

Community Supervision Subgroup Policy Recommendations

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

- II. **Responding to Community Supervision Violations: Swift, Certain, Proportional**
 - a. Graduated Sanctions & Incentives
 - b. Technical Violations of Supervision
 - c. Dual Supervision

- III. **Improving Community-Based Treatment Options**
 - a. Community Resource Centers (CRCs)
 - b. Alcohol Safety Action Program (ASAP)

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

Incentivizing Compliance

Review of Research Principles

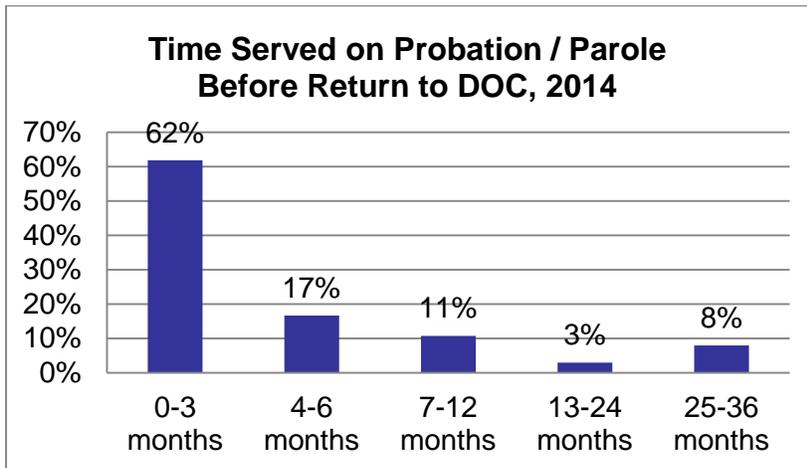
- Provide rewards and incentives for meeting case-specific goals of supervision to enhance individual motivation

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

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

Relevant Alaska Data

- Over the past decade, offenders are spending more time on community supervision.
 - The average length of stay on community supervision is up 13% over the past decade
- Some parolees and probationers are serving long periods of supervision:
 - In 2014, 12% of parolees and probationers supervised by DOC who successfully finished their sentence spent more than 4 years on supervision without a revocation before they were discharged.
- From court file sample:¹
 - Felons sentenced to average of 3.69 years (44.28 months) probation.
 - Misdemeanants sentenced to average of 2.96 years (35.52 months) probation.
- Seventeen percent of misdemeanants sentenced to five or more years (60 months) of probation.
- If offenders fail, they are likely to fail in the first three months:



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

Policy Recommendation: Earned Compliance Credits

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

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

Policy Recommendation: Early Discharge

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

Policy Recommendation: Good Time for Electronic Monitoring

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

Policy Recommendation: Reduce Probation Term Lengths

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

Responding to Community Supervision Violations: Swift, Certain, Proportional

Review of Research Principles

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

Relevant Alaska Data

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

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

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

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

Current Practice in Alaska

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

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

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

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

Policy Recommendation: Graduated Sanctions & Incentives

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

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

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

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

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

Policy Recommendation: Dual Supervision

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

Improving Community-Based Treatment Options

Review of Research Principles

- Use supervision and programming to address the risk factors (“criminogenic needs”) that can be changed.

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

“Low-risk offenders should be excluded, as a general rule, from residential programs...if a program finds that it is receiving low-risk placements, the program should divert such offenders to interventions that are more accommodating and sensitive to the disruption in prosocial contacts that such programs might cause.”³ – Lowenkamp & Latessa study on Ohio Halfway Houses

Community Residential Centers

Relevant Alaska Data/Current Practice: Community Residential Centers

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

Policy Recommendation: Improve Community Residential Centers (CRCs)

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

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

Alcohol Safety Action Program

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

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

Policy Recommendation: Focus ASAP Referrals on Highest Risk Offenders

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

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

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

Discretionary Parole

Relevant Alaska Data

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

Current Practice in Alaska

- Inmates who are eligible have the option to apply for discretionary parole; the process is not automatic.
 - 8 weeks prior to eligibility date, the inmate is notified and either fills out the application or signs a waiver stating that they do not wish to apply for parole
- Filling out the application requires significant effort from the inmate and especially the correctional officer working with the inmate.
- The Parole Board holds hearings at each facility on a rotating basis, visiting each facility at least twice per year.

Policy Recommendation: Increasing Use of Discretionary Parole

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

For First Time Felony C and Felony B Offenders:

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

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

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

For All-Other Offenders EXCEPT Unclassified Offenders:

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

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

For Unclassified Offenders

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

Agenda: 11.19.15

Community Supervision Subgroup

Meeting #3

1. Review of Previously Agreed-Upon Policy Items

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

2. Policy Items Needing Final Approval

- Discretionary Parole
- Probation Term Limits
- Focusing ASAP Resources

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

Review of Previously Agreed-Upon Policies

Earned Compliance Credits

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

Early Discharge

- To reduce caseloads, focus supervision on offenders at the highest risk to reoffend, and incentivize compliance with treatment conditions:
 - Statutorily require DOC to recommend early termination of probation or parole to the court/Parole board for any offender who has completed all treatment programs required as a condition of probation and is currently in compliance with all conditions of probation.
 - Amend statute to allow court to terminate probation early in cases where the sentence was imposed in accordance with a plea agreement under Rule 11.
 - Amend statute to remove requirement that offender serve two years on parole before being discharged.
 - Recommendation from Parole Board: Change from two years to six months
 - If restitution remains, require court or parole board to issue a restitution judgement converting remaining restitution to a civil judgement.
 - Require DOC to provide notification to victim when recommending early discharge, with opportunity for victim to give input at court/parole hearing.

Good Time for Electronic Monitoring

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

- Allow offenders who are placed on electronic monitoring to qualify for good time credits.

Administrative Sanctions & Incentives

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

Dual Supervision

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

Community Residential Centers (CRCs)

- To reduce recidivism and improve outcomes for offenders placed in CRCs:
 - Require CRCs to provide treatment (cognitive-behavioral, substance abuse, after care and/or support services) designed to address offender's individual criminogenic needs
 - Adopt admission criteria for CRCs that:

- Prioritize placement in CRCs for people who would benefit most from more intensive supervision and treatment, using the results of a validated risk and needs assessment
- Minimizes the mixing of low and high risk offenders

Revocation Caps for Technical Violations

- To preserve prison space for the most serious offenders and respond proportionately to non-criminal behavior, limit the use of prison as a sanction for technical violations:
 - Limit revocations to prison as a potential sanction for technical violations of probation and parole as follows:
 - First revocation: Up to 3 days
 - Second revocation: Up to 5 days
 - Third revocation: Up to 10 days
 - Fourth revocation & subsequent: Up to 10 days & referred to PACE program
 - If PACE not available in that region, judicial discretion up to 90 days.
 - These revocation caps would apply to offenders on both DOC and court probation/parole (felonies and misdemeanors).

Estimated Bed Impacts: 584 beds

- Require that probationers and parolees who are detained awaiting a revocation hearing for a technical violation of their community supervision be released OR after serving 3/5/10 days (depending on revocation number) unless new criminal charges have been filed.

Estimated Bed Impacts: 474 beds

Note about bed impacts:

- “Bed impacts” refer to the impact of a specific policy on the future prison population size (in this case – off the size of the prison population in 2024).
- They are drafts that will continue to change as the policies are refined.
- They can change when combined with other policies. When multiple policies are combined, they can either negate a portion of each other (i.e. two different policies can overlap in impact), or they can multiply the impacts of each other.

Related Policy Options – Previous ACJC Recommendations:

- **End Practice of Converting CWS into Jail Time:** In a vote on March 31, 2015, the Alaska Criminal Justice Commission RECOMMENDED that the Alaska Legislature amend AS 12.55.055, the Community Work Service (CWS) statute. Each year, hundreds of misdemeanor petitions to revoke probation are filed for failure to comply with the CWS portion of a judgment. (There were 494 such petitions in FY 2014.) In many of these PTR cases, the court ultimately converts unperformed CWS hours into jail. The specific statutory changes proposed by the Commission would direct courts to convert any unperformed CWS directed in a judgment to a fine – and not to jail time - once the deadline set and announced at the time of sentencing has elapsed.

Related Policy Options for Discussion (Proposed by Judge Rhoades):

- **Policy Option: End Practice of Incarcerating Indigent Offenders for Failing to Seek Treatment When No Affordable Treatment Options Exist**

Currently, if an offender is ordered to seek treatment following a referral from ASAP and does not seek or complete that treatment, he or she can be remanded to prison. In many cases, however, the offender is indigent and no affordable treatment options exist. To eliminate the use of incarceration as a sanction for an offender who is unable to afford treatment:

- Stipulate that jail time cannot be imposed because a person failed to complete treatment if, despite having made a good faith effort, they were unable to afford treatment.
- This recommendation would mimic the current statutory restriction on imprisoning an indigent offender for failing to pay restitution.

- **Policy Option: End Practice of Issuing Repeated Jail Sanctions for Failing to Participate in Programming**

The Anchorage court system has adopted an adjudication disposition model that precludes the use of repeated jail sanctions for failing to participate in programming. If an offender fails to participate in programming as directed, a PTRP is filed. If a jail sanction is issued, the condition is deleted. As a result, there are no longer multiple round of PTRPs filed for continuing to fail to participate in programming. To extend this practice to the rest of the state:

- Require that if a court opts to use jail as a sanction for failing to participate in programming, that requirement is subsequently no longer a condition of probation that an offender can be punished for not completing.

POLICY OPTIONS NEEDING FINAL APPROVAL

Discretionary Parole

Relevant Alaska Data

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

Current Practice in Alaska

- Inmates who are eligible have the option to apply for discretionary parole; the process is not automatic.
 - 8 weeks prior to eligibility date, the inmate is notified and either fills out the application or signs a waiver stating that they do not wish to apply for parole
- Filling out the application requires significant effort from the inmate and especially the correctional officer working with the inmate.
- The Parole Board holds hearings at each facility on a rotating basis, visiting each facility at least twice per year.

Policy Option: Increasing Use of Discretionary Parole

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

Option 1: Establish Individual Case Plan with Presumptive Parole upon completion.

- At intake, for inmates who are eligible for discretionary parole, DOC will be required to:
 - Develop an individual case plan based, on the results of a validated risk and needs tool, to establish educational and treatment program the individual must complete in order to be eligible for discretionary parole.
- If the inmate is free of disciplinary action while incarcerated, successfully completes their required programming and treatment, has agreed to supervision conditions, and has an approved reentry plan, then they will be released at their initial parole date.
 - No board hearing necessary.

- If DOC reports that an inmate has not substantively complied with their case plan and/or has been subject to disciplinary action, the board is required to hold a hearing.
 - The Parole Board can order release or deny release and set a time for a subsequent discretionary parole hearing
- Any inmate not released at the time of the inmate's initial parole date is required to have a discretionary parole hearing at least every two years.

Option 2: Parole Board approves Individual Case Plan with Presumptive Parole upon completion.

- At intake, for inmates who are eligible for discretionary parole, DOC will be required to:
 - Develop an individual case plan, based on the results of a validated risk and needs tool, to establish educational and treatment program the individual must complete in order to be eligible for discretionary parole.
- The parole board must review and approve the inmate's individual case plan.
 - At that time, the Parole board has the option to require a discretionary hearing before release.
- If the inmate is free of disciplinary action while incarcerated, successfully completes their required programming and treatment, has agreed to supervision conditions, and has an approved reentry plan, then they will be released at their initial parole date.
 - No board hearing necessary unless the Board has previously required a discretionary hearing
- If DOC reports an inmate has not substantively complied with their case plan and/or has been subject to disciplinary action, the board is required to hold a hearing.
 - Board can order release or deny release and set time for subsequent discretionary parole hearing
- Any inmate not released at the time of the inmate's initial parole date is required to have a discretionary parole hearing at least every two years.

Option 3: Inmates receive an automatic hearing with presumptive parole if Individual Case Plan is completed.

- At intake, for inmates who are eligible for discretionary parole, DOC will be required to:
 - Develop an individual case plan, based on the results of a validated risk and needs tool, to establish educational and treatment program the individual must complete in order to be eligible for discretionary parole.
- At least 90 days before their initial parole eligibility date, the inmate is required to receive a hearing before the parole board.
- If the inmate is free of disciplinary action while incarcerated, successfully completes their required programming and treatment, has agreed to supervision conditions, and has an approved reentry plan, there is a statutory presumption that parole will be granted.

- That presumption can be overcome with a finding that release would endanger public safety

Recommendation from Parole Board: Add “or diminish seriousness of crime.”

- The next 90 days are used to prepare for transition back to community.
- Any inmate not released at the time of the inmate's initial parole date has a discretionary parole hearing at least every two years.

Option 4: Automatic Parole hearings for all inmates eligible for discretionary parole.

- All inmates are required to receive a hearing before the Parole board at least 90 days before their initial parole eligibility date.
 - DOC/Parole Board is responsible for putting together packet for inmate.
- Any inmate not released at the time of the inmate's initial parole date has a discretionary parole hearing at least every two years.

Limiting Probation Term Lengths

Review of Research Principles

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

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

Relevant Alaska Data

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

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

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

- From an AJC study of Criminal Recidivism in Alaska (2011):

Figure 7: Months to first arrest, conviction and remand after returning to community felons 2008

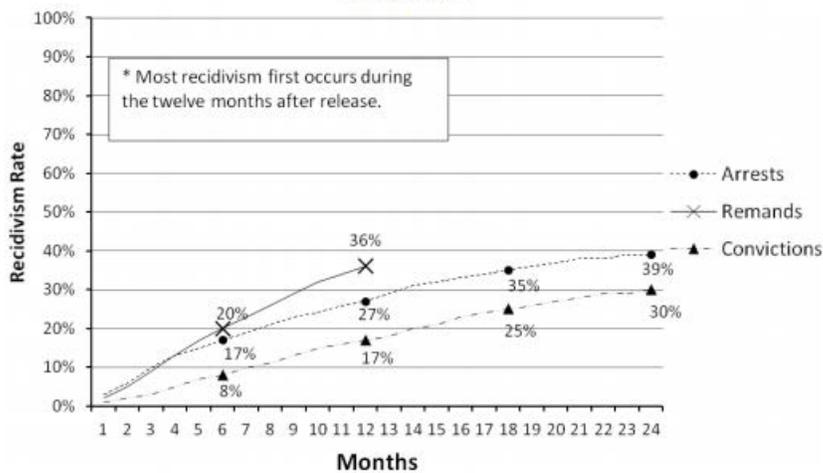
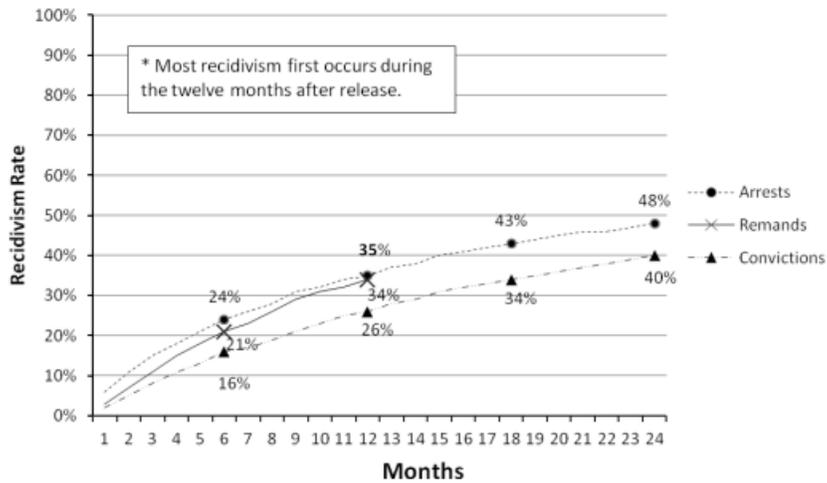


Figure 8: Months to first arrest, conviction and remand after returning to community misdemeanants 2008



- Re-arrest rates within one year following release, according to the type of underlying felony offense, were:
 - Violent offenses 36%
 - “Other” offenses 36%
 - Property offenses 34%
 - Drug offenses 24%
 - Felony driving and other alcohol-related offenses 21%
 - Sexual offenses 18%

➤ From court file sample:¹

- Felons sentenced to average of 3.69 years (44.28 months) probation.
- Misdemeanants sentenced to average of 2.96 years (35.52 months) probation.

Seventeen percent of misdemeanants sentenced to five or more years (60 months) of probation.

Current Practice in Alaska

Probation terms in Alaska are statutorily limited to:²

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

² A.S. 12.55.09

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

Policy Option: Limiting Probation Term Lengths

To better focus scarce probation and parole resources on offenders at the time they are most likely to re-offend or fail, cap probation term limits at:

Option 1:

- Felony Sex Offenders: 3 years
- Other Felonies: 2 years
- Higher level-misdemeanor (2nd DUI, DV assault): 2 years
- Other Misdemeanors: 1 year

Option 2:

- Felony Sex Offenders: 5 years
- Other Felonies: 3 years
- Higher level-misdemeanor (2nd DUI, DV assault): 2 years
- Other Misdemeanors: 1 year

Focusing ASAP Resources

Relevant Data

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

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

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

➤ Policy Option: Focus ASAP Referrals on Highest Risk Offenders

To focus ASAP resources on offenders at the highest risk of taking up future prison resources and to increase the effectiveness of the ASAP program:

Option 1:

- Statutorily limit the conviction types that courts can refer to ASAP for assessment as a condition of sentencing to those for which referral is currently mandated (DUI, Refusal, MCA).
- Require ASAP to expand the services it provides to include:
 - Use of a validated risk assessment screening tool for criminogenic risk
 - Performing a brief behavioral health screening
 - Referrals to treatment programs designed to addressing high priority criminogenic needs beyond just substance abuse (e.g. criminal thinking)

- Require ASAP to provide increased case supervision for a limited number of moderate to high risk offenders, including:
 - Tracking attendance/completion of court-mandated treatment
 - Working with local law enforcement to expedite warrant/arrest process for probationers not in compliance with treatment orders
 - Highest risk offenders would be prioritized for case supervision
- The number of offenders who could be supervised would be limited by resource availability. Assuming no additional resources, more intensive case supervision would only be available in Anchorage and would be limited to approximately 250 offenders.

Option 2:

- Require that an offender receive a risk and needs screening from ASAP before the court orders a referral to ASAP for treatment as a condition of sentencing
 - ASAP could perform a brief screening (e.g. LSI-Screening Version) for risk as well as for need for substance abuse treatment
- Statutorily limit which offenders can be referred to ASAP for treatment as a condition of sentencing:
 - Convicted of DUI, Refusal and/or MCA; and
 - Screened by ASAP as being moderate to high risk and in need of treatment
- Offenders who are screened out by ASAP could still be referred to an alcohol education course.
 - Compliance with this would be monitored by the prosecutor, not ASAP
- Require ASAP to expand the services it provides to include:
 - Use of a validated risk assessment screening tool for criminogenic risk
 - Performing a brief behavioral health screening
 - Referrals to treatment programs designed to addressing high priority criminogenic needs beyond just substance abuse (e.g. criminal thinking)
- Require ASAP to provide increased case supervision for a limited number of moderate to high risk offenders, including:
 - Tracking attendance/completion of court-mandated treatment
 - Working with local law enforcement to expedite warrant/arrest process for probationers not in compliance with treatment orders
 - Highest risk offenders would be prioritized for case supervision

- The number of offenders who could be supervised would be limited by resource availability. Assuming no additional resources, more intensive case supervision would only be available in Anchorage and would be limited to approximately 250 offenders.
- **Policy Option: Expand Funding to Provide Substance Abuse Treatment for Indigent Offenders**

To reduce the likelihood that high-risk misdemeanants in need of substance abuse treatment will re-offend:

- Expand funding to provide substance abuse treatment for indigent offenders who are:
 - Referred to ASAP by the court
 - At a moderate to high risk of re-offending and in need of substance abuse treatment, as determined by a validated risk and needs assessment

Agenda: 10.14.15

Community Supervision Subgroup

Meeting #2

1. Welcome

2. Member Introductions

3. Policy Discussion – Items from Meeting #1

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

4. Policy Discussion – New Items

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

5. Subgroup Calendar: Rescheduling Meeting #3

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

Policy Discussion: Items from Meeting #1

Policy Option: Earned Compliance Credits

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

Additional Question for Group Discussion:

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

Policy Option: Early Discharge

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

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

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

Option 2: Change DOC Requirements; Remove Rule 11 Exception

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

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

Option 3: Grant DOC Decision Authority with Judicial Notification

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

Option 4: Automatic Termination with Judicial Notification

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

Policy Option: Administrative Sanctions & Incentives

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

Policy Option: Revocation Caps for Technical Violations

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

Option 1: Eliminate Prison as Option for Technical Violations

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

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

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

Option 3: Cap Use of Prison for Technical Violations

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

Limiting Probation Term Lengths

Review of Research Principles

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

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

Relevant Alaska Data

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

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

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

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

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

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

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

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

Current Practice in Alaska

Probation terms in Alaska are statutorily limited to:²

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

State Examples

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

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

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

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

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

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

² A.S. 12.55.09

³ Del. Code tit. 11 § 11-4333

⁴ Wis. Stat § 973.09(2)

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

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

- Felony: Five years
- Misdemeanor: Two years

Policy Questions for Discussion

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

⁵ Ala. Code. § 15-22-54

Dual Supervision

Current Practice in Alaska:

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

Policy Questions for Discussion:

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

Discretionary Parole

Relevant Alaska Data

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

Current Practice in Alaska

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

Examples of Discretionary Parole Systems in Other States

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

Presumptive Parole:

South Dakota⁶

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

Automatic Hearings:

Ohio⁷:

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

⁶ SD Code 24-15A-32

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

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

Colorado:⁸

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

Policy Question for Discussion:

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

⁸

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

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

Improving Community-Based Treatment Options

Review of Research Principles

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

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

Community Residential Centers

Relevant Alaska Data/Current Practice: Community Residential Centers

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

State/Federal Examples

Pennsylvania¹¹

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

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

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

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

*Ohio*¹³

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

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

*Federal Halfway House System*¹⁴:

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

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

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

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

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

Policy Questions for Discussion

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

Alcohol Safety Action Program (ASAP)

Current Practice: ASAP

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

Relevant Data

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

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

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

Policy Questions for Discussion

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

Agenda: 9.15.15

Community Supervision Subgroup

1. Welcome
2. Member Introductions
3. Policy Discussion
 - Incentivizing Positive Behavior
 - Earned Compliance Credits
 - Responding to Probation Violations: Swift, Certain, Proportional
 - Administrative Sanctions
 - Use of Incarceration
 - Focusing Resources
 - Probation Term Lengths
4. Subgroup Calendar
 - Meeting #2: Wednesday, October 14th: 1pm – 4pm
 - Meeting #3: Wednesday, November 18th: 1pm – 4pm

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

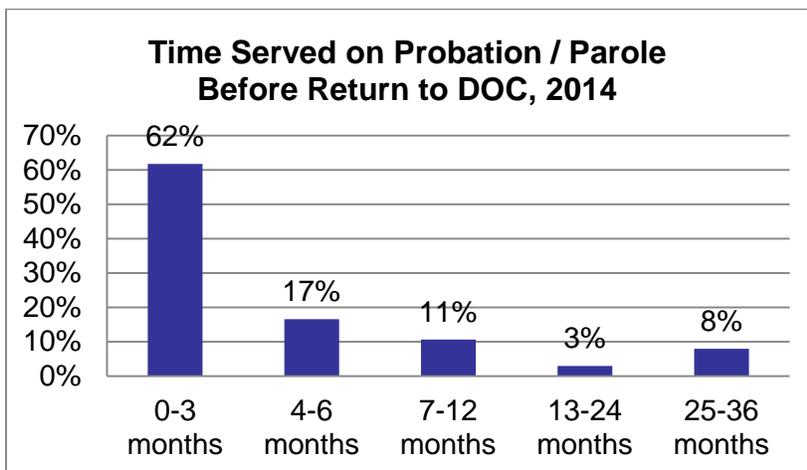
Incentivizing Positive Behavior (Earned Compliance Credits)

Review of Research Principles

- Provide rewards and incentives for meeting case-specific goals of supervision to enhance individual motivation
- Focus supervision and programming resources during the initial weeks and months following release from prison when violations and arrests are most likely to occur

Relevant Alaska Data

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



Current Practice in Alaska

Alaska law does not currently allow parolees and probationers to earn their way off supervision for complying with their supervision conditions. There are opportunities in some cases for a judge to terminate probation early.

Policy Option

We know from the research that allowing offenders to reduce their sentence terms for complying with supervision conditions provides incentives for positive behavior change and can free up resources to be used for offenders at a higher risk to reoffend.¹

- **Earned Compliance Credits:** To incentivize compliance and focus supervision on offenders at the highest risk to reoffend, allow parolees and probationers to earn compliance credits that reduce their time on active supervision for each month that they are in full compliance with the conditions of supervision.

State Examples

Utah

Legislation passed by Utah in 2015 allows probationers and parolees to earn 30 days credit off their term of probation or parole for each month of compliance. Utah has set up an automated time accounting system; probationers/parolees automatically earn the credit each month unless a violation report has been filed.²

Mississippi

Legislation passed by Mississippi in 2014 allows probationers and paroles to earn 30 days credit for each month of compliance. By law, the Mississippi Department of Corrections is required to review probationer/parolee case files every six months and award 30 days of credit for each month in the preceding six months that the offender went without any violation reports.³

¹ Petersilia, J. (2007). Employ behavioral contracting earned discharge parole. *Criminology and Public Policy* (6)(4): 807-14.

² Utah Code § 64-13-21

³ Miss. Stat. § 47-7-40

Responding to Probation Violations: Swift, Certain, Proportional

Review of Research Principles

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

Relevant Alaska Data

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

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

Region One TV Types			Region Three TV Types		
	N	%		N	%
Drugs	265	23%	Drugs	532	24%
Alcohol	137	12%	Alcohol	391	18%
Multiple substances (alcohol and drugs)	36	3%	Multiple substances (alcohol and drugs)	43	2%

Rule violations ⁴	270	24%	Rule violations	648	30%
Program failure	31	3%	Program failure	102	5%
Multiple types	392	34%	Multiple types	477	22%
Unknown	13	1%	Unknown	2	0%

- Petitions to revoke probation take a month, on average, to resolve
- Wide variation in average length of stay for supervision violators from court to court:
 - Average: 106 days
 - Range: 68.12 – 219.98 days
 - Does not include time spent in institution pre-resolution (avg = one month)

2014 Violator Post-Resolution Length of Stay by Court (50+ Releases Only) ⁵		
	Mean LOS (Days)	Number Released
ANCHORAGE SUPERIOR COURT	97.62	976
BETHEL SUPERIOR COURT	176.83	99
DILLINGHAM SUPERIOR COURT	81.47	64
FAIRBANKS SUPERIOR COURT	128.75	123
JUNEAU SUPERIOR COURT	219.98	88
KENAI SUPERIOR COURT	84.09	151
KETCHIKAN SUPERIOR COURT	73.08	96
KOTZEBUE SUPERIOR COURT	79.55	134
NOME SUPERIOR COURT	68.12	149
PALMER SUPERIOR COURT	94.00	296

⁴ E.g. Failure to report; failure to seek/maintain employment; unauthorized contact

⁵ This data is drawn from the DOC release file data. Only individuals who entered DOC with a violation as their most serious charge on the day they entered are included. Individuals with a new charge AND a violation are not included if those were filed on the same day.

Current Practice in Alaska

- PACE program incorporates swift and certain responses
 - PACE probation imposes swift, certain and proportional jail stays for higher-risk offenders who violate supervision conditions
 - Low-level sanction (e.g. failed UA): 1-3 days incarceration
 - Intermediate sanction (e.g. delayed/missed reporting): 4 – 15 days incarceration
 - Higher level sanction (e.g. absconding): 15 – 30 days incarceration
 - However, only applies to a small portion of offenders on community supervision
- For standard probation and parole, no system-wide framework for swift, certain, and proportional sanctions
 - Alaska law does not authorize field officers to respond to technical violations using administrative sanctions
 - ADOC policy does give field officers the authority to address minor violations administratively. However, the policy gives limited guidance to field officers in how they should respond to violations, what sanctions should be imposed, and in what time frame.
 - Some sanctioning processes are inconsistent with swift, certain, and proportionate principles, including long delays between the problem behavior and the response, and disproportionately long revocation sentences
- Alaska law does not limit the amount of time offenders can serve in prison on a technical revocation.

Policy Options

- **Administrative Sanctions:** In order to improve public safety by holding offenders accountable and changing offender behavior, states have implemented reforms that respond to violations of conditions of supervision with swift, certain and proportional sanctions. Swift and certain sanctions have been shown to reduce violations and recidivism, resulting in fewer revocations to prison and reduced use of jail space for offenders awaiting revocation. Elements of an effective sanctioning process include:

- Develop a range of sanctions from lower to higher intensity and apply according to the frequency and seriousness of the violations
 - E.g. Sanction options can include: verbal warnings, increased reporting requirements, community service, substance abuse treatment, increased drug testing, curfews, electronic monitoring.
 - Communicate a credible and consistent deterrent threat.
 - Streamline procedures to allow for a swift response.
- **Administrative Incentives:** In order to change offender behavior and enhance individual motivation, some states have created a continuum of incentives to respond to positive behavior (compliance, meeting case plan goals, etc.) and round out the continuum of sanctions.
 - Potential incentives include: reduced supervision level; reduced drug and alcohol testing; extended curfew; travel permits; verbal recognition by supervision officer; reduced fees; reduced community work hours; financial rewards (e.g.: bus tokens, movie passes); and earned compliance credits.
 - **Limit Revocations for Technical Violations:** Responses that are swift, certain and *proportional* are more effective than those that are delayed, random and severe. To preserve prison space for the most serious offenders and respond more proportionately to non-criminal behavior, some states have placed caps on the length of time a probationer or parolee can be revoked to prison for a technical violation.

State Examples in Sanctioning

Missouri

The Justice Reinvestment Act of 2012 authorized supervision officers to use administrative sanctions and incentives for both probationers and parolees.

- The range of sanctions include: electronic monitoring; increased supervision; day reporting center; written warning; victim impact statement; and random drug testing.
- The range of incentives include: reduced supervision level; reduced drug and alcohol testing; extended curfew; travel permits; verbal recognition by supervision officer; certificate of compliance; and earned compliance credits.⁶

North Carolina

The Justice Reinvestment Act of 2011 authorizes the use of administrative sanctions for technical probation violations in North Carolina. The legislation delegates the authority to

⁶ Mo. Rev. Stat. § 217.718

impose sanctions to probation officers, unless the court determines the delegation is inappropriate.

- The range of sanctions include: community service, increased supervision, random drug testing, substance abuse assessment and treatment, house arrest with electronic monitoring, educational or vocational skills development, and brief periods of confinement in jail in response to a violation.⁷

Georgia

Legislation passed in 2012 authorized the Department of Corrections to impose graduated sanctions as an alternative to judicial modification or revocation of probation.

- The range of sanctions include: verbal and written warnings, increased restrictions and reporting requirements, community service and work crews, referral to substance abuse or mental health treatment or counseling programs in the community, increased substance abuse screening and monitoring and an intensive supervision program.⁸

⁷ N.C. Gen. Stat. Ann. § 15A-1343.2

⁸ Ga. Code Ann § 42-8-153

Focusing Resources (Limiting Probation Term Lengths)

Review of Research Principles

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

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

Relevant Alaska Data

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

- 39% of Probation/Parole population are low-risk

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

- From court file sample⁹
 - Felons sentenced to average of 3.69 years of probation
 - Misdemeanants sentenced to average of 2.96 years of probation
 - Seventeen percent of misdemeanants sentenced to five or more years of probation

Misdemeanor Probation Sentences		
	N	%
Two years or less	95	38%

⁹ A random sample of 400 case files (usable N=310) from Anchorage, Juneau, Bethel, Fairbanks, and Nome Courts were selected and reviewed to examine pretrial releases conditions and sentence lengths. Data entry and analysis were conducted by Pew and the Alaska Judicial council.

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

Three years	98	39%
Four years	14	6%
Five years	41	16%
Seven years	2	1%
Ten years	1	0%

Current Practice in Alaska

Probation terms in Alaska are statutorily limited to:¹⁰

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

Policy Option

- **Reduce Maximum Term of Probation:** To focus scarce probation and parole resources on the highest risk offenders at the time they are most likely to re-offend or fail on supervision, reduce the maximum limit for a term of probation.

State Examples

Delaware: Delaware limits the maximum term of probation as follows¹¹:

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

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

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

Wisconsin: Wisconsin limits the maximum term of probation as follows¹²:

¹⁰ A.S. 12.55.09

¹¹ Del. Code tit. 11 § 11-4333

¹² Wis. Stat § 973.09(2)

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

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

Alabama: Alabama limits the maximum term of probation as follows¹³:

- Felony: Five years
- Misdemeanor: Two years

¹³ Ala. Code. § 15-22-54