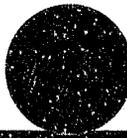




Department of Justice  
Justice Programs  
Institute of Justice



# National Institute of Justice

*Issues and Practices*

## Responding to Probation and Parole Violations

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U.S. Department of Justice  
Office of Justice Programs  
*National Institute of Justice*

# Responding to Probation and Parole Violations

by  
Dale G. Parent  
Dan Wentworth  
*Abt Associates Inc.*

NCJRS

DEC 19 1994

ACQUISITIONS

Peggy Burke  
Becky Ney  
*Center for Effective Public Policy*

July 1994

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*Issues and Practices in Criminal Justice* is a publication series of the National Institute of Justice. Each report presents the program options and management issues in a topic area, based on a review of research and evaluation findings, operational experience, and expert opinion on the subject. The intent is to provide information to make informed choices in planning, implementing, and improving programs and practice in criminal justice.

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# National Institute of Justice

Paul Cascarano  
Assistant Director

Marilyn Moses  
Program Monitor

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**U.S. Department of Justice  
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## Foreword

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Offenders on probation and parole must be held accountable when they violate conditions of their supervision. If they can disobey rules and fail to observe other requirements with impunity, the supervisory relationship deteriorates. When that happens, none of the goals of community supervision—public protection, treatment, restitution, or punishment—can be achieved.

In the past, the main sanctions used for probation and parole violators were revocation and imprisonment. While probation and parole agencies usually defined the procedures that must be followed during revocation, individual actors (probation or parole officers, judges, or parole board members) usually had broad discretion in individual cases. As the number of persons on probation and parole increased and as agencies developed more effective surveillance methods, the number of revocations (and in several jurisdictions, the rate of revocations) increased. In some States, more than two-thirds of prison admissions were probation or parole violators, not offenders sentenced for new crimes.

This study reports on a growing practice in American corrections: developing policies that guide discretionary responses to probation and parole violations. In some States, broad-based revocation guidelines have been implemented, aimed at producing more proportional and equitable sanctions for all violators. In other States and localities, more specific policies have dealt with particular kinds of probation or parole violators, such as absconders or probationers who fail drug-use tests.

As States confront growing prison costs, more are likely to reexamine their responses to violators, particularly those offenders who violate rules or conditions but who do not commit a new crime. For them, the experiences of pioneering jurisdictions reported in this document can be a valuable starting point.

Carol V. Petrie  
*Acting Director*  
National Institute of Justice

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# Acknowledgements

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Four prominent corrections practitioners served as advisors on this project. They are Wilbur Beckwith, Deputy Director, California Youth Authority; Gail Hughes, Deputy Director of the Missouri Department of Corrections; Richard Stroker, Deputy Director of the South Carolina Department of Parole, Community Corrections and Pardon Services; and Gladys Mack, Chairperson of the District of Columbia Parole Commission and President of the Association of Paroling Authorities, International. Advisors met with project staff and the National Institute of Justice (NIJ) project monitor to discuss results of preliminary telephone interviews on revocation and absconding practices and to help frame field data collection.

State and local probation and parole officials contributed generously to this report by participating in telephone discussions with Abt staff members Dale Parent and Dan Wentworth about revocation and absconding problems and policy responses in their respective jurisdictions. Abt conducted follow-up telephone interviews with officials in 10 jurisdictions. On the basis of these interviews, Abt drafted data-collection protocols to be used during site visits.

Peggy Burke and Becky Ney from the Center for Effective Public Policy interviewed dozens of officials during multiday site visits to six jurisdictions that have implemented innovative programs. Parent, Wentworth, Burke, and Ney drafted portions of the report, and Parent edited the overall document.

During most of this study Tom Albrecht served as the NIJ project monitor. Later, when Albrecht moved to other assignments, Marilyn Moses became project monitor and saw the project to completion.

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## Executive Summary

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In recent years, the number of offenders admitted to prison after revocation of probation or parole appears to have risen sharply. Precise estimates of the increase cannot be made, because no uniform national probation data base exists. In 1990, Abt Associates Inc. conducted a telephone survey of all State parole and probation agencies as well as selected large county probation departments in States where local governments have jurisdiction over probation. Administrators were asked to identify trends in violations of conditions of supervision, in revocations, and in absconding from supervision. They also described new programs they had developed in response to violations or absconding. Later, ten jurisdictions that had developed interesting new responses were selected for extended telephone interviews, and six of them were picked for site visits.

In many States, more persons are admitted to prison after revocation than are sentenced directly for new crimes. In several states—including California, Texas, and Oregon—revocations account for over two-thirds of all prison admissions. Even though revoked offenders generally serve shorter prison terms than those sentenced for new crimes, they still comprise a substantial portion of the prison population. In 1990, for example, parole violators alone accounted for over one-third of California's total prison population.

Two factors account for the increased number of imprisoned probation and parole violators. First, there is a record number of offenders on probation and parole—over 3 million in 1990. Second, one-fifth of the States, including several large ones, report rising revocation rates, which are linked to an increased emphasis on surveillance-based supervision and to better ways to detect violations, particularly drug-use testing. In several jurisdictions, officials reported that rates of absconding from supervision also are rising.

These trends pose serious problems for community supervision. In most jurisdictions, officials have two basic options when an offender violates conditions of supervision—either to continue supervision (perhaps with minor changes in conditions) or to revoke release and imprison the offender. When prisons are crowded, officials may be more reluctant to revoke supervision when offenders violate conditions of supervision. If they continue to violate, eventually they will be revoked and imprisoned, but many are released from prison quickly to ease crowding.

Many jurisdictions—particularly where supervision caseloads are high—do not put much effort into locating offenders who abscond from supervision. Absconders face little chance of capture unless they are stopped for traffic violations or arrested on new charges. Such practices undermine deterrence by sending offenders a message that community supervision is not to be taken seriously.

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Several jurisdictions recently have changed how they deal with violators and absconders. Different jurisdictions have had different motives for instituting these reforms, including:

- Standardizing practices so that offenders with similar records and violations are treated more equitably.
- Developing graduated sanctions for violators, so the severity of the punishment is more proportional to the seriousness of the violation.
- Deterring particular types of violations more effectively by applying sanctions that are more certain and more swift.
- Convincing low-risk absconders to return to supervision.
- Targeting high-risk violators and absconders for swift revocation and imprisonment.
- Streamlining procedures to improve efficiency.

In the past, judges, probation officials, and parole boards had broad and relatively unrestricted discretion in making revocation decisions. The reforms now being instituted structure those decisions, letting jurisdictions exercise policy control over their revocation practices while preserving some flexibility to fit outcomes to unique factors.

## **Structured Responses to Probation and Parole Violations**

Structured responses to violations typically involve:

- Developing written policy.
- Refining procedures.
- Expanding the range of sanctions applied to violators.

### *Developing Written Policy*

South Carolina officials found that without written policy on revocations, parole officers and parole board members had different views of the purpose of revocation and of the respective roles each played in the process. Parole officers, for example, thought the board wanted revocations filed on almost all known violations, and the board thought they needed to revoke and imprison most violators on whom revocations were filed in order to support parole officers. In reality, both parole officers and the parole board thought too many minor violators were being

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reimprisoned. Developing written policy clarified purposes and expectations and led to new practices that better satisfied both the board and the parole officers. Written policy typically covers:

- The goals of the policy.
- Clear definitions of different categories of violations.
- Guidelines that match categories of violations with sanctions—for example, which violations deserve revocation (and what period of reimprisonment is appropriate) and which deserve other sanctions.

*Refining Procedures.* In some jurisdictions, supervisory personnel must review and approve each revocation petition that is filed. Others use a collaborative approach where supervisors and line officers discuss offenders who are experiencing problems in order to identify responses that may prevent future revocable violations. Some agencies have spelled out in greater detail the types of enforcement actions line parole or probation officers may take on their own, as well as those that require approval of a supervisor. For example, under Minnesota's supervised release revocation guidelines, probation and parole officers can order offenders to be placed in a halfway house or in a residential or nonresidential drug treatment program for up to 45 days. Finally, many probation agencies have begun using hearing officers to conduct revocation hearings (a practice common in parole), thus reducing the numbers of cases that must be returned to court for action.

*Expanding the Range of Sanctions.* The basic choices—to continue supervision or to revoke and imprison—often are either too lenient or too harsh for the circumstances of specific violations. Officials in States like New York, Minnesota, Oregon, and South Carolina now use a range of sanctions—including those that are normally available only to judges as nonconfinement sentencing options—as punishment for violations.

### *Examples of Structured Responses*

*South Carolina's Revocation Guidelines.* In 1988, the South Carolina Department of Probation, Parole and Pardon Services began working with the parole board to develop parole revocation guidelines. The process worked so well that the department later worked with judges to expand the concept to probation as well. From the outset, the department's goal was to make revocation decisions more uniform and equitable. The approach has seven elements:

- Clearly stated goals.
- An administrative hearing process to make findings of fact and to dispose of cases that do not require action by the court or the parole board.

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- Guidelines that clearly define sanctions that probation or parole officers and hearing examiners can impose based on the severity of the violation and the risk the offender poses to the community.
  - A range of available community-based sanctions and services that can be used to respond to violations.
  - Comprehensive training in the use of the guidelines.
  - Formal collaboration between line staff and supervisors before filing revocation petitions.
  - A process for issuing orders to appear for administrative hearings rather than arrest warrants, when appropriate.

As a result of these new policies, the number of revocation cases heard by the parole board was nearly cut in half, and the number of parole violators returned to prison dropped slightly.

*Minnesota's Supervised Release Revocation Guidelines.* Minnesota's sentencing guidelines eliminate discretionary parole release. Inmates who earn all their good-time credit serve the last one-third of their sentence in the community on supervised release. The Office of Adult Release within the Minnesota Department of Corrections (DOC) sets conditions of release and revocation. In 1985, the Office of Adult Release appointed a task force of DOC institutional and field services staff and staff from county correctional agencies to develop supervised release revocation guidelines.

The guidelines classify common violations into four seriousness levels. Levels one and two are deemed minor violations, and the guidelines create a presumption in favor of restructuring the supervised release agreement. The terms of the restructuring are left to the probation or parole officers' discretion. However, if specified aggravating factors are present, the offender may be returned to prison for 90 days or less. Levels three and four are deemed major violations, and the guidelines create a presumption in favor of returning the offender to prison for at least 180 days. However, if specified mitigating factors are present, the offender may be retained under supervised release (with approval from the Office of Adult Release).

*Oregon's Drug Reduction on Probation (DROP) Guidelines.* In 1988, officials in the Coos County Community Corrections Department developed DROP guidelines to reduce drug use among probationers. Several other counties later developed their own models. When probationers test positive for drug use, the guidelines require swift and certain, but short, jail terms. The length of the jail term increases with each subsequent failed drug use test. In Yamhill County, for example, the penalty for the first violation is two days in jail; for the second, ten days in jail; for the third, 30 days in jail; and for the fourth, revocation and imprisonment.

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While empirical evidence is scant, Oregon officials believe that the increased certainty of punishment has reduced drug use among probationers. Officials in Yamhill County note that before DROP, 61 percent of the probationers tested were using drugs; after DROP, only 15 percent tested positive.

## **Responses to Absconders**

Most agencies take a passive approach to absconders. They issue a warrant and wait to see if a law enforcement agency picks up the offender. However, police typically give low priority to apprehending absconders. Most who are apprehended are caught accidentally—that is, they are stopped for traffic violations or are arrested on suspicion of new crimes, and a routine record check turns up the absconder warrant.

In the past, time continued to run on sentences while offenders were on absconder status. This “release valve” limited the size of the absconder population. However, several States recently passed laws that toll sentences when offenders abscond so that the number of absconders continues to build. In addition, new crimes (particularly high-visibility violent offenses) committed by absconders have prompted some agencies to take vigorous action.

Data about absconders are lacking, but it appears most remain in the area in which they reside. Thus, several reforms have intensified agency efforts to find absconders or have developed new ways to locate them.

### *Expanded Line Officer Responsibility*

New Hampshire requires probation or parole officers to make and document contacts with at least five persons in an effort to locate absconders. Officers must contact the offender’s last known address, last place of employment, family members, friends, and employer.

### *New Information Sources*

Evidence also suggests that absconders make little effort to disguise their identity. Hence, many absconders can be located by searching records of public utilities, welfare agencies, game and fish commissions, registries of motor vehicles, and so on. Oklahoma enacted a law giving the Department of Corrections routine access to records of State agencies and public utilities. After probation or parole officers have been unable to locate an absconder, the case is turned over to a data clerk who searches existing record systems. If the data clerks uncover an address, local police are contacted and asked to locate and apprehend the absconder.

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## *Enhanced Fugitive Units*

Several states have developed enhanced fugitive units that aggressively seek out absconders. (In the past, fugitive units typically existed to transport absconders who were apprehended in other jurisdictions.) The enhanced fugitive units target specific absconders for apprehension, often collaborate with police intelligence units, conduct stakeouts, and, once an absconder is located, conduct raids (often in conjunction with police) to capture the offender. Members of enhanced fugitive units usually are armed and often receive training similar to police SWAT teams.

Enhanced fugitive units exist in probation agencies in Pima (Tucson) and Maricopa (Phoenix) Counties in Arizona, in California (in the Parole and Community Corrections Division of the Department of Corrections and in the California Youth Authority), in Massachusetts (Parole Board), Minnesota (Hennepin County Community Corrections), Oklahoma, and Utah.

## *Sanctions for Absconders*

As prison crowding worsens, several jurisdictions, including Massachusetts, Texas, and the District of Columbia, are abandoning policies that uniformly dictate imprisonment for captured absconders. Instead, they are instituting punishments ranging from community-based sanctions for low-risk captured absconders to imprisonment for those who pose a greater risk to the community.

The Adult Probation Department in the District of Columbia began its Find and Fix program in 1989. Officials believed a large number of probationers absconded because they feared they would be revoked and imprisoned if they failed a random drug-use test. Officials believed most of them could be returned to supervision without endangering the public. The department decided to give absconders a modest sanction that did not involve lengthy confinement if they would agree to return to supervision.

The department assigned staff whose only duty was to locate absconders. Once an absconder was found, the supervising agent escorted him or her to court to seek a 30-day delay in the revocation period. If the absconder successfully completed intensive supervision during this time, the absconder warrant was dropped, and the original supervision requirements were reinstated.

## **Benefits from Improved Responses to Violations and Absconders**

Officials who have implemented these new responses to violators and absconders report several benefits, including:

- Better attainment of intended goals.

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- Improved efficiency—for example, reducing the amount of time officials spend processing cases and reducing jail or prison admissions (thereby cutting confinement costs).
  - Improved credibility with the public, other criminal justice agencies, and policy makers.
  - Improved morale in probation and parole agencies.

## **Key Issues in Implementing Responses**

In setting up new responses to probation and parole violators and absconders, officials need to:

- Define the problem, determine its causes, and identify effects that alternative solutions might have on the problem and on overall agency operations.
- Define the primary goal(s) to be achieved by the new responses to violators or absconders such as improving deterrence, public protection, rehabilitation, just punishment, due process, or system management (for example, reducing jail crowding and cutting processing time).
- Identify, assess, and select options.
- Design, implement, and evaluate the response.

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# Chapter One

## Probation and Parole

### Violations and Abscondings

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Between 1980 and 1990 the number of persons on probation or parole supervision rose 120 percent, from 1.43 million to 3.23 million. That growth, coupled with other changes—such as a shift toward control-oriented supervision strategies and increased use of early release to relieve prison and jail crowding—has increased the revocation rate in many States and caused an explosion in the number of revocations in virtually all States.<sup>1</sup>

Revocations—not new direct sentences—are the leading source of new prison admissions in several States. In 1988 more than 60 percent of Oregon's prison admissions were violators whose probation or parole was revoked. (By 1993, Oregon had reduced this to 52 percent by the combined effect of three measures: The Parole Violator Project, Parole Revocation Guidelines, and guidelines for sanctioning probationer and parolees who fail drug-use tests. These three measures are described in more detail in this report.) In 1989, two-thirds of the prison admissions in Texas were probation or parole violators.<sup>2</sup> In California parole revocations rose from less than 2,000 in 1978 to almost 58,000 in 1991, and the rate of parole revocation during that time rose by more than 350 percent. In 1988 more than half the persons admitted to California's prison were there because they violated parole.<sup>3</sup> Statewide data on probation violators were not available for California, but by 1991 parole violators alone accounted for 60 percent of California's prison admissions. In Texas, separate data on probation violations was not available. However, between 1988 and 1993, the proportion of parole violators as a percent of total prison admissions increased from 35 percent to 46 percent.

In other States the same trends are evident, even if the levels of revocations are lower. In Minnesota, for example, 23 percent of those admitted to prison were probation or parole violators in 1978; that rose to 40 percent by 1990.

This rise in revocations has affected both prisons and community supervision. The Blue Ribbon Commission on Prison Crowding found that the average California parole violator was reconfined for slightly more than one year. Thus, on an average day in 1988 the Blue Ribbon Commission concluded that parole violators occupied about 34,000 of California's prison beds—thus adding significantly to prison populations and costs.

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Even so, a significant number of offenders revoked for violations (particularly for technical violations) are released from prison very quickly—in a matter of days or weeks, especially in States where courts impose prison population caps. During interviews for this study, many probation and parole practitioners said that they believe that the rapid release of violators diminishes revocation's deterrent effect and causes even more offenders to violate terms of supervision.

Bureau of Justice Statistics (BJS) prison admission data show that between 1982 and 1991, the number of persons admitted to prisons following revocation of parole and other forms of conditional release<sup>4</sup> (such as work release or furlough, but *excluding* persons who were probation violators) rose by 264 percent, from 39,003 to 142,100. The proportion of those returned without a new sentence (that is, technical violators) rose from 51 percent to 58 percent (Bureau of Justice Statistics, 1983, 1991), and the number of returned technical violators rose by 312 percent, from 19,900 to 81,921. Parole and other supervised release violators as a percent of total prison admissions increased from 16.9 percent to 29.6 percent.

BJS reports do not provide comparable data on probation violators. Instead, BJS follows the common State practice of classifying as new court commitments both those offenders sentenced directly to prison and those who first are granted probation, but who are later imprisoned after a violation and revocation. Because the number of individuals on probation and parole is about three times larger than the number in prisons, even small changes in revocation rates have major effects on prison admissions and populations.

Increasing probation and parole populations affect not only the number of community supervision violators, but also the number of absconders. Unfortunately, data on absconders are fragmentary, particularly in jurisdictions where probation is operated by courts or counties. Definitions of absconding vary among jurisdictions, making comparisons even more difficult. One State may place offenders, who would be classified as absconders in another State, on "inactive supervision." Data usually are most complete for parole absconders, because parole agencies generally maintain centralized statewide data and use uniform definitions of terms.

Most State administrators contacted in telephone interviews noted that the number of absconders was increasing. About 20 percent of the State administrators also believed that the rate of absconding was rising, although they often based that conclusion on the percent of the total caseloads who were on absconder status. New York officials, for example, reported about 2,000 absconders in 1985 in a parole population of 20,300. In 1988, they reported 4,800 absconders in a parole population of 34,000.<sup>5</sup> Thus, in three years absconders increased from 10 percent to 14 percent of the total parole caseload. Texas probation reported 36,500 absconders in a total caseload of 270,000 in 1985, a rate of 13.5 percent. In 1988 there were 55,000 absconders in a caseload of 289,000, or 19 percent (Bureau of Justice Statistics, 1985, 1988).<sup>6</sup>

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In the past, agencies followed absconder practices that generally paralleled those for “administrative” or “inactive” caseloads. One State administrator reported an “unwritten” policy that if absconders have not been arrested for five years, and no new warrants have been issued, their sentences will be discharged, the same policy the agency follows for parolees on inactive supervision. One State parole administrator noted that the main practical difference between parolees on administrative supervision and absconders is that the latter are self-selected.

In several States time on sentences continues to run if offenders abscond, and their sentences can expire while they are absconders. This limits the total number of persons who accumulate on absconder status. Some legislatures have passed laws that stop time on an offender’s sentence when an absconder warrant is issued. Without the relief valve of expiration, however, the population of absconders can grow indefinitely, unless States take extraordinary steps to locate and capture absconders.

Little research has been done on the characteristics of probationers who abscond. The officials interviewed for this study thought most absconders are low-risk property offenders who remain in the community while on absconder status. Little is known about the circumstances that lead to absconding. Some officials noted that a portion of the offender population are “nomads” whose lifestyles are inconsistent with regular reporting. Others believe specific events (for example, the inability to pay monthly supervision fees or fear of the consequences of a failed drug-use test) may cause offenders to abscond.

Little is known about the risk absconders pose to the public. There are no studies of rates of criminal behavior among them. Officials interviewed noted that a large percentage of absconders remain arrest-free, if not crime-free, while on absconder status. These officials also candidly acknowledged the political liabilities they face when absconders commit serious offenses, particularly if the offender has a violent record.

## **Reasons for the Increasing Numbers of Violators and Absconders**

Given the growth in the probation and parole population, an increase in the number of violators would be expected, even if violation rates were constant. However, practitioners in about one-third of the States said their *rates* of violation also had risen. They cited several reasons believed to have caused this increase, including

- a shift in the purposes of community supervision,
- an increase in probation and parole caseloads,

- 
- an increase in the number of conditions probationers and parolees are expected to obey,
  - the use of improved technology to detect violations, and
  - changes in the types of offenders supervised on probation and parole.

### *A Shift in the Purposes of Community Supervision*

In the 1970s and 1980s support for treatment as a purpose for community supervision declined. At the same time probation administrators emphasized two other purposes—control and punishment—to build political support for community supervision. They tried to portray community supervision as a sentencing option that could at once protect the public and inflict significant punishment on offenders. Control-oriented supervision strategies, like risk screening, intensive supervision, electronic monitoring, and drug-use testing have been widely implemented. Sentencing alternatives often were described as “community-based punishments” that could be applied in increments to match the seriousness of the offenders’ crimes or their blameworthiness.

In some agencies this led to a change in mission at the line level. If sentencing alternatives were indeed community-based punishments, then probation officers were responsible for ensuring that court-ordered punishments were fully applied. If control and surveillance were objects of supervision, then detected violations and revocations were indicators of success. As one line probation officer put it, his job was to “trail ’em, nail ’em, and jail ’em.”

### *An Increase in Probation and Parole Caseloads*

Between 1980 and 1990 probation populations grew by 125 percent, from 1.2 million to 2.7 million. Admissions to probation during this time also grew by 125 percent, from 736,250 to 1,657,000. In the same decade, parole populations grew by 135 percent, from 225,800 to 531,400, and parole admissions grew by 186 percent, from 125,000 to 358,000.<sup>7</sup>

There is a widely held perception among practitioners interviewed that the numbers of probation and parole officers have grown at a slower rate, so that the number of average caseloads per officer also has risen.<sup>8</sup> Rising caseloads, it is argued, reduce the time officers can spend on each case and cause them to focus their attention on rule enforcement generally and on individual offenders who have the most trouble following rules. Finally, as revocations begin to increase, probation and parole officers spend more and more time on the procedures and paperwork linked to revocation and thus have even less time available to supervise offenders.

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## *An Increase in the Number of Conditions That Probationers and Parolees Must Obey*

Many practitioners believe that as judges get more sentencing options, they increase the number of conditions they attach to probation terms. Instead of facing a year of standard probation, an offender might now have to perform 200 hours of community service, participate in an outpatient drug-treatment program, and pay \$500 in restitution during the year of supervision. As the number of conditions grows, offenders have more chances to violate.

Some practitioners also argue that increased use of financial conditions, such as payment of restitution or supervision fees, has increased violation rates. Most agencies take steps to prevent revocations when offenders are simply unable to pay. However, willful failure to meet financial conditions is a legitimate ground for revocation.<sup>9</sup> Nonpayment probably causes probation or parole officers to scrutinize offenders' overall adjustment on supervision more closely, a practice that may lead them to discover other violations that contributed to nonpayment, themselves legitimate grounds for revocation.

### *Improved Detection*

As emphasis on control increases, new technologies—such as drug-use testing and electronic monitoring—have made it easier to detect some probation and parole violations. Drug-use testing, in particular, has come to be used for a large percentage of probationers and parolees in many jurisdictions. As the costs of electronic monitoring drop, it is likely to be used for more and more offenders.

### *Changes in Types of Offenders on Probation and Parole*

Many practitioners believe that more hardened and dangerous offenders are being placed on community supervision to avoid or reduce prison and jail crowding. Others argue that today's offenders are more likely to be involved with drugs and to resort to violence than offenders in the past. Not all practitioners share that view. Some believe that the field's emphasis on control and its use of tools like improved criminal-history-information systems, risk assessment, and drug testing merely make today's offenders seem tougher than in the past. Unfortunately, because there is no large-scale historical database on the characteristics of the probationers and parolees, these competing hypotheses cannot be tested.

## **Purposes and Format of This Report**

This report examines recent trends reported by probation and parole practitioners in violations of conditions of community supervision. It also examines how different jurisdictions are responding to problems associated with these trends.

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This study included the following steps:

- *Literature review.* While a large number of citations were found on literature dealing with community supervision and alternative punishments, since 1970 only 12 citations were found that focused on violations, revocations, and absconding. Most of these dealt with narrow technical points (for example, proper procedures in filing detainers on absconders) rather than policy issues.
- *Telephone interviews with probation and parole administrators.* Project staff telephoned administrators of State probation and parole agencies, or State agencies that oversee the delivery of probation by local agencies, to determine their perceptions of changes in revocation and absconding patterns and to identify innovative policy responses.<sup>10</sup>
- *Follow-up telephone interviews.* Staff conducted additional in-depth telephone interviews with officials in 10 jurisdictions that had implemented particularly interesting policies in response to revocations and abscondings. The 10 jurisdictions were

Arizona  
California  
Massachusetts (parole)  
Minnesota  
Oklahoma  
Oregon  
South Carolina  
Texas  
Utah  
Washington, D.C.

- *Site visits to six jurisdictions.* In order to observe policies in operation, project staff visited six jurisdictions. While on-site, staff discussed technical problems, implementation issues, and program results with probation and parole officers, administrators, prosecutors, police officers, parole boards, judges, and others. The six jurisdictions visited were

California  
Massachusetts (parole)  
Minnesota  
Oregon  
South Carolina  
Washington, D.C.

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This report highlights recent State and local responses to the problems of violations and absconding. Chapter 2 examines efforts to govern discretionary responses to violations, including restructured levels or conditions of supervision, administrative review of revocations, enhanced casework responsibilities, revocation guidelines, and mandated revocation for certain offender categories. It also contains detailed descriptions of programs developed in three States.

Chapter 3 examines different jurisdictions' responses to absconders. Some have improved information gathering to help locate absconders. Some have privatized absconder-apprehension services or have enhanced the role and function of existing fugitive units. Others encourage absconders to return to supervision by limiting sanctions or providing a limited "amnesty" in exchange for returning.

Chapter 4 discusses benefits reported by administrators who have implemented these programs. This chapter also outlines policy issues administrators should consider when developing new policies for revocations and absconders and raises new issues that require further study.

## Endnotes

1. Terminology and procedures vary from State to State. For purposes of this report, "violation" means any act or omission by an offender that is inconsistent with a condition of supervision required by the grant of probation or parole. "Technical violation" is a violation that is not a criminal offense—for example, failure to pay restitution. "Absconding" is a specific type of technical violation. It means that an offender has failed to report for supervision and has failed to notify the probation or parole authority of his or her whereabouts. A "violation report" is a notice filed by a probation or parole officer alleging that an offender has violated one or more conditions of supervision. "Revocation" is the culmination of a hearing process triggered by a violation report, in which the offender is found to have committed the alleged violation and the offender's grant of conditional liberty is terminated. Following revocation, an offender may be confined in prison or jail, although the probation or parole agency usually has authority to reinstate immediately a new grant of conditional liberty or to continue the prior grant of conditional liberty (perhaps with more onerous conditions).
2. Data on State-level changes were obtained in telephone interviews with State correctional officials.
3. Blue Ribbon Commission on Inmate Population Management, *Final Report* (Sacramento, Calif., January 1990).
4. BJS includes revocation of parole and all other forms of conditional release from prison in one figure and does not report revocations of other forms of conditional release from prison separately.
5. More recent figures were not available for New York, because after 1988 data-collection practices were changed so that officials could not calculate a rate for absconders defined in the same terms as it was in 1988.
6. Texas officials changed their method of computing absconder rates after 1989. Hence, they were unable to provide a more recent absconder rate computed in the same way as the earlier data.
7. Bureau of Justice Statistics, *Probation and Parole* (Washington, D.C.: United States Department of Justice, 1981-1991).

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8. Unfortunately, employment data in probation and parole have not been collected across all jurisdictions long enough to conduct meaningful trend analysis of caseloads.
  9. Dale G. Parent, *Recovering Correctional Costs Through Offender Fees*. (Washington, D.C.: National Institute of Justice, June 1990).
  10. Only two states—Indiana and California—operate probation locally with no state oversight agency. We did contact officials in two large California county probation agencies during these interviews.

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## Chapter Two

# Responses to Probation and Parole Violations

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A growing number of jurisdictions are reexamining their violation and revocation practices and the purposes that underlie them. They are rethinking the role that sanctioning violators plays in supporting and maintaining community supervision and are broadening their view of sanctions for violators to include not just confinement, but also a graduated array of intermediate sanctions. They are developing new procedures and new mechanisms for responding to violations.

Before describing recent policy innovations in response to revocations, it is important to review how responses to violations affect the different purposes of community supervision.

Revocation plays an important role in supporting treatment. Most practitioners believe that treatment requires a balance of actions by probation or parole officers that, on one hand, help offenders and, on the other hand, coerce and control them. This balance is disrupted if probationers believe they can disobey conditions of supervision with impunity. When that happens, the treatment disintegrates and violations increase. Thus, control is an essential means to attain treatment goals. Offenders typically do not volunteer for treatment—they must be coerced to enter and remain in treatment by the threat of revocation.

Most probation and parole officials assume that the threat of revocation deters both future violations by those sanctioned (specific deterrence) and by other probationers and parolees (general deterrence). In the past, revocation policies assumed that severe punishment, in the form of reimprisonment, was an effective way to deter violations. Less emphasis has been given to using certain or swift punishments to deter violations.

Revocation practices affect other goals as well, some of which are seldom recognized or debated when formulating revocation policy. Sanctions imposed on violators raise questions about *just punishment*. One might argue that just punishment requires that the severity of the sanction be in proportion to the seriousness of the violation or the offender's culpability. For example, if a felony probationer is charged with a new misdemeanor, are revocation and imprisonment on the earlier felony sentence disproportionately severe if that offender will serve, for example, 18 months before parole on the prior felony sentence but could have served only 30 days in jail if convicted of the new misdemeanor?

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Revocation policy involves fundamental questions about the legal rights of convicted offenders, especially when revocation is used as a substitute for prosecution on new alleged crimes. This practice decreases the burden of proof for the alleged new crime from beyond a reasonable doubt to a preponderance of evidence and invokes the far less rigorous due-process safeguards of a quasi-adversarial hearing process.

Finally, revocation policy involves system-management considerations, both for institutional and community corrections, and for the wider criminal justice system. Overburdened prosecutors sometimes rely on revocation to dispose of probationers and parolees who are charged with new crimes, particularly when the alleged new offense is minor or the evidence is weak. Increasingly, correctional administrators recognize that revocations are a major (in some jurisdictions, *the* major) source of prison admissions and contribute heavily to growing prison capacity requirements. Violators confined pending revocation can occupy a large block of local jail beds. Violators consume a large amount of court resources. Probation and parole supervision suffers when revocation rates increase, because officers spend more time processing paperwork and appearing for hearings, and thus have less time available to supervise cases.

## Summary of Trends in Responding to Violations

Several factors have prompted agencies to revamp procedures for responding to violators. The costs of revocations—their impact on both prisons and agency resources—are one such factor. In 9 of the 10 jurisdictions contacted during second-round interviews, rising revocations have increased prison populations. In the 10th State—Minnesota—revocations increased prison admissions but did not significantly change populations. Rising revocations diminish time that probation and parole officers, judges, parole boards, hearing officers, and agency support staff can spend on other duties.

Some jurisdictions—South Carolina is an example—structured responses to violations to make sanctions more consistent, more equitable, and more proportional to the seriousness of the violations. Oregon's guidelines for punishing probationers who fail drug-use tests were established to deter future violations by making sanctions more certain and more swift. Some jurisdictions introduced reforms to streamline case flow and to improve operating efficiency. For example, the Los Angeles County District Attorney (who files and prosecutes probation revocations) targets probationers charged with new crimes for swift revocation, thereby cutting the time his staff spends on new prosecutions and the time violators spend in jail awaiting disposition.

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## *Improved Management Practices*

Many of the responses involve structuring the discretionary choices that probation or parole officers make when faced with problem behavior by their clients. The object is not to eliminate discretion and make decisions "mechanically," but to give line staff concrete guidance so that their choices become more certain and more uniform. This reduces unwarranted variation in outcomes but still leaves officers a range of options in dealing with problem behaviors and violations. Structuring these discretionary choices also lets administrators direct aggregate outcomes, so that an agency's total responses to violations can be altered to support particular policy objectives.

The move toward structured responses to violations is consistent with a general trend in criminal justice to structure discretionary decision making. Other examples include guidelines for pretrial release or bail setting, as well as guidelines for sentencing and for parole release.

Structured responses to violations typically involve

- developing written policy,
- refining procedures, and,
- expanding the range of sanctions for violations.

*Developing Written Policy.* In the past probation and parole agencies rarely discussed the purposes of revocation. When jurisdictions develop written policy governing responses to violations, they often begin by articulating the goals that should be served by revocations. When goals are clear, policy changes are more likely to have their desired effects.

Putting policy in writing also makes intent more clear, particularly when several groups are involved in a process. When South Carolina officials began structuring responses to violations, they found that parole officers sometimes commenced revocations not because they thought the violator should be imprisoned, but because they thought the Parole Board expected revocations to be filed for all violations. The Parole Board often revoked and imprisoned these offenders, not because they thought the violations were all that serious but because the Parole Board did not want to undercut parole officers' ability to compel obedience to conditions of supervision. When intent becomes clear, misunderstandings can be avoided.

Until recently most agencies had not defined revokable violations clearly. What is a revokable violation? Should a client who misses one appointment with a probation or parole officer be revoked and incarcerated? Probably not, unless there

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are compelling aggravating circumstances. Should a client who has repeatedly violated technical conditions of supervision and who is now charged with a new offense be revoked and incarcerated? Surely yes. Between these extremes where should the line be drawn?

When written policy is developed, key terms must be defined. It is not enough to set a policy that revocation should occur if there was a "substantial violation." Officials need to define in concrete terms what constitutes a substantial violation. If revocation is to begin for violators that pose a "substantial risk" to public safety, what factors determine whether a violator poses such a risk? What does "restructuring" supervision mean? When such terms are clearly defined, they will be more uniformly interpreted and more consistently applied.

Written policy may define specific behaviors that should result in the issuance of a warrant or other interventions, such as community service, placement in treatment, or restructuring of the supervision plan. South Carolina defines four categories of violations for which revocation should commence. These include felony convictions, multiple misdemeanor convictions, multiple technical violations, or special technical violations (that is, any violation involving a weapon or refusal to submit to blood or urine screening). For these cases, officers are expected to commence revocation unless they get specific permission from their supervisors to take other actions. In those instances where violations involve single misdemeanor convictions, multiple technical violations occurring at or about the same time, or nonreporting for up to two consecutive reporting periods, the agent is expected to handle the situation in the community. Issuance of a warrant or citation in such instances requires specific justification to a supervisor.

Written policy also can address how long revoked violators should be confined. The New York State Board of Parole and Division of Parole are developing policies that will define how much time violators will serve in prison, based on the nature of the violation behavior.

Six jurisdictions contacted during second-round interviews were developing written policies to guide the initiation of revocations or to guide the use of specific sanctions for specific violations. Oklahoma, Oregon, South Carolina, Utah and Minnesota reported they were implementing policies to govern commencement of revocation proceeding. Oklahoma, Oregon, South Carolina, Utah, and Texas were developing structural policies to govern choice of sanctions for particular violations.

*Refining Procedures.* States sometimes have used a collaborative process for developing structured responses to violations, in which staff at all levels of the organization are involved. This process results in better acceptance of the changes by line staff and ensures that procedures work more effectively in the trenches. It also helps administrators assess training needs more precisely. In New York,

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working committees representing board members and staff from the Division of Parole met over a period of more than a year to define purposes for the revocation process and to identify appropriate time-set standards for specific types of violations.

“Staffing” is a procedural change some agencies have instituted for offenders who are experiencing behavior problems or who have violated conditions of supervision. Staffing is a formal discussion between the probation or parole officer and his or her supervisor about an individual who is experiencing difficulty. During staffing, the officer and supervisor discuss the problems encountered, the solutions or responses attempted to date, their outcomes, and additional responses or strategies that may be applied. The results of the staffing become part of the case record and can be considered in a later revocation action, should that become necessary. Staffing reinforces the notion that the probation or parole officers are active problem solvers who are expected to draw upon the judgments of experienced supervisors.

Some agencies have defined the actions that probation or parole officers may take at their discretion, as well as those that require the approval of a supervisor. South Carolina’s revocation guidelines let probation and parole officers order that violators be placed in a halfway house for up to 45 days or in residential or nonresidential treatment programs. Under Minnesota’s supervised release revocation guidelines, officers restructure supervision conditions for specified minor violations unless defined aggravating factors are present. By defining more clearly what officers may do and what actions they must take when they encounter problem behaviors, agencies make it clear to officers that violations are a routine part of supervision to which officers are expected to respond in a variety of appropriate ways.

Another procedural change is the use of administrative hearings as a means to respond to probation violations. While the use of hearing officers is common practice in parole supervision, it is not common in probation. Hearing officers can review the circumstances of alleged violations and make formal findings and responses without taking up valuable court time. Of course, the court must explicitly state the types of cases that hearing officers can handle and the responses they are permitted to make.

*Expanding the Range of Sanctions.* In the past, officials had two sanctions for violators—either to continue supervision (perhaps with modest changes in conditions) or to revoke and imprison the violator. Often the choice of options was either too lenient or too harsh for the circumstances of the violation. States like Minnesota, Oregon, and South Carolina have developed a wide range of intermediate sanctions for judges to use when sentencing newly convicted offenders. Those options are now being used in a structured manner as sanctions for probation and parole violators as well. Under procedures set forth in written policy, many of these

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resources can be accessed by probation or parole officers and hearing examiners without judges or the parole board having to take specific action.

New York's Board of Parole reserves the use of community-based intermediate sanctions for less serious violators and targets more serious categories of violators for revocation and significant terms of imprisonment. South Carolina's revocation guidelines also target violators who committed more serious original crimes for quick and severe revocation sanctions and reserve community-based sanctions for violators who originally were convicted of less serious crimes.

## **Illustrations of Responses in Three States**

### *South Carolina*

The South Carolina Department of Probation, Parole, and Pardon Services supervises all probationers, parolees, and early releasees in the State. The department developed a structured approach to deal with persons who violate conditions of supervision or who have trouble adjusting to supervision.

South Carolina's approach involves seven key elements:

1. Defining the goals of the revocation process;
2. Using administrative hearings to make findings of fact and to formulate dispositions for specified types of violators that do not require court or parole board action;
3. Defining the actions that the line officer or hearing officer can take, based on the severity of the violation behavior and the risk an offender poses to the community, as determined by a risk-assessment instrument;
4. Providing an extensive array of community-based sanctions and services for responding to violations;
5. Providing comprehensive training for probation and parole officers on the content of new policies;
6. Requiring "staffing" as a formal step prior to the initiation of the revocation process;
7. Using citation in lieu of a warrant for certain violators.

The department began by structuring its responses to parole violations. The Parole Board had recently developed release-decision-making guidelines, so it was familiar with the concept of structuring discretion by means of written guidelines.

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In 1988 the department and the Parole Board carefully mapped out the steps in the parole-revocation process and identified critical discretionary decisions for which explicit policy could be developed. From the outset, the purpose was to exercise discretion in a more uniform and equitable manner.

Under existing procedures, South Carolina's parole hearing officers had the authority to determine whether a violation had occurred and, if so, whether it was appropriate to continue the parolee on supervision with changes in conditions. The department worked with the Parole Board to develop policy to guide hearing officers in exercising these authorities and implemented the process on a pilot basis. In March 1990 the department fully implemented the process for all parole violations.

As a result, numbers of violation cases requiring action by the full Parole Board dropped substantially. Prior to the project, roughly 87 percent of all violations handled at a preliminary hearing were forwarded to the board for final action. Preliminary statistics from the pilot implementation indicate that only 47 percent of violations handled at a preliminary hearing were referred to the board. A larger number of violators were maintained in the community, by restructuring conditions, imposing new conditions, or imposing additional sanctions such as community service. The absolute number of parole revocations and returns to prison, as might be expected, declined as well. During fiscal year 1989-90 the agency reported 436 revocations (330 for technical violations and 106 for new offenses). During fiscal year 1990-91, after the implementation of these changes, revocations declined slightly (302 for technical violations and 104 for new offenses). The department then began to develop a parallel approach for probation violators. This approach included not only the use of policy guidelines to handle violations, but also the use of an administrative hearing process to determine probable cause and to handle lower-level violations without returning the violators to court. The project was implemented on a pilot basis in several counties in 1990 and 1991. South Carolina judges strongly supported the concept. Hence, the department expanded this administrative hearing process to probation violations statewide in 1992.

Hearing officers are guided by explicit policy that defines the types of violations they can handle and the types of dispositions they can make. The department expects that the use of hearing officers will save a substantial amount of valuable court time. For those violations which are referred to court, the results of the pilot test suggest that the probability of revocation and imprisonment will be much greater than under the prior procedures. Because of the smaller number of violations referred to the court for final hearing, the department expects that the total number of revocations per year will not increase.

South Carolina also has developed much clearer guidance for probation and parole officers regarding their interaction with offenders before formal violation proceed-

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ings are started. The department now requires an action known as "staffing" in which a probation or parole officer and his or her supervisor discuss problems with individual cases and formulate responses. The outcomes of a staffing are documented in the department's management information system. This will ultimately allow the department to track the kinds of behaviors that precede formal violation proceedings and to understand trends in problem behaviors over time. Staffing also formalizes the expectation that both the agent and the supervisor will work together to remedy offenders' problem behaviors before invoking formal revocation proceedings.

Another response is the use of a citation instead of a warrant to secure an alleged violator's presence at a violation hearing. In South Carolina a warrant results in confinement in a local jail pending bond consideration, but a citation operates as a summons, detailing the place, date, and time for the hearing and ordering the offender to be there. Since local jails are often extremely crowded, probation and parole officers are encouraged to use citations when it is reasonably prudent to do so.

Department officials expect a number of positive results from its structured response to violations. They believe the State will realize substantial savings if more technical violators can be maintained in the community rather than in prison. They estimate that if all technical violators had been maintained in the community during the 1989-90 fiscal year, the State would have avoided more than \$26 million in annual operating costs alone.

While fewer violation actions will reach the court and the parole board than before, officials expect that those which do proceed to those forums will face a greater chance of revocation and imprisonment. For example, in the past judges concurred with only about 35 percent of probation officers' revocation recommendations in counties that later were part of the pilot test. That increased to 86 percent during the pilot test. This change took place without increasing the absolute number of persons revoked and imprisoned.

### *Minnesota*

Minnesota has presumptive sentencing guidelines that recommend which convicted offenders should be imprisoned and that set narrow limits on prisoners' duration of confinement. Imprisoned offenders are released after they serve the imposed sentence, reduced only by earned good time credits.

The Office of Adult Release in the Minnesota Department of Corrections sets release conditions and administers the revocation process. In counties that participate in the community correction act (in which 80 percent of the State's population live), county departments of corrections provide postrelease supervision. In the remaining counties, postrelease supervision is provided by the Department of Corrections.

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In 1985 the executive officer of the Office of Adult Release created a task force to develop revocation guidelines that would

- be consistent with the Minnesota Sentencing Guidelines,
- be advisory to the Office of Adult Release,
- preserve officer discretion and yet increase uniformity statewide,
- define the factors used in the revocation process,
- define the length of time that a revoked releasee will serve based on particular violations, and
- not adversely affect prison populations.

Revocation guidelines were intended to provide policy direction and accountability over the violation process. Because most probation and parole officers in the State are county employees, the Office of Adult Release believed it was very important to convey its expectations for the violation process in written policy.

The task force met over a six-month period. It included Department of Corrections institutional and field service staff, and representatives from several county correctional departments. By the fall of 1986, *Guidelines for Revocation of Supervised Release or Parole* had been completed and training materials developed. Over the next several months, line probation and parole officers across the state were trained. The Office of Adult Release also developed an instructional video illustrating how the guidelines were to be used. In January 1991, the guidelines were again reviewed and modified slightly by another task force set up by the executive officer of the Office of Adult Release.

The guidelines include a two-column chart (see the appendix). The first column displays four severity levels for different types of violations. The second column displays guidelines for actions. Severity levels I and II cover rule violations that do not pose an immediate threat to public safety. For level I violations, the guidelines permit reincarceration only if one or more aggravating factors are present. Otherwise, officers are expected to restructure conditions of supervision. For level II, the minimum response is to restructure conditions of supervision, and the maximum response is reincarceration for not less than 90 days.

Severity levels III and IV contain violations where an imminent danger to the public may be present. For these more serious violations, reincarceration may be warranted, particularly at the higher level. For severity level III restructuring conditions of supervision is the minimum acceptable response. All restructuring of conditions must be approved by the Office of Adult Release. For violations at severity level IV, violators are to be incarcerated unless there are mitigating factors. The guidelines include a list of mitigating and aggravating factors for officers to use in their decision making.

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Minnesota's guidelines do not dictate the adjustments or changes that should be made when conditions of supervision are restructured. That is left largely to the discretion of the supervising officer and, presumably, varies according to the resources available in a particular community and the preferences of the individual officer. However, the restructuring must be documented and approved by the Office of Adult Release for all but level I violations. This provides a record of problem behaviors and efforts to manage the offender in the community and becomes valuable information for cases that have subsequent violations.

The guidelines also cover how much time an offender will typically spend in prison as a result of a revocation. The guidelines are expressed in terms of minimums, with 180 days (less good time) being the minimum for the two highest severity level offenses (levels III and IV), and 90 days (less good time) for the two lowest severity level offenses (levels I and II).

There is no empirical analysis regarding the impact of these revocation guidelines in Minnesota. However, senior officials at the Minnesota Department of Corrections report that they are quite pleased with the revocation guidelines because they provide a clear guidance to agents statewide about the department's expectations regarding the behaviors that should be brought into the formal revocation process. They feel that there is much more consistent application of the violation process statewide now than in the past.

As far as the impact upon prison population or offender behavior is concerned, again, there is no empirical analysis. Officials report that technical violations have remained fairly stable, and the length of prison time typically assessed for violators has remained stable or decreased slightly. If these impressions are correct, it is unlikely that the revocation guidelines have had a major impact on prison populations in Minnesota.

### *Oregon*

In Oregon, three kinds of structured responses to different types of violations have been developed. One involves locally developed sanctioning guidelines for probationers and parolees who have positive drug-use tests. The other two involve State policies to structure responses to parole violations.

In Oregon, revocation policies and practices have been affected by both the adoption of statewide sentencing guidelines and recent changes in law. Oregon's sentencing guidelines, which became law on July 24, 1989, establish presumptive sentences for felonies committed on or after November 1, 1989. These guidelines determine the type and duration of a sentence, and for imprisoned offenders, their period of postprison supervision. Legislation requires that the duration of postprison confinement following revocation be no longer than 90 days (total per offender) for technical violations and no more than 180 days (total per offender) for revocations due to alleged new crimes. (Those offenders in the Parole Violators

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Project, described below, are exempt from this restriction.) For cases sentenced under the guidelines, the Parole Board's only role is to determine the types of sanctions to impose when violators are revoked and returned to prison.

*Oregon Parole Revocation Guidelines.* The Oregon Board of Parole and Post-Prison Supervision is developing sanctioning guidelines for violators to ensure that the modified just desserts goals of the sentencing guidelines are maintained in the revocation process and that community safety, offender management, and system integrity are addressed.

By mid-1991 the board had tentatively ranked (from most to least restrictive) all sanctions that will be used for violators. They had also decided whether the decision-making authority for each sanction should be the board, the hearing officer, the supervising officer, or the parole officer. For example, the board is the only authority that can revoke and imprison an offender, whereas any authority can modify the restitution payment schedule.

The board has used its three goals for supervision—ensuring deserved punishment, protecting public safety, and preserving the integrity of community supervision—as a framework to categorize violations and appropriate responses. Violations are first categorized according to the goal that is most relevant (for example, failure to pay fines is most relevant to the goal of deserved punishment; new crimes are relevant to public safety; and failure to report change of address is most relevant to maintaining the integrity or credibility of the supervision system). Within each category, violations are then arrayed along a range of severity with sanctions corresponding to seriousness. In the lower categories sanctions might include a verbal reprimand, changed reporting requirements, and the like. In the highest category, sanctions might include electronic monitoring or jail/prison time.

The board believes that when the guidelines are implemented, they will result in more parolees' being retained on community supervision and thus help control prison crowding. The board has included parole officers in the development of the guidelines and believes their input is essential. Training will be conducted for all staff and board members.

The programs described below (DROP and the Parole Violators Project) are currently being used to control offender behavior while on supervision at the same time that new revocation and violation policies are being developed. These programs have their own specific policies and criteria for participation and allow for swift and certain sanctions for violations. One of the challenges to the Board of Parole and Post-Prison Supervision will be integrating these programs into the revocation guidelines and reconciling inconsistencies between these programs and the guidelines.

*DROP (Drug Reduction on Probation) Guidelines.* In the past, Oregon probationers who failed drug-use tests would, at first, be continued on supervision with

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increased levels of testing, contact, or added conditions, such as treatment. For repeated violations, conditions would be tightened until, eventually, supervision would be revoked and the offender would be confined for perhaps 90 days in jail or prison. Critics noted that the prior practice made the threat of punishment distant and uncertain. From the offender's viewpoint, the first few violations were without significant consequence.

Oregon's DROP guidelines represent a very different way to respond to failed drug-use tests. DROP tries to deter future drug use by probationers by imposing short (for example, two days for the first violation, ten day for the second, and so forth), but swift and certain local jail terms for those who fail drug-use tests. DROP also provides a high level of community-based supervision, and in some counties, treatment for drug-abusing offenders. The program was first developed by the Coos County Community Corrections Department in 1988. Other counties have implemented their own versions, each with somewhat different sanctions and components. The program is now widely used for probationers across the State. In addition, the Parole Board contracts with six county community corrections departments to provide supervision under the DROP guidelines for high-risk drug- and alcohol-abusing parolees.

While empirical evidence is scant, practitioners believe that the DROP guidelines have reduced the number and rate of third and subsequent failed drug-use tests. As noted above, officials in Yamhill County report that 61 percent of random drug tests were positive before DROP, compared with only 15 percent afterward.<sup>1</sup> Moreover, officials maintain that total person days of jail confinement for failed drug tests has declined since the DROP guidelines went into effect, thus reducing jail crowding. Unfortunately, due to budget cuts in 1991 the Department of Corrections had to eliminate plans to evaluate the impact of the DROP guidelines.

*Parole Violators Project.* The Department of Corrections and the Parole Board developed the Parole Violators Project (PVP) in September 1988 in response to a high rate of parole violations and a lack of sanctioning capacity to deal with them. Parolees who fit PVP criteria and who violate parole or postprison supervision with specified types of violations are returned to prison and confined for six months under austere conditions. Violators are housed in a medium-security facility and for the first 30 days are allowed out of their individual cells (which have no windows) only three times a week for showers, and for one hour three times a week to exercise in a small concrete enclosure. After 30 days, they are placed in a two-person cell and given slightly more amenities. After the second 30-day period, they spend the next four months in a dormitory with somewhat increased privileges and amenities.

The Department of Corrections' Parole Violators Project screens prison inmates prior to release to identify those who meet program criteria. The PVP targets offenders who are convicted of a low-severity crime (sentencing guidelines crime

**Table 1  
DROP Program in Two Counties**

	<u>Marion County</u>	<u>Yamhill County</u>
Date Began	September 1990	January 1990
Number of offenders served	40 of 50 ISP clients (80% of ISP)	150-200 of 950 total clients (about 20%)
Criteria for participation	Documented drug abuse	Special conditions regarding drug use and participation in program
Treatment component	Yes	No
Sanctions		
1st violation	10 days in jail*	2 days in jail
2nd violation	20 days in jail*	10 days in jail
3rd violation	30 days in jail	30 days in jail
Subsequent	Revocation	Revocation
Frequency of testing	Random	Random, 3 times in first 90 days
Payer of tests	Offenders	30% paid by offenders; dept. pays for rest
Percent positive tests		
pre-DROP	Not available	61%
post-DROP	Not available	15%
*The DROP guidelines in Marion County permit longer incarceration in order to allow staff time to screen inmates and place them in treatment programs.		

categories 1-3, which include drug possession and property crimes involving property amounts under \$5,000),<sup>2</sup> who have an extensive criminal history (sentencing guidelines history risk score of 0 to 5, which includes virtually all offenders who have had one or more adult convictions for a person felony and all offenders with more than one adult conviction for nonperson felonies), who have two or more prison admissions or releases in the past two years, and who have four or more total felony convictions. Offenders who meet these criteria are notified

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before they are released from prison that they will be handled by the PVP if they later violate conditions of release.

Revocation is recommended if the offender

- commits a new drug or property offense, or any new crime as classified in sentencing guidelines categories 1 to 3;
- fails two drug-use tests within a 60-day period or admits to using drugs;
- fails to complete a referral program after two attempts;
- refuses to report to the parole officer or absconds; or
- violates any other condition for which the parole officer thinks it is necessary to recommend revocation.

Once eligible, offenders remain on PVP status for the remainder of their supervision term. As noted above, PVP offenders are exempted from the law limiting revocations for alleged new crimes to a total of 180 days per offender; thus they could serve multiple six-month revocation terms for continuing violations, limited only by the duration of their term of supervision. Oregon corrections officials hope that PVP's more certain and more severe sanctions will deter violations.

Although a Department of Corrections evaluation of the first phase of this project reports that fewer offenders from the PVP group have returned to prison as a result of technical violations or for new crimes committed than the comparison group, the evaluation design has serious limitations. For example, the study does not control for the parole officer's behavior—which may be quite different with respect to PVP violators than with the typical violator. Knowing that a violator is facing six months in prison, with the first 30 days spent in what amounts to solitary confinement, and that the parole board has committed to revoking 90 percent of all PVP violators referred to them, the officer may be more cautious in initiating violation proceedings for PVP violators than for violators facing the routine procedure. Also, PVP revokees face a full six months' incarceration, while comparison group members face lesser sanctions upon violation, and, hence, will be in the community (and at risk of violation) for longer terms than the PVP group.<sup>3</sup>

## Endnotes

1. This before-and-after comparison does not control for other factors, such as changes in caseload, procedures for selecting offenders for testing, and so on, that may have occurred.
2. Oregon's sentencing guidelines law limits postrevocation confinement time to 90 days for technical violations and 180 for alleged new crimes for offenders sentenced after the sentencing guideline's effective date. This provision was designed to prevent gross disparities in sanctions

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(for example, a technical parole violator being assessed several years' additional confinement). It also underscored the point that persons charged with alleged new criminal conduct should be tried and, if convicted, punished accordingly. Because the Parole Violators Project later was exempted from these general limits, inconsistent results are possible. For example, a parolee originally convicted of a less serious crime may serve a longer reconfinement term after PVP revocation than a parolee originally convicted of a more serious crime who violates parole under regular conditions.

3. Even if the evaluation could conclude that the project was proving to be an effective deterrent to violations, there are other significant questions that remain unanswered. The most obvious question is whether the punishment (30 days of solitary confinement followed by 5 subsequent months of austere confinement) is disproportionately severe for technical rule violations.

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## Chapter Three

# Responses to Absconding

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### Overview of Absconders

As probation and parole caseloads have increased over the years, so too have the number of absconders. Growing backlogs of outstanding absconder warrants have become a troublesome and even embarrassing issue for many probation and parole agencies and have prompted some to institute new policies and procedures to locate, apprehend, transport, and sanction absconders. In half of the agencies visited during this study, officials said absconders were "very important" relative to other priorities. They said that absconders were a politically sensitive issue, posed an increased risk to public safety, and threatened the credibility of community supervision.

Yet most probation and parole agencies continue to take a passive approach to absconders. When an offender fails to report or appears to have left the area without authorization, probation or parole officers may contact the offender's family, friends, and employers or visit the offender's known hangouts. If they don't quickly locate the offender, officers file a violation report, issue an arrest warrant, and enter information on the absconder into local, State, or national crime information systems. Thereafter, probation and parole departments wait to see if a law enforcement agency picks up the absconder.

But law enforcement agencies typically give low priority to locating and apprehending absconders. It is not surprising, then, that almost all absconders who are caught are caught accidentally—that is, they are identified during routine records checks after they are stopped for traffic violations or when they are arrested on new charges. In most jurisdictions, if absconders obey traffic laws and avoid arrest on new crimes, their chances of apprehension are low.

Indeed, probation and parole agencies sometimes cite that fact as justification for their passive approach. If the ultimate goal of community supervision is to prevent recidivism, then some officials reason that nonarrested absconders probably are not very active criminals. The problem with that logic, however, is that there is little information on the extent to which nonarrested absconders commit crimes. In fact, very little is known about absconders in general. Only one jurisdiction (District of Columbia) conducted a recent analysis of its absconder population. A literature review done as the first part of this research discovered only one published study of absconder characteristics, in Florida in 1975.

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## Responses to Absconders

Several jurisdictions have concentrated on better ways to locate and apprehend absconders, for example, by improving search procedures or by linking several existing databases. A few jurisdictions have developed policies to guide in the sanctioning of absconders who are caught.

### *Setting Priorities on Efforts To Apprehend Absconders*

Most probation and parole agencies profess (at least publicly) that they give equal priority to apprehending all absconders. But as the costs of apprehending and transporting absconders have grown and budgets have shrunk, some agencies are targeting subgroups of absconders for special emphasis.

In 9 of the 10 jurisdictions interviewed in the second round, officials describe the geographic limits within which they will extradite captured absconders at the time the arrest warrant is filed. The Oregon Parole Board and the Utah Department of Corrections, for instance, rarely go outside their respective States to retake violators. In Texas, the Board of Pardons and Paroles routinely files absconder information with its State criminal-justice information agency, but in the case of violent offenders, will extradite nationwide. Most jurisdictions set priorities on efforts to locate and apprehend absconders within the State. Priority criteria often include the seriousness of the offender's most recent conviction, the existence of arrest warrants on new criminal charges, and the seriousness of new criminal charges, if any. Since extradition is costly, officials reserve long-distance extradition for the most serious offenders who have absconded.

### *Searching Non-Criminal Justice Record Systems*

Although empirical evidence is lacking, it appears that most absconders do not flee the area in which they reside and, further, make little effort to conceal their identity or location. Hence, it is likely that many absconders could be located by searching records of public utilities or State or local government agencies with whom the absconder may have had contact.

In Oklahoma, absconder files are transferred to a clerical unit after the probation/parole officer has exhausted routine procedures to locate the absconder. Staff in this unit search computerized records of State non-criminal justice agencies (such as the Revenue Department and the Department of Natural Resources) and public utilities to locate new addresses for absconders. Once a current address has been located, the agency contacts the local law enforcement agency to seek and apprehend. If the absconder is captured or rearrested, the regular probation officer reassumes responsibility for the case. The information systems utilized by the department are considered to be routinely accessible to law enforcement agencies, and no privacy or access problems have been experienced.

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## *Expanded Line Officer Responsibility*

If most absconders remain in the area in which they have resided, then many are likely to be found if probation and parole officers take additional steps to locate them. Some States have increased probation or parole officers' responsibilities in attempting to locate absconders. In New Hampshire, for example, a probation or parole officer must make—and document the results of—at least five contacts to try to locate the absconder. The officer must check in person the offender's last known residence, place of employment, family, friends, and employer.

## *Aggressive Efforts To Locate and Apprehend Absconders*

*Assistance from the Federal Bureau of Investigation.* Absconders who flee to another State pose particular problems. While probation or parole officials may establish good working relations with police agencies within their State, it is difficult to do so with police agencies in other States. Many practitioners complain that police are not responsive to their requests to conduct investigations in other States to which they believe an absconder has fled.

Several jurisdictions solve this problem by relying on the Federal Bureau of Investigation (FBI) to conduct field investigations. To obtain this service, the agency contacts the local U. S. attorney, indicates that the absconder has fled to another State to avoid punishment, and agrees to extradite the absconder if he or she is captured. The FBI field office in the city to which the absconder is believed to have fled will open an active investigation. Most agencies reserve this approach for high-priority cases, because they agree—as a condition of obtaining the service—to bear extradition costs.

*Using Private Contractors to Locate and Apprehend Absconders.* The Minnesota Department of Corrections contracts an individual to seek out and locate prison escapees and individuals who have absconded from supervised release. This individual has extensive experience in investigations and for many years was a Federal probation officer.

*Enhanced Fugitive Units.* In the past, the main function of fugitive units in probation or parole agencies was to transport captured absconders. Some probation and parole agencies have enhanced fugitive units and have given them an aggressive role in locating and apprehending absconders as well. In most cases, officers assigned to these units do not supervise a regular caseload and thus focus their efforts only on locating and capturing absconders. Specialization lets them become more skilled in tracking down absconders and in using available information to locate absconders.

Enhanced fugitive units often cooperate with law enforcement agencies by sharing information on absconders also wanted by police and by conducting joint investigations and operations, such as raids on locations where absconders are believed to

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be residing, and "street sweeps" where fugitive unit members help identify absconders among those arrested. Some enhanced fugitive unit personnel have been specially trained in nighttime operations, techniques for entering buildings or vehicles, and the use of protective equipment. Enhanced fugitive units typically report capturing between half and two-thirds of the absconders they target.

The issue of targeting offenders for these enhanced efforts is one that most agencies have not addressed directly. In general terms, the efforts are directed at more serious and more high-profile offenders, but there is very little evidence of any specific policy or tools to identify such offenders.

During this study, enhanced fugitive units were identified in six States—Arizona (Pima and Maricopa County Probation), California (Adult Parole and Youth Authority), Massachusetts (Parole Board), Oklahoma, Utah, and Minnesota (Hennepin County Community Corrections).

**1. Fugitive Apprehension Project, Hennepin County Bureau of Community Corrections, Minneapolis, Minnesota.** The Fugitive Apprehension Project began operating in 1983. Officials in the Bureau of Community Corrections became concerned when a growing number of parolees were absconding from supervision, with very little effort devoted to locating and apprehending them. The project has four objectives:

- to emphasize to all adult parolees that absconding is a serious violation and that the bureau will aggressively attempt to apprehend absconders,
- to increase accountability in the Parole Field Services Division for locating and apprehending parole fugitives,
- to assist law enforcement agencies in locating and arresting parole fugitives,
- to reduce the number of felony absconders who are at large in the community.

When the project began, officials proclaimed a brief period of "amnesty," during which parole absconders could turn themselves in and not be reimprisoned—though they would have to abide by any revisions to the parole agreement. Once the amnesty period ended, all outstanding fugitive warrants were assigned to one of five categories. Highest priority was given to those fugitives who presented the greatest risk to the community, based upon the seriousness of the original conviction offense, the absconder's criminal history, past record of violent behavior, and the use of weapons. Cases falling into higher categories were given more attention by the unit.

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The unit's coordinator provided information on fugitives and on warrants issued and cleared to local law enforcement and obtained assistance from local law enforcement in apprehending and transporting arrested fugitives. Local police departments produced special-alert bulletins on high-priority absconders and distributed them to officers on patrol. The coordinator also maintained close contact with the Minnesota Department of Corrections fugitive specialist.

The project is seen as a major success in Hennepin County. Between 1983 and 1991 the population under supervision grew by 8 percent. At the same time, absconders as a percentage of the population under supervision fell from 14.2 percent to 8.5 percent.<sup>1</sup>

2. **Massachusetts Parole Board, Special Operations Unit.** This unit was created in 1988 as the successor to an older unit that had focused primarily on transportation. The Special Operations Unit reports directly to the executive director of the Parole Board. The purposes of the unit are to

- reduce the backlog of outstanding absconder warrants,
- emphasize the detection and apprehension of absconders, and
- increase the credibility of detection and apprehension efforts within the system.

The fugitive unit—within the Special Operations Unit—has two apprehension officers and two other staff who specialize in data entry, warrant information, and responding to information from other States.

The officers in this unit respond to requests from supervising officers in all areas of the State to assist in locating and apprehending absconders. The unit also cooperates with local and State law enforcement in the execution of “sweeps” to apprehend violators. During 1990, 18 sweeps were conducted that resulted in the location and arrest of 47 absconders.

In its first partial year of operation, the unit apprehended 38 absconders. The unit apprehended 214 absconders in 1990, and 223 in 1991. At the same time, the backlog of absconder warrants dropped from 620 to 435. Officials think the board's commitment to cracking down on absconders has prompted better cooperation from other system officials. Today, judges reportedly are more likely to detain persons with outstanding parole warrants long enough for the Parole Board to take custody of them.

Staff do not believe this “get tough” approach has changed the absconding behavior of parolees. In fact, the number of new absconder warrants rose from 65

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per month in 1990 to 75 per month in 1991. But staff feel the unit has been a major improvement in system efficiency.

- 3. California Parole: California Youth Authority's Apprehension Unit.** Before 1987, the California Youth Authority (CYA) had two officers who handled most fugitive cases in the southern part of the State. Since 1987, the CYA has established six apprehension units composed of two officers each for the southern region of the State. The main apprehension unit office is in Compton. It is the only office that has an apprehension unit whose sole function is to apprehend absconders; officers in all other units also carry regular parole caseloads. For this reason, apprehension officers are called "liaisons" and often work in concert with the Compton Apprehension Unit.

Absconder reports are generally filed about 30 days after a parolee fails to appear as required, and the case is sent to the apprehension unit. The Compton Apprehension Unit receives about 90 absconder cases per month and apprehends about 15 per month.<sup>2</sup> Once the case is turned over to the apprehension unit, officers actively work the case.

CYA parole officers have wide-sweeping powers: they may issue their own warrants; they have a right to search and seize upon suspicion of illegal activity; and they may enter any residence of a parolee. In addition, CYA parole officers carry weapons and are issued body armor, mace, and portable radios. While the CYA officers exercise these policing functions, they maintain a low profile. They are required to qualify on weapons each quarter to make sure that they can fire adequately and know proper weapons safety.

The Compton Apprehension Unit developed special training for apprehension officers and liaisons because they thought it was essential for the kind of work in which they were involved. The office has a high commitment to ensuring officer safety in the field as well as ensuring the protection of suspects. Most apprehension officers and liaisons participate in four- to six-hour training sessions once or twice a year. Training components include ammunition identification, firearms identification, car search and apprehension, approaching suspects, disarming and cuffing suspects, and residence search and apprehension. Most training is conducted out of the classroom and emphasizes role-playing and other techniques and strategies for dealing with suspects. In all aspects of the training, safety is a priority. As they gain more experience with the training program, apprehension officers continue to enhance those components that work well and to add new components. In the future, the apprehension unit will be adding videotaped training materials as a way of further emphasizing particular techniques. The unit reports that no officer or suspect has ever been killed since it's been involved in apprehensions, and officers feel that their training program contributes to this safety record.

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## *Sanctions for Absconders*

In the past, most jurisdictions routinely revoked and confined apprehended absconders. Officials reasoned that uniform and harsh penalties were needed to deter others from absconding and thus to maintain the foundation of community supervision. As prison and jail crowding has become more commonplace, some jurisdictions—such as Massachusetts, Texas, and the District of Columbia—are abandoning uniform revocation and confinement and are using a range of intermediate punishments for some captured absconders, while reserving confinement for those with more serious criminal records and/or those who pose a greater risk to the community.

These jurisdictions are putting absconding in the context of other violation behaviors and are considering sanctions for absconding as part of a larger policy question about appropriate sanctions for all violations. Implicit in this approach are decisions that link the seriousness of violations with the severity of the sanctions available. A range of community sanctions is also being considered, because a growing number of practitioners believe that a subset of absconders can be returned to community supervision without endangering public safety.

*District of Columbia's Find and Fix Program: Encouraging Offenders To Return to Supervision.* Most absconders apparently do not leave the community where they lived while under supervision. Thus, if officers look for absconders diligently, they will find many of them. Many absconders may be reluctant to resume reporting because they fear revocation and confinement. Many of these offenders have problems that increase the risk they pose to the public, such as drug or alcohol dependency, which could be better dealt with while under supervision. A few jurisdictions have developed programs designed to locate absconders and to convince them to return to supervision.

In 1989, the Adult Probation Department of the District of Columbia implemented the Find and Fix program. In 1989 almost 19 percent of its average monthly caseload of 9,129 offenders was on absconder status. The U. S. Marshals execute arrest warrants for the department. When the U.S. Marshals scaled back their services due to budget cuts in 1989, the department decided to take over the apprehension process itself.

Officials in the Adult Probation Department wanted to reduce the number of absconders in the community. They believed that most offenders who absconded did so because they simply were too irresponsible to maintain supervision appointments or because they feared failing a drug-use test. Most such persons, officials reasoned, could be returned to community supervision without endangering the public.

As in most jurisdictions, absconders in the District were most frequently apprehended when they were arrested on new charges. In these cases the prior probation

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likely would be revoked. Adult Probation Department officials believe that a substantial number of absconders are, in a sense, "successful" clients, because they are not rearrested and presumably are refraining from crime. These were the offenders targeted for the Find and Fix program.

In the past, department policy required that captured absconders face a violation hearing that typically resulted in revocation and confinement. The Find and Fix program was based on a graduated response philosophy. Find and Fix has two goals: to locate absconders at minimal expense and, once located, to return them to supervision. In achieving these goals, the department seeks to avoid lengthy court proceedings and the use of sanctions more restrictive than necessary.

The Adult Probation Department assembled a team of management and line staff to develop the Find and Fix program. A pilot region was identified for implementation, and probation agents from that region were included in the six-month developmental process. Training of the unit's staff was handled in-house, with staff experienced in one area providing peer training to others. Only existing resources were used to develop and implement the program.

A single probation agent was selected to manage the apprehension, or "find," portion of the program. Prior to referring an offender to this agent, the supervising agent tried to locate the absconder and persuade him or her to resume reporting. If the agent was unsuccessful, the case was then referred to the designated agent responsible for apprehensions. This agent, equipped only with an automobile and a cellular telephone, made repeated efforts to locate the absconder, including visiting the offender's home and community locations he or she was known to frequent.

Once an absconder was located, the probation agent offered to immediately escort the offender to court and to request that the court delay the revocation hearing by 30 days. In exchange, the absconder was asked to participate in a higher level of probation supervision for that time period. In the majority of cases, both the offender and the court agreed, and for the next 30 days the offender reported to probation twice a week and attended a four-part Life Skills program. If the offender successfully completed these supervision requirements, the original reporting requirements were reinstated and the revocation request was dropped.

Local officials believe that the Find and Fix program was a significant success: almost 70 percent of the targeted absconders were found and returned to supervision. The local police department strongly supported the Probation Department's efforts. As the Find and Fix unit became more effective in locating absconders, some absconders actually called, or had their attorneys call, seeking to participate in the program.

Approximately six months after Find and Fix was initiated, the U.S. Marshals Service was again able to devote staff to the apprehension of absconders. However,

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## Transporting Apprehended Absconders

Returning absconders captured in another State is expensive. To improve security, many agencies send two officers to accompany a returned absconder. Because extradition must occur within a narrow time frame, agencies usually cannot obtain supersaver airfares. Hence, it might cost an agency \$3,000–\$4,000 or more to return one absconder from a distant State. As budgets become tighter, agencies seek new ways to stretch limited transportation funds.

One approach is to develop clear priorities on the types of captured absconders who will be returned and the geographic limits of extradition for different types of offenders. This lets States reserve limited transportation funds for use with the most serious or dangerous absconders.

*U.S. Marshals.* The U.S. Marshals transport Federal prisoners around the country using aircraft confiscated from drug dealers. The U.S. Marshals will fly State and local prisoners, giving preference to those traveling long distances, on a space-available basis. Thus, a space must be available on a flight at the time that a State or local probation or parole agency needs to return a captured absconder.

The U.S. Marshals deliver prisoners to regional locations around the country. The agency extraditing an absconder must pick up the offender at that location and return him or her to the State. For example, if the U.S. Marshals transport an absconder from California for the Massachusetts Parole Board, they probably will deliver the absconder to Otisville, New York. Massachusetts parole officers need to drive only a few hundred miles to return the absconder to Massachusetts. Agencies that use the U.S. Marshals to transport absconders report substantial cost savings but note an occasional inability to transport an absconder because a seat was not available when it was needed. Arrangements for securing transportation services through the Marshals Service are usually initiated by the individual district offices of the Service, although there is a central Prison Transportation Division located at the U.S. Marshals Service office in Kansas City.

*Private Prisoner Transportation Companies.* Private transportation companies received mixed reviews. While some jurisdictions were pleased with the quality of their service, others complained about delays in the pickup or delivery of prisoners—a major problem when extradition must be accomplished within fixed deadlines. The Minnesota Department of Corrections stopped using private transportation companies after it became concerned about vendors' security practices and the treatment of offenders while in transit. Officials at the Massachusetts Parole Board, which has used both a private transportation company and the U.S. Marshals to transport absconders, noted that they prefer the U.S. Marshals because total costs are lower.

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in a recognition of the benefits Find and Fix provided, staff from both agencies have begun a joint effort to incorporate key elements of Find and Fix in the Marshals' future service.

## Endnotes

1. Within the limits of this study, we were unable to do a systematic assessment of probation workload and processing. Hence, it is possible that other factors contributed to this relative decline in absconders.
2. Police agencies apprehend 25 cases per month; parole officers apprehend another 25-30 per month. The combined effect is that the population of CYA absconders remains relatively constant.

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## Chapter Four

# Conclusions

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Probation and parole agencies' responses to violations will be an increasingly important issue in the 1990s. The mission of community supervision changed in the 1980s, and new approaches to classification and supervision emerged. New technologies and intensive forms of supervision improved the detection of violations. The number of violators revoked and confined has risen sharply, driven by increases in both the population under supervision and violation rates. In some States—such as Oregon, Texas, and California—as many as two-thirds of prison admissions are violators—not offenders newly convicted and sentenced by judges.

### Reported Benefits from the Responses

#### *Improved Goal Attainment*

Some of the responses described in this report were developed in order to achieve a broad goal or objective of the agency more effectively. For example, South Carolina officials reported that they developed probation and parole revocation guidelines to make outcomes of the process more uniform and more fair. They sought to reduce the differences in outcomes from one parole officer to another, or from one court to the next. In Oregon, DROP guidelines were developed to deter violations. Enhanced fugitive units usually were developed to reduce the number of high-profile absconders at large in the community.

Officials report that most of the responses reviewed in this study have achieved their goals or objectives. But those reports are based largely on an initial review of administrative data or on anecdotal evidence. None of the programs has been systematically evaluated. Indeed, many of the responses offered an opportunity to test whether sudden and substantial shifts in the certainty of punishment or the severity of punishment deters violations.

#### *System Benefits*

Often officials developed a program not to achieve some broad policy goal—such as improved deterrence—but to solve a problem caused by rising workloads and shrinking resources. Thus, many of the responses were intended to improve efficiency by

- reducing the amount of time judges, parole boards, prosecutors, and probation and parole officers spend processing violators; and

- 
- reducing jail or prison admissions (thus cutting confinement costs).

In addition, other benefits sometimes were stressed, including

- improving the credibility of probation and parole agencies with both the public and criminal justice officials; and
- improving morale in probation or parole agencies.

*Reducing the Amount of Time Officials Spend Processing Violators.* Once a preliminary hearing has established probable cause that a violation has occurred, most cases are resolved through a final hearing process. For probation, a judge usually presides over this final hearing; for parole, the final hearing is usually before the parole board.

Final hearings for probation violations must be placed on court calendars that often are already overbooked, and participants in the final hearing—judges, probation officers, probationers, and often prosecutors and defenders—must be assembled. Because judges often accord lower priority to revocation hearings than to other court proceedings, revocation hearings sometimes are postponed and participants must return to court on another date, wasting even more time. Many final violation hearings result in offenders' being reinstated on community supervision, either because the judge does not think the violation is serious enough to warrant imprisonment or because the underlying problem (for example, lack of job to provide income from which to pay fees) can best be remedied in the community.

South Carolina's administrative hearing process handles most probation violations without taking up valuable court time. Hearing officers have full authority, within limits delegated by the court, to handle less serious violations. A small number of more serious violations—those in which the offender poses a greater risk to the public—are reserved for hearings before judges. In counties where the administrative hearing process was pilot tested, there were many fewer final hearings in court, but when court hearings were held, 80 percent of the offenders were revoked and imprisoned, compared with only 30 percent before the change took place.

South Carolina achieved similar time savings in processing parole violators. Hearing officers now dispose of less serious cases, reserving Parole Board hearings only for higher-risk cases where imprisonment is expected.

The In Lieu Of program in Los Angeles County (California) also is aimed at saving time and resources. Probationers who are arrested for new crimes (and who meet the program's criteria described in Chapter 3) get expedited revocation, instead of prosecution on the new charge. Because the standard of proof is lower in a revocation hearing and the procedural rules are less stringent than those at a trial, offenders can be processed more quickly. The district attorney's office in Los

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Angeles County reports that some violators can be confined in State prison within 48 hours of their arrest on new charges, whereas it might take months to complete a new prosecution. Hence, using revocation as a substitute for new prosecution avoids lengthy stays in jail, reduces the amount of court time for judges, prosecutors, defenders, and probation officers, and results in almost immediate imprisonment.

Other responses also reduce the amount of time probation or parole officers spend processing violations, so they have more time to supervise offenders. Designating a fugitive specialist or creating a fugitive unit can reduce the amount of time officers spend searching through computer records and contacting law enforcement, for example. Using clerical staff or information system specialists to search through information systems for information on absconders or using U. S. Marshals or private extradition services to transport absconders captured in other States also can free time that probation or parole officers can use to supervise cases.

*Reducing Admissions to Jails or Prisons.* Only one jurisdiction visited during this study—Oregon—developed responses (revocation guidelines) for the primary purpose of reducing jail or prison admissions. Others developed them for different reasons but noted that their responses, in practice, also affected the number of violators who were admitted to jails or prisons. South Carolina and Minnesota were mainly concerned with making revocation practices more uniform and making the severity of sanctions for violation proportional to the seriousness of the violating behavior. After examining data on revocation practices, the South Carolina officials concluded that many technical violators could be handled more appropriately in the community. Minnesota wanted to avoid adversely affecting prison populations with its revocation guidelines. In all three jurisdictions, it was clear that if revocation practices continued without change, prison and jail admissions would increase.

The actual impact of responses on prison/jail populations is difficult to document, since these jurisdictions did not conduct extensive research to determine whether changes in admissions were due to the responses or other factors. In both South Carolina and Minnesota the number of technical violators admitted to prisons was about the same before and after their responses despite increases in the absolute number of persons under supervision.

*Enhancing Credibility of Probation and Parole Agencies.* Some responses have improved relations between the probation or parole agencies and law enforcement agencies or the public. If probation or parole officers' initial efforts to locate absconders are not successful, typically a warrant is issued and entered into criminal justice information networks. From that point on, local law enforcement agencies usually have the primary responsibility for locating and apprehending absconders.

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Relations between law enforcement and probation or parole agencies have not been good in many jurisdictions. From the law enforcement point of view, these offenders were caught once, only to be released on community supervision and to have probation or parole lose track of them.

However, probation and parole agencies that developed enhanced fugitive units reported greatly improved relations with law enforcement. Just creating these units bespeaks an agency commitment to treating absconders as a serious problem. Communication with law enforcement agencies improves as probation and police share information, jointly target offenders for apprehension, train together in tactics, and conduct joint sweeps and raids. The agency's public image is boosted when the media provide positive coverage of joint police-probation operations or report success in reducing absconder backlogs.

*Improving Morale of Probation and Parole Staff.* Low staff morale is a serious problem in many probation and parole agencies. Rising caseloads, inability to meet contact standards, and adverse publicity (particularly when a probationer commits a new crime) all contribute to low morale. Officials report that responses that improve efficiency, reduce absconder backlogs, or create new roles for existing staff produce substantial improvements in staff morale.

## **Key Issues in Implementing Responses**

New programs designed and implemented to alleviate problems are inevitably constrained by lack of time, money, and staff. They also must adjust to scores of organizational and political factors that arise both within and outside agencies. However, given those constraints, some new programs are more likely than others to be effective. Unfortunately, for those setting out to solve problems, effective solutions are neither self-apparent nor self-executing. Ones that are poorly designed are apt to fail, to achieve very different results from those intended, or even to make the problems worse. Well-designed responses can fail if they are poorly implemented—that is, not given adequate support, resources, training, or monitoring.

When designing and implementing responses to the problems of violators and absconders, practitioners need to accurately understand and clearly define the problem or problems they want to correct. They also need to understand characteristics of the offender population and the dynamics by which the system operates. They should inventory options they have (or could develop) for dealing with violators and absconders. They should design a response that is reasonably likely to correct the problem or problems and that is capable of being implemented as designed. Agencies and officials whose support is critical for the success of the response should be drawn into planning, development, and implementation. Staff should be carefully trained in the use of the response and should be given adequate resources to implement it. The agency should also provide resources to monitor

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and evaluate the response to determine if it is achieving the intended results and to make midcourse corrections.

*What Are the Problems? What Effects Might Different Solutions Have on Different Facets of the Problem?*

Neither problems nor solutions exist in a vacuum. Most problems within correctional agencies affect many aspects of agency operations. For example, rising violations could

- produce more revocations and imprisonments, thus driving up crowding and costs;
- signal that the deterrent effect of threatened revocation is diminishing;
- diminish public confidence in, and political support for, community supervision; or
- indicate a breakdown in staff conformity to existing policies or procedures.

The nature of the response developed will probably depend on how officials perceive the problem or problems that need to be corrected. For example, if the agency's primary concern is crowding, it may view the rise in violations as a key factor contributing to crowding. One solution may be to constrict the use of revocation and imprisonment as a response to violations. But if officials think rising violations signal a decline in deterrence, they may develop responses that increase the severity, swiftness, or certainty of punishments for violations.

But possible solutions can affect correctional agencies in varied ways. A response that is intended to solve one facet of a problem may compound others. If violations increase crowding and costs, suppressing the number of violators who are revoked and imprisoned may provide short-term respite from crowding. But if the response diminishes the chance of being punished for violations, deterrence may be eroded and ultimately lead to even greater increases in both the numbers and rates of violations. If rising violations are undercutting public confidence and political support, punishing violators more severely may bolster support but worsen crowding, drive up costs, and perhaps trigger court-ordered emergency release procedures. Those responses may also undermine public confidence.

Thus, it is critical that officials have enough information to understand the full dimensions of the problem, to identify causes and effects, and to perceive accurately how the problem and different possible solutions may affect overall agency functions or objectives. Solutions may be needed that improve several aspects of the problem at once, rather than those that improve only one.

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For violations, officials should ask whether changes in violation patterns are caused by a growth in the total caseload or whether rates of violation have changed as well. They also should determine whether there have been shifts in numbers or rates of violations for different subgroups within the population under supervision. For example, has the number or rate of violations risen only for persons under more intensive forms of supervision, or is it up across the board? Has it increased for persons supervised only in certain districts or branch offices, or in certain counties or areas of the State?

Have the types of violations changed or stayed the same? Does one category of violations (for example, failed drug-use tests) account for most of the growth, or are all categories of violations up by about the same amount? How are violations being detected? Has the frequency of drug-use testing (or the type of testing procedures used) or the introduction of intensive supervision increased detected violations? Have there also been changes in policies, procedures, or practices governing documenting violations or commencing revocations that account for some of the rise?

Do absconders and nonabsconders differ on any important characteristics, or do absconders closely resemble the general population on supervision? Are there subgroups of absconders for whom different responses might be appropriate? For example, is there a significant number of low-risk nonviolent offenders who were not arrested on new charges while on absconder status? Is there a small subgroup of high-risk violent offender absconders? With respect to these groups, is it possible to identify events that trigger absconding? For example, after a probationer has tested positive for drug use once, is he or she more likely to abscond? Do absconding rates rise, fall, or remain constant after offenders have been on supervision for especially long periods of time?

### *What Purposes Do Officials Want To Achieve by Their Responses to Violations?*

Officials need to specify the purpose or purposes to be achieved by the response. A clear statement of purpose provides operational guidance to the response. To move a response from concept to practice, literally hundreds of choices must be made, often by subordinates or line staff who were not involved in the selection of the response. It is easy for these staff to select operating procedures that are most consistent with existing routines or procedure, rather than ones that have the best chance of achieving the desired result. Unless the purposes are clearly set forth and used to steer development, implementation may get muddled, and the response's expected impact may be lost.

There are at least six purposes that could be involved in developing responses to violations.

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*Deterrence.* Most practitioners believe that punishment deters future violations both by those sanctioned (specific deterrence) and by those on supervision (general deterrence). They believe that violations will rise if offenders think they can disobey conditions of supervision with impunity. When that happens, the supervisory relationship breaks down. Thus, violations must be deterred to maintain offenders on supervision, which must be done if any other objectives, such as treatment or restitution, are to be achieved.

In theory, violations can be deterred by increasing

- the *severity* of punishments,
- the *swiftness* of punishments,
- the *certainty* of punishments, or
- a combination of these three.

In the past, deterrence-based revocation policies have focused more on increasing sanctions' *severity* and less on increasing *swiftness* or *certainty*. So long as prisons were not greatly crowded, and so long as few violations were detected, there was enough confinement capacity to inflict a substantial prison or jail term on selected violators.

Swift sanctions provide immediate consequences to detected violations. According to theory, violations should drop if the interval between violations and sanctions is shortened.

Certain sanctions remove any guesswork about whether a detected violation will be punished. According to theory, violations should drop if the probability of the threatened sanction being fully imposed increases.

There is little empirical evidence to support or refute the deterrent effects of criminal punishments generally, and none on deterring violations by adjusting sanctioning practices.

*Public Protection.* Public protection is served if higher-risk probationers and parolees are revoked and imprisoned quickly when their adjustment or behavior on supervision begins to falter, rather than waiting for them to commit new offenses. To achieve a public protection goal, agencies need a reliable way (such as an empirically based and validated risk-assessment instrument) to categorize those on supervision into risk categories, as well as procedures that trigger revocation more quickly for members of high-risk categories. Of course, this purpose is limited by the accuracy and reliability of prediction instruments. While well-constructed and properly validated risk-assessment instruments are substantially better than clinical judgments of risk, they still explain only a small part of the differences in offenders' successes or failures.

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*Rehabilitation.* Practitioners also argue that revocation policies play an important role in supporting rehabilitation. Usually, offenders do not volunteer for treatment. Instead, they must be compelled to enter and remain in treatment. Practitioners argue, therefore, that the threat of revocation is a “hammer” that gets reluctant offenders into treatment and keeps them there.

*Just Punishment.* Responses to violations also raise questions about just punishment—that is, ensuring that punishments for violations are uniform and proportional. Uniformity is increased if similar offenders committing similar violations get similar sanctions. Proportionality is increased if the severity of inflicted punishment varies directly with the seriousness of the violating conduct. One might argue, for example, that if a felony probationer is charged with a new misdemeanor (for which he or she might serve two weeks in jail), revoking probation and imprisoning the offender for 30 months on the earlier felony sentence is disproportionately severe punishment for the violation.

*Due Process.* Revocation policy also involves important questions about due-process rights of convicted and accused citizens, especially when revocation is used as a surrogate for prosecution on alleged new crimes. That practice lowers the burden of proof from beyond a reasonable doubt to a preponderance of evidence, lowers the standard of evidence employed, and substitutes for criminal court proceedings the far less stringent due-process requirements of an administrative hearing.

*System Management.* Finally, revocation policy involves system management considerations, both for institutional and community corrections, and for the wider criminal justice system. Prosecutors often prefer to revoke probationers and parolees who are charged with new crimes, particularly when the alleged new offense is minor or the evidence is weak. Processing violators consumes a large amount of court resources.

Violators held for revocations contribute to jail crowding. When the number or rate of revocations increases, probation and parole officers spend more time processing paper and appearing for hearings, and thus have less time available to supervise offenders. Increasingly, correctional administrators recognize that revocations are a major (in many jurisdictions, *the* major) source of prison admissions and contribute heavily to growing prison and jail capacity requirements.

### *Identifying and Selecting Options*

Officials should identify options for dealing with the problem, both those that could be implemented using existing authority and resources and those that require expanded authority or additional resources. Officials should search broadly for the option or options that are likely to achieve the desired ends and not limit themselves by considering only those options that can be executed quickest or at the least direct cost (an option that costs more initially may cost far less in the long run).

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For example, in framing options for responding to absconders, officials may want to answer these types of questions:

- Is there legal authority to discharge low-risk nonviolent absconders who have not been rearrested for a substantial period of time?
- Can the agency use existing administrative authority to develop guidelines to structure probation or parole officers' responses to observed violations?
- Can an enhanced fugitive unit be established using existing resources and legal authority?

When selecting options from among those identified, officials should address the following types of questions:

*How Will the Option Achieve the Selected Purposes?* Officials need to specify how the options being considered are expected to achieve the purposes selected. If officials want to deter violations, do they propose to do it by (a) shortening the interval between violation and punishment, (b) punishing all *detected* violators (with modest sanctions for the first violation and increasingly severe sanctions for each subsequent violation), or (c) increasing the length of confinement for *revoked* violators? If they want to punish violations proportionally and uniformly, how much will revocation guidelines need to narrow probation officers' discretionary responses in order to have the desired impact? How vulnerable is each option to subversion in practice? That is, to what extent can system officials negate an option's effects by changing ways they exercise other discretionary choices?

*How Feasible Are the Options?* Are some options politically popular or will they face stiff resistance? For example, legislators may support enhanced fugitive units but balk at proposals to discharge sentences for low-risk absconders who remain arrest-free for five years, even if the agency has data to show that such offenders pose little risk to the public.

Officials also need to consider how well the option might work in the trenches. In this regard, it is important to think about the messages that potential responses will send to both staff and offenders. How will line staff react if officials try to reduce the number of imprisoned violators by injecting multiple levels of administrative review and approval into revocation proceedings? Will offenders begin to take threats of long-term imprisonment for continued violations more seriously if their initial violations are sanctioned quickly but modestly?

*Can Options Be Devised That Solve Several Dimensions of the Problem?* Can two or more problems be solved by implementing a single option? In Oregon, drug use among probationers was rising, and jails and prisons were seriously crowded. Officials wanted to deter drug use among probationers. In the past, they had relied on the threat of severe sanctions—long jail and prison terms—to deter drug use by

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probationers. However, as jail and prison crowding grew, officials jailed or imprisoned only repeat violators, and many of them were quickly released. From the offenders' viewpoint, the result was no punishment for the first few violations, and minimal and uncertain punishment for persistent violators.

Oregon officials realistically could not deter drug use by increasing the severity of punishments for all violators. Instead, they tried a new approach that used

- modest sanctions for violators that could be fully implemented within the limits of available resources (that is, they made sanctions more certain), and
- procedures that minimized delay between the violation and the sanction (that is, they made sanctions more swift).

As noted in Table 1, Oregon's DROP guidelines provide short periods of jail confinement for the first failed drug test, gradually increase periods of jail confinement for succeeding violations, and provide revocation and imprisonment for habitual violators. In practice, DROP's modest sanctions reinforce their swift application, because offenders typically waive formal revocation (with its uncertain outcome and potential for imprisonment) to accept an immediate, short jail stay as punishment for the violation.

Although first and second violations reportedly remain relatively common, Oregon officials say there has been a drop in subsequent violations. This drop reportedly produced a discernible decline in the total person-days of jail confinement for probationers who tested positive for drug use, thereby providing additional confinement capacity that lets more severe sanctions for habitual violators to be fully carried out. (As noted earlier, Oregon's DROP guidelines have not been systematically evaluated, so at this point it is impossible either to verify these reported changes or to determine the extent to which they were caused by factors unrelated to the DROP guidelines.) Thus, Oregon officials believe that the DROP guidelines have both deterred drug use among probationers and reduced crowding.

Officials may solve different facets of a problem by implementing two or more related responses. As a hypothetical example, analysis of a jurisdiction's absconder population might reveal three distinct subgroups for whom different responses could be developed.

One subgroup might consist of nonviolent low-risk offenders who absconded early in their terms of supervision (perhaps most often because they previously failed a drug test and feared being revoked and imprisoned for a positive result if they were tested again). For this group a program like D.C.'s Find and Fix program might be appropriate, where probation or parole officers locate the absconders and convince them to return to supervision in exchange for a certain, but modest, sanction.

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A second subgroup might consist of low-risk offenders who absconded after successfully serving longer periods on supervision and who were not rearrested while on absconder status. Many of these offenders might have been on minimum or administrative supervision when they absconded and simply "tired" of continued compliance with even these minimal requirements. For this group, it might be reasonable to take no action so long as they remain arrest-free.

A third subgroup might consist of a small number of high-risk violent offenders. For this subgroup, an enhanced fugitive unit may be appropriate, in which probation or parole officers cooperate with law enforcement by sharing intelligence, targeting absconders, conducting joint field investigations, stakeouts, and raids. The object of this response would be to locate, apprehend, revoke, and imprison these absconders as quickly as possible.

### *Planning and Implementing the Response*

Once an option has been selected, officials must plan its key features, including

- deciding who will operate it;
- identifying agencies or officials whose support will be needed to make the response work properly;
- specifying the target population and designing selection procedures and criteria;
- specifying detailed operating procedures;
- defining training requirements and developing training plans; and
- identifying resources needed to operate, monitor, and evaluate the response.

Those who operate the response should have a strong stake in its success. If officials in other parts of the organization or in other agencies must cooperate to make the response work properly, they should be identified and brought into the planning process. Programs like Oklahoma's search of non-criminal justice State records and public utility records to find new addresses for absconders will require extensive interagency agreement and maybe even new laws to deal with confidentiality issues. Interagency collaboration will be more difficult and time-consuming to develop if relations between the agencies are less than cordial and if sensitive subjects are involved, such as sharing intelligence data on offenders wanted for alleged new crimes.

The target population needs to be clearly defined and procedures and criteria need to be established to ensure that the response is used for the intended group of offenders. Expensive programs like enhanced fugitive units should be reserved for

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more serious offenders. Once an enhanced fugitive unit begins to operate, there will be pressure to achieve a high capture rate, even if that means targeting offenders who can be caught more easily. If the reform is expected to save money, slippage in targeting can prevent goal attainment and inflate overall costs.

During planning, officials need to define, in as much detail as possible, how the response will operate and to draft procedures that will guide staff who will implement it. Although every problem or contingency cannot be identified in advance, collaborative planning by a group of experienced practitioners can anticipate and develop workable responses to most.

As officials design elements of the program and draft operating procedures, they should also identify elements of current practice that will need to change, so that training programs can be developed for staff who will operate the response and for those whose functions will be affected by it. Resources needed to adequately operate the response have to be identified and secured. If new resources beyond those that can be reassigned within existing operations are needed, plans should be made to obtain them.

Officials also should ensure that resources are provided to monitor and evaluate the response. Monitoring will let officials determine if the response is working as intended, and if not, to make midcourse corrections. Evaluation data can show whether the response achieved its objectives, determine both what it costs and what it saves, and identify how the response affects other parts of the organization.

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**Appendix**  
**Guidelines for Revocation of**  
**Supervised Release or Parole**

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## GUIDELINES FOR REVOCATION OF SUPERVISED RELEASE OR PAROLE

### Instructions for the use of the "Guidelines"

When it has been determined that a rule violation may have occurred, the agent will refer to the guidelines to determine what action is appropriate and what, if any, options are available. The three options that may be used by an agent (depending on the severity of the violation) are as follows: (1) no action, (2) restructure with approval of the OAR, and (3) proceed with the revocation process. Depending on the option that is appropriate, the agent will follow the procedure listed below.

**1) No Action:** No formal action need be taken. A verbal or written warning to the releasee will suffice. It will be up to each agent and supervisor to determine how this will be handled. This action may only be used if the violation falls into Severity Level I. An agent is not limited to this option and may, given aggravating factors, proceed with a more severe action.

**2) Restructure With The Approval of The OAR:** Upon a formal admission of alleged violations by releasee, the agent may restructure the release agreement without a formal revocation hearing, and the releasee remains in the community. Before a restructure is completed, the agent will call the OAR to secure approval for the restructure. If the OAR gives approval, the agent submits the violation/restructure report to the OAR noting the hearing officer with whom the matter was discussed on the restructure form. If the OAR does not approve a restructure, the releasee, if not already in custody, will be placed in custody, and revocation proceedings will be initiated.

The agent may immediately place the releasee in custody with a hold order and proceed towards revocation if in the agent's opinion there are aggravating circumstances that would warrant a revocation hearing. (If an agent's hold orders are used to facilitate immediate custody, the agent must contact OAR for a detainer to continue to hold the releasee.)

**3) Proceed with the revocation process:** The options at revocation hearings are restructure of release (if there are significant mitigating factors and if agent believes that appearance before the OAR is necessary) or revocation of release with a return of the releasee to the institution.

Regarding pending felonies, gross misdemeanors, or misdemeanor charges, if probable cause has been found on a criminal charge, the agent should call the Office of Adult Release to consider options including issuance of a warrant as a detainer. If the releasee is in custody and is available to the DOC detainer such as through the posting of bail or bond or demonstrating the ability to make bail or bond, a detention hearing will be held within 15 working days to determine whether the releasee will remain in custody pending the court disposition. A signed criminal complaint constitutes probable cause for this purpose.

### Aggravating/Mitigating Factors

The Office of Adult Release recognizes that no two offenders are alike. Further, violations while seemingly alike can be very different in circumstances. Agents should use aggravating and mitigating factors to differentiate between releasees and the specifics of violations. An agent may use these factors in determining what action to take and also in how much time to recommend for a rule violation. Agents should have documentation when citing aggravating and mitigating factors. The factors present are to be considered an important part of the guidelines grid and may be equal to or more significant than the violation itself.

\*In order to develop and maintain consistency in this process of guidelines for revocation of supervised release/parole, supervisors and agents are encouraged to contact the Office of Adult Release with any questions or cases that need discussion.

James H. Bruton, Executive Officer of Adult Release  
Robert E. Harrell, Deputy Executive Officer of Adult Release  
Mark D. Thielen, Deputy Executive Officer of Adult Release  
812/642-0270

## GUIDELINES FOR REVOCATION OF SUPERVISED RELEASE/PAROLE

SEVERITY LEVELS	GUIDELINES
Minor violations: Rule violations which may not pose an immediate threat to public safety	
<b>SEVERITY LEVEL I</b> 1. The supervised releasee will submit such reports as may be required by the supervising agent and will respond promptly to any communication regarding supervised release. (Rule 4) 2. The supervised releasee will follow the supervising agent's instructions with respect to use of intoxicants and will not possess or use narcotics or other drugs, preparations, or substances as defined by Minnesota Statutes, Chapter 152, except those prescribed for the supervised releasee by a physician. (Rule 5) 3. The supervised releasee will not leave the state without written permission from the supervising agent and then only under such terms and conditions as may be prescribed in writing (not absconder). (Rule 8)	Given a lack of aggravating circumstances, the presumption is to restructure the release agreement or take no action.  If returned to the institution, the releasee should be returned for not less than 90 days less good time.
<b>SEVERITY LEVEL II</b> 4. The supervised releasee will inform the agent within 24 hours of any court appearance and/or arrest either by direct or collateral contact. (Rule 2) 5. The supervised releasee will keep the agent informed of residence and activities. (Rule 2) 6. The supervised releasee will maintain contact with the supervising agent in the manner prescribed by that agent. (Rule 3) 7. Conviction of a misdemeanor, including DWI. (Rule 7)	At a minimum, these violations must result in a restructure form being filed with the Office of Adult Release.  If returned to the institution, the releasee should be returned for not less than 90 days less good time.
Major Violations: Rules violations which may pose an imminent danger to the public and warrant serious consideration of a return to the institution.	
<b>SEVERITY LEVEL III</b> 8. Conviction of a gross misdemeanor, including aggravated DWI. (Rule 7) 9. Special conditions (front page of release agreement) and restructure agreements. <i>Examples (not inclusive):</i> <ul style="list-style-type: none"> <li>• No use of mood altering chemicals including alcohol.</li> <li>• Urinalysis upon request of supervising agent.</li> <li>• No assaultive behavior, violence, or threats of violence.</li> <li>• No victim contact.</li> <li>• Successfully complete residential program per restructure agreement or special surveillance conditions per restructure.</li> </ul>	A violation report must be submitted to the Office of Adult Release which shall include a recommendation by the agent to revoke or restructure.  If returned to the institution, the releasee should be returned for not less than 180 days less good time.
<b>SEVERITY LEVEL IV</b> 10. Conviction of a felony. (Rule 7) 11. Within 24 hours of release, excluding weekends and holidays, the supervised releasee will report at the destination specified, either by telephone or personal visit, as directed by the supervising agent. (Rule 1) 12. Possession of handguns is regulated by Minnesota Statutes, Sections 642.713-642.718, and possession of firearms by persons convicted of a felony is regulated by the Federal Gun Control Act. Therefore, the supervised releasee may not purchase or otherwise obtain or have in possession any type of firearm or dangerous weapon as defined by Minnesota Statutes 609.02 Subdivision 6. (Rule 6) 13. Releasee apprehended out of state and is out of state without agent's permission. (Rule 8) 14. Failure to complete residential placement, special release programming conditions and/or intensive, supervised release upon release from a Minnesota correctional facility - mandated cases. (Special Conditions)	A violation report must be submitted to the Office of Adult Release. Unless there are mitigating factors, the recommendation shall be to revoke supervised release or parole.  If returned to the institution, the releasee should be returned for not less than 180 days less good time.

*All restructures must be pre-approved by the OAR.*

### Aggravating Factors

Aggravating factors may include but are not limited to the following:

1. History of restructure.
2. Violation is consistent with previous criminal behavior and/or past violation behavior, including probation violations on current sentence.
3. Multiple violations of release agreement.
4. Subject is not responding to supervision.

### Mitigating Factors

Mitigating factors may include but are not limited to the following:

1. Local sanction.
2. Restructure options.
3. Job/education stability.
4. Subject has been responding to supervision and does not present an immediate risk to the public.

### AGENT'S OPTIONS

#### Severity Level I:

1. No action; or
2. Restructure with *preliminary approval* of OAR; or
3. Proceed with revocation process (given aggravating factors).

#### Severity Level II:

1. Restructure with *preliminary approval* of OAR; or
2. Proceed with revocation process (given aggravating factors).

#### Severity Level III:

1. Restructure with *preliminary approval* of OAR; or
2. Proceed with revocation process.

#### Severity Level IV:

1. Restructure with *preliminary approval* of OAR (given mitigating factors); or
2. Proceed with revocation of release.