONER'S NAME:_____CR-PROBATION START DATE:_____OFFICER_____

Date	Condition	Violation	Admission (Y/N)	System Response Level H M L	Override Level	Officer Response

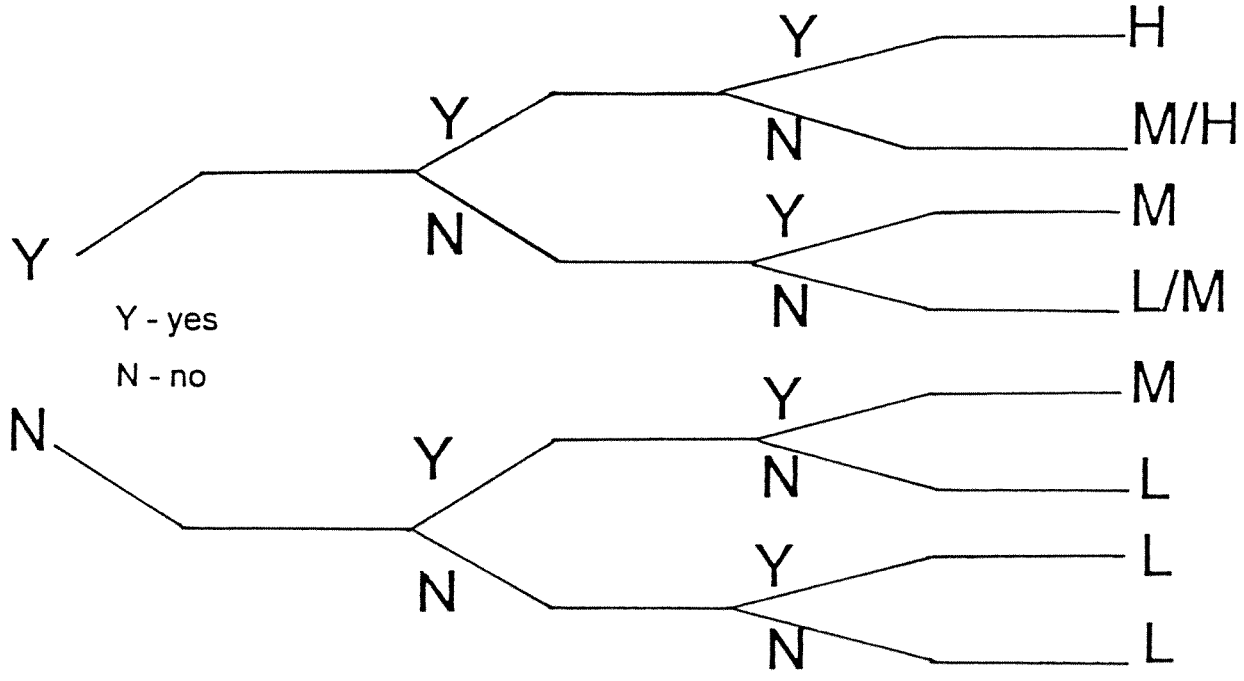
Appendix C.
VIOLATION STAFFING LOG

Month _____ Supervisor _____ Division ____

			RESPONSE LEVEL			
Date	Probationer Name	Probation Officer	Low	Mod	High	Over-ride?

Appendix D. SUMMARY OF VIOLATION DECISION PROCESS

IS OFFENDER RISK HIGH/LOW?	IS SEVERITY OF VIOLATION HIGH/LOW?	IS CURRENT SITUATION RISK HIGH/LOW?	RESPONSE LEVEL?
HIGH IF: **a.** original IPS Matrix score is 8 or more **b.** the probationer is a sex offender **c.** the probationer is an acknowledged member of a street gang **d.** the probationer has more than 2 DUIs within the last 5 years **e.** the original offense involved a predatory, assaultive crime against a person.	**1.** Use Violation Severity Table to determine severity. **2.** If violation is not included in table, staff case with unit supervisor to determine level. **3.** If no violations have been documented during the preceding 6 months or more, the current violation should be considered a "first" violation for the purpose of determining severity.	if two or more factors exist, risk is high: **a.** use of drugs or alcohol and/or failure to complete treatment **b.** current or recent pattern of avoiding officer contact **c.** emotional instability/distress - probationer or family - including domestic violence **d.** current or recent unacceptable pattern of employment, residence, or associations. Do other situational factors exist which would suggest an increased risk to reoffend? If yes, these should be documented and the situation risk considered high.	H - High **M** - Moderate L - Low



Appendix E.

AVAILABLE COMMUNITY SANCTIONS AND CONSIDERATION CRITERIA

1. COUNSELING OR REPRIMAND BY OFFICER OR SUPERVISOR

   Counseling or reprimand by the probation officer is the most common response to minor violations of probation. It involves confronting the probationer with the apparent violation, listening to their side of the story, and either redirecting them or delivering a stern admonition and warning.

   A strategy that can be very effective with some probationers is to take them to the office of the unit supervisor or the division director and to have this "higher authority" deliver the reprimand and warning. The intent is to impress upon the probationer the seriousness of the situation and the realization that any further violation will have more serious consequences.

2. INCREASED REPORTING REQUIREMENTS

   For probationers who commit minor violations such as not keeping appointments or finding full-time employment, it can be an effective strategy to increase their reporting requirements to multiple times each week.

   An example might be a probationer who is not exhibiting motivation to find work. The officer, after counseling and reprimanding, might decide to have the probationer report to the office every morning at 9:00, and to bring a list of all the businesses at which he applied for jobs the day before. This is not only inconvenient, and therefore punishing, for the probationer, but it usually leads to full-time employment within a short time.

3. LOSS OF TRAVEL OR OTHER PRIVILEGES

   A condition of probation is that the probationer not leave Pima County or the State without the permission of the probation officer. While not appropriate for all probationers, withholding this permission may be an effective consequence for those who have committed administrative violations and who enjoy frequent trips around the state.

   This could also include imposing a curfew for the probationer to restrict his freedom to move about within the community for a period of time. The court has limited officers to impose a curfew for a total of 14 days, no more than 7 days for each violation. Following a supervisory review and authorization, a curfew of up to 30 days may be imposed, with or without electronic monitoring.

4. INCREASED DRUG/ALCOHOL TESTING

   This is the most common response with a probationer who infrequently tests dirty for drugs or alcohol. The officer either increases the frequency of random drug tests or, for more regular violators, places the probationer on a regular twice-a-week schedule. This not only offers closer monitoring, but is inconvenient and, therefore, punishing for the probationer.

   The officer should consider the frequency with which the violation occurs. Those who frequently test dirty for cocaine, heroin, or other "hard drugs", should be referred to the DIRECT program via a supervisory review. Those who rarely test positive should receive some other sanction such as Community Service, a referral for an evaluation at a drug treatment program, or participation in out-patient treatment.

5. TREATMENT / EDUCATION REFERRALS

Referring a probationer for treatment or education should be considered any time there is a demonstrated need that directly relates to the probationer's ability to satisfactorily complete probation. This may include treatment for alcohol or drug abuse, mental health problems, financial difficulties, or family / social dysfunction. Departmental studies have shown that probationers who complete education programs are more likely to successfully complete their period of probation.

Officers should consider the severity of the problem, the cost to the probationer and their ability to pay, and their willingness to participate. Some level of financial assistance may be available through the Community Punishment Program. Officers should inquire with the Director of the Special Programs Division.

6. RESTRUCTURING PAYMENTS

Restructuring of payment plans should be considered when the probationer demonstrates an inability to pay in accordance with the established payment plan. This could be the result of a change in employment status or income, temporary disability, or excessive initial payments established. For probationers who earn sufficient income, payments may be increased as well. Priority for monies owed should be 1) restitution, 2) probation fees, 3) fines, and 4) other fees.

If the court set the payment schedule, restructuring the plan will require an order from the sentencing judge.

Officers should consider the length of time remaining under supervision and the amount of the assessment owed; the probationers' ability to pay, given their income level and other financial obligations; and potential monetary settlements due, such as income tax refunds, insurance settlements, disability settlements, etc.

7. EXTENSION OF PROBATION

If a probationer has not paid all of the restitution ordered by the sentencing judge, the officer may petition the court to extend probation for a period of up to 3 years for felony convictions and up to 1 year for misdemeanors, to give the probationer more time to complete payment to the victim. This is the only reason that probation may be extended.

8. COMMUNITY SERVICE

Community Service (CS) is an appropriate sanction to use as punishment or as a means of holding a probationer accountable for an administrative violation of the conditions of probation. CS can serve as a meaningful sanction for dealing with a broad range of violations such as not reporting as scheduled, failure to maintain employment, failure to follow through with treatment or education referrals or programs, etc. One method for using CS as a sanction is to require a specified number of hours of CS for each missed appointment. For example, if you require 4 hours of CS for each missed appointment and a probationer misses 3 appointments during the month, you would impose 12 hours of CS to be completed during the next 30 days.

The Court limits officers to a total of 24 hours, no more than 8 hours for a single violation, and limits supervisors to authorize an additional 40 hours.

Because certain types of offenders are excluded from performing some types of CS (e.g., sex offenders working with organizations serving children), probationers required to perform CS should be referred to the Community Service Coordinator for a complete screening.

9. ELECTRONIC MONITORING (EM)

Probationers that need to be monitored closely because of a failure to comply with conditions should be considered for electronic monitoring. These persons would generally meet the criteria for IPS as well as need enhanced surveillance to monitor and restrict their community activities. By doing so, their risk to the community and likelihood of committing new violations will be reduced. A period of time between 30 and 90 days should be specified.

The court has authorized the department to impose up to 30 days of EM for administrative violations. This requires the approval of a supervisor and a referral to the EM team. The department has a limited number of EM units; therefore, officers should call the EM team prior to making a referral.

10. DIRECT

Probationers with a history of substance abuse problems and recent drug use should be referred to the DIRECT program for screening. The officer should have already made treatment referrals, increased urine testing, and used other intermediate sanctions without success. Curfews, frequent contacts, mandatory treatment, and regular drug testing are all part of the DIRECT program.

11. INTENSIVE PROBATION SUPERVISION (IPS)

If a probationer has committed frequent or serious violations, is exhibiting significant problems controlling his/her life, and requires more frequent contacts, regular schedules, and closer monitoring to prevent violations, IPS may be an appropriate recommendation. The average length of time a probationer remains on IPS is about 12 months.

The probationer must have a place to live, and other adults living in the house must be interviewed and express agreement to having an IPS probationer in the residence. While IPS might be appropriate for some probationers with chronic substance abuse problems, if this appears to be the most pressing problem, perhaps the DIRECT program would be a more appropriate referral.

12. JAIL TIME

Recommendations for imposing jail time in response to violations should only be considered when probationers have willfully and consistently failed to abide by the conditions and regulations of probation, and other less severe sanctions have been unsuccessful or would significantly detract from the seriousness of the situation. Short jail sentences could be used to punish seriously recalcitrant probationers, or to stabilize violating probationers who have mental health or serious drug abuse problems while other arrangements are made to supervise them in the community.

The Pima County Jail operates a Work Furlough Program, allowing probationers to continue working while spending non-working hours in custody. Participants are required to pay a daily fee, ranging from $8.50 to $14.50, depending upon their income. If the judge orders a probationer to serve jail time, a specific order must be entered making the probationer eligible for participation in the Work Furlough Program.

Appendix F. ATTACHMENT TO STANDARD CONDITIONS OF PROBATION ALLOWING IMPOSITION OF INTERMEDIATE SANCTIONS FOR CERTAIN VIOLATIONS

CONDITIONS OF PROBATION

Defendant: _____ CR:_____

The Adult Probation Department may implement the following conditions in a manner consistent with approved policy and procedure.

If so directed by the Probation Officer You Shall:

a) Complete up to 24 hours of Community Service, ordered in increments of up to 8 hours;

b) Be subject to a curfew for up to 21 days, ordered in increments of up to 7 days;

If so directed, and following a Supervisory Review, you shall:

c) Participate in the DIRECT Program for drug abusers and abide by the program's standard regulations;

d) Complete up to 40 additional hours of Community Service;

e) Be subject to a curfew, with or without Electronic Monitoring, for up to 30 days.

I have received a copy of these conditions of probation, which I understand and with which I will comply. I understand that if I violate any of the above conditions, the Court could revoke my probation and sentence me to the maximum sentence permitted by law.

Dated _____ , 19__ Defendant_____

Original - Court File Blue - Adult Probation Pink - Defendant Yellow - Probation Officer

Appendix G. SAMPLE NOTIFICATION TO THE COURT

STATE OF ARIZONA,	)	CR-00000
Plaintiff,	)	
vs.	)	NOTICE OF VIOLATION AND
	)	IMPOSITION OF INTERMEDIATE
(Defendant's Name)	)	SANCTION
Defendant.	)	
_____	)	

On (date), the above-named defendant was adjudged guilty of (offense{s}), and was placed on probation for ____ years, to date from (date). The attached conditions were imposed and a copy given to the defendant.

THE COURT IS HEREBY NOTIFIED OF THE FOLLOWING ADMINISTRATIVE VIOLATIONS:

1)

2)

In lieu of filing a Petition to Revoke Probation, the following intermediate sanction(s) was imposed.

1)

2)

_____ _____

Unit Supervisor

Adult Probation Officer
(Phone #)

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