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*Responding to*  
**Parole & Probation  
Violations**

*A Handbook to Guide  
Local Policy Development*

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# ***Responding to Parole and Probation Violations***

**A Handbook to Guide Local Policy Development**

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*April 2001*

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*This document was prepared under grant number C97CO4GIE2 from the National Institute of Corrections, U.S. Department of Justice.*

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# Foreword

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The manner in which jurisdictions respond to parole and probation violations should be thoughtful and deliberate. Although each case requires individual decisionmaking, the response to a given violation should be consistent with policy developed by that jurisdiction. Agency violation policies should be built around such considerations as assessment of risk posed by the offender, case processing requirements, local resource availability, and outcomes desired by the agency for certain types of violations. Agency violation policies guide line staff in making supervisory decisions and assist decisionmakers in reaching consistent and equitable dispositions.

During the past decade, the National Institute of Corrections (NIC) helped 29 jurisdictions address violation issues by providing onsite technical assistance. Many other jurisdictions have expressed interest in receiving such support. Among the lessons learned is that goals, resources, and values

differ from one place to another. It is vital that jurisdictions work through a process leading to informed policy options that meet their particular needs. This handbook is built around what we have learned about how agencies effectively address violations policy. Expanding on information and examples from the 29 jurisdictions, this document is designed to lead agency policy teams through a series of activities to help them develop their own set of violation policies.

This is a difficult initiative for agencies to take on; however, it is important and essential work, and the resulting agency policy is worth the commitment. I urge agency administrators to use the materials in this handbook to develop probation and parole violation policies that best conform to the needs and resources of their jurisdictions.

Morris L. Thigpen  
*Director*  
National Institute of Corrections

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# Acknowledgments

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This handbook is the culmination of the efforts of many individuals.

More than 12 years ago, the National Institute of Corrections (NIC) drew attention to the issue of probation and parole violations by funding its first national training and technical assistance project. This work began in 1988 with Kermit Humphries, a NIC Program Manager, who worked many years as a probation officer and administrator prior to joining NIC. Kermit conceived of this work and provided guidance and substantive direction to the five subsequent national training and technical assistance projects. He has, in many ways, pioneered this work, provided the leadership for it to continue, and consistently demonstrated an unending commitment to the development of sound policy to guide violation responses. Kermit has been a partner and friend to those of us who have served as project staff during the past 12 years. On behalf of all of us at the Center for Effective Public Policy, I thank you for your years of support and the confidence you have shown in us.

Probably no single individual has had greater influence on this aspect of offender supervision than Richard Stroker. Richard currently serves as general counsel to the South Carolina Department of Corrections. He previously was deputy director of the South Carolina Department of Probation, Parole, and Pardon Services when the department was one of four sites that participated in the first NIC technical assistance project. It was Richard's work in South Carolina, beginning in the late 1980s and continuing over the next decade, that offered some of the first examples of new thinking in the field of parole and probation violation response. Richard helped frame the conceptual approach to this issue and has provided some of the earliest examples of new methods to respond to violators, which he continues to improve. Richard has aided the field through a series of publications on this issue, and he has served as both a

consultant and trainer to numerous sites across the Nation. On a personal note, Richard has brought energy and creativity to those of us who have had the pleasure to work with him. His motto, "Give me a helmet and put me in, coach," carried us through many challenges and to new plateaus, always with excitement and joy.

In addition to Kermit and Richard, this handbook is a testament to the work of the 29 jurisdictions that have struggled through this issue with us. They have opened their agencies to us, shared their challenges and concerns, and allowed us to disseminate their work to their colleagues across the country. It is their experiences that have culminated in the development of this document.

During the six technical assistance projects, many worked as staff and technical assistance consultants. All contributed their knowledge through the development of one or more chapters in this handbook: Becki Ney, my colleague and partner at the Center; Donna Reback, an adviser and technical assistance consultant; Richard Stroker; and Ann Ley, Program Associate at the Center, whom I would like to acknowledge for her support and invaluable assistance in bringing this document to fruition.

This handbook is dedicated to Peggy Burke, my partner and friend at the Center. Peggy served as Project Director for the first five NIC projects and has continued to serve as an adviser and supporter through this final project. It is Peggy's sound thinking and reason that synthesized the lessons of these projects and moved them forward. She has taught me everything I know about this work.

Madeline M. Carter  
*Senior Associate*  
Center for Effective Public Policy

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# *Introduction*

Madeline M. Carter

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This handbook is the culmination of 12 years of work in 29 jurisdictions across the Nation. Beginning in 1988, the National Institute of Corrections (NIC) sponsored its first training and technical assistance project to address the issue of parole violations. This project—and the five that followed—assisted jurisdictions in examining their violation practices and developing policy to guide future responses to violation behavior. The focus of the six efforts was on creating explicit policy to guide the use of intermediate responses for some types of technical violations. The efforts soon grew beyond parole to include probation.

During each of the six projects, jurisdictions were invited to submit an application to participate. In every instance, the projects were overwhelmed by the level of interest in the parole and probation violation issue. For the six rounds, 69 applications for assistance were received. Funding limited the final number of jurisdictions that were accepted; 29 State and local jurisdictions participated in the 6 NIC-sponsored projects. These jurisdictions are listed in Exhibit I-1.

The work of these jurisdictions represents some of the most innovative in the field of violation responses. NIC's training and technical assistance offered jurisdictions support in forming and maintaining collaborative teams—whether supervision based or systemwide policymaking—to manage the work and provided guidance as they assessed current violation practices, drafted new policy, and developed tools to effectively carry out those policies.

No single solution emerged from this work because jurisdictions vary too widely. Rather, what developed was a framework on how to approach this issue, a process for understanding it, and a variety of local responses to it.

This handbook documents that framework, along with the experiences of 29 participating jurisdictions and the lessons that have emerged. It describes the processes they used to examine their own violation practices and includes the work products they developed. This handbook is designed to serve as a practical guide. We hope it will be helpful to those who want to both understand and begin working on this important issue.

Over the years, we have witnessed an extraordinary depth of interest in this work. We have fielded numerous inquiries from supervision agencies and others interested in learning more. At professional conferences, workshops on parole and probation violation responses often generate standing-room-only audiences. Yet little has been written on this subject. A monograph, *Policy-Driven Responses to Probation and Parole Violations*,<sup>1</sup> published by NIC in 1997, is among the few sources available. The monograph describes the issues confronting agencies as they grapple with this difficult work.

Without the persistent efforts of the dedicated professionals in these communities, our understanding of the impact of parole and probation violations—and of the impact our responses to them have on offender supervision and community safety—would be greatly diminished. We thank them for their hard work and patience as we have struggled through these issues with them.

## **The Goals of This Handbook**

This handbook was developed to assist practitioners and policymakers in responding to violations in ways that enhance the effectiveness of probation and parole supervision and improve community safety. Chapter 1 presents an overview of critical issues related to probation and parole violations. Each subsequent chapter

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**EXHIBIT I-1.****NIC-Sponsored Project Sites**

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We would like to acknowledge the significant work of the 29 jurisdictions that participated in the six projects.

During the first funding cycle (1988–89), four parole boards examined the issue of parole violations:

- Board of Parole, New York.
  - Department of Probation, Parole, and Pardon Services, South Carolina.
  - Board of Pardons, Tennessee.
  - Board of Pardons and Paroles, Utah.
- 

During the second funding cycle (1989–91), two parole boards joined two sites from the first round to continue their work (with project assistance):

- Board of Parole, District of Columbia.
  - Board of Pardons and Paroles, Georgia.
  - Board of Parole, New York.
  - Board of Paroles, Tennessee.
- 

During the third funding cycle (1991–93), four local jurisdictions were selected, and the focus shifted to probation violations:

- Pima County Adult Probation, Superior Court, Arizona.
  - Office of Adult Probation, Judicial Department, Connecticut.
  - 6th Judicial District, Cedar Rapids, Iowa.
  - Macomb County Probation Department, Department of Corrections, Michigan.
- 

In the fourth round (1993–95), five jurisdictions worked on probation violation issues:

- Maricopa County Adult Probation Department, Superior Court, Arizona.
  - City of New York Department of Probation, New York.
  - Multnomah County Department of Community Corrections, Oregon.
  - Virginia Beach Department of Corrections, Virginia.
  - Williamsburg Department of Corrections, Virginia.
- 

In the fifth round (1994–96), State and local jurisdictions explored both probation and parole violations:

- Board of Parole, Connecticut.
  - Adult Probation Division, First Circuit Court, Honolulu, Hawaii.
  - Montgomery County Adult Probation, Ohio.
  - Division of Field Operations, Department of Corrections, Utah.
  - Milwaukee Probation and Parole, Department of Corrections, Wisconsin.
- 

In the sixth and final round (1997–99), two States, represented by a number of local jurisdictions, were selected to participate:

- 1st Judicial District Probation Department, Jefferson County, Colorado.
  - 2nd Judicial District Probation Department, Denver County, Colorado.
  - 4th Judicial District Probation Department, El Paso County, Colorado.
  - 18th Judicial District Probation Department, Arapahoe County, Colorado.
  - 19th Judicial District Probation Department, Weld County, Colorado.
  - Dutchess County Office of Probation and Community Corrections, New York.
  - Nassau County Probation Department, New York.
  - Suffolk County Probation Department, New York.
  - Ulster County Probation Department, New York.
-

addresses a key step in understanding or addressing different aspects of the issue. As a whole, this handbook will help guide interested jurisdictions in:

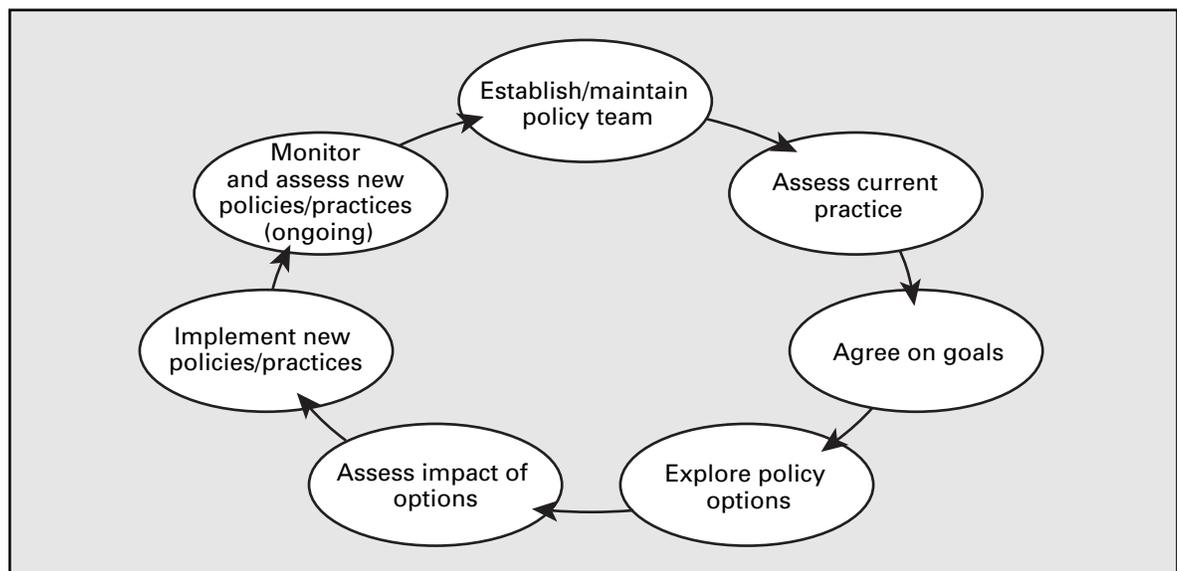
- Forming a team of key individuals to work together on probation and parole violation responses.
- Examining the extent and impact of violations on the criminal justice system and the community.
- Understanding violations in the context of the goals of supervision.
- Establishing clear goals for the violations process.
- Formulating policy to guide the violations process.
- Developing methods to carry out this policy.
- Examining the range of responses to violation behavior and determining how best to use or expand that range when necessary and practical.
- Monitoring the impact of these policies.
- Understanding the potential outcomes that result from clear, policy-driven responses to violation behavior. (See diagram I-1.)

This handbook progresses through each of these issues in a linear fashion. However, work of this nature is seldom linear; rather, it is an iterative process. In creating this handbook, we have recognized this and the likelihood that readers may begin work at different stages. It may be necessary and prudent to skip from one activity to another. Thus, each chapter was developed to stand on its own. Together, the chapters can help jurisdictions implement clearer violation policy and be better equipped to successfully manage this aspect of offender supervision.

## Who Should Use This Handbook

One of the important lessons from our work on the violation process is that it affects many parts of the criminal justice system. During the early rounds of the six projects, our work focused on teams established within the supervision agency. Although these teams were highly successful in developing violation policies, they often were unable to fully implement those policies. We learned—sometimes painfully—that other system actors who had not been included in the policy development process could serve as barriers to implementation. This lesson led NIC to direct its efforts during the final project toward teams of local policymakers, all of whom shared an interest in developing violation policy. These teams represented criminal justice agencies, the

**DIAGRAM I-1. Responding to Probation and Parole Violations: Recommended Process**



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local legislature, social service organizations, and, in some instances, the larger community; they were formed to collaboratively examine violations and develop and implement new policy. Thus, this handbook has been developed for those individuals and agencies who will take responsibility for forming and supporting a local team established to examine the parole and probation violation process.

## How to Use This Handbook

Start by reading the entire handbook from beginning to end. This will provide both an overview of the process and its intended outcomes and an understanding of the individual work activities and how they relate to one another.

Working through this issue requires a policy team that is committed to engaging in a series of activities, described in succeeding chapters, that are designed to:

- Educate supervision staff and others about the violation issue.
- Guide team members as they clarify their goals and desired outcomes.
- Assist the team in creating policies to address violation behavior and responses.
- Suggest strategies to design and implement practices and programs to carry out those policies.

This handbook takes a variety of approaches to detailing these activities. A few chapters discuss parole and probation issues. These chapters highlight each issue's importance, raise key concerns, and suggest fruitful approaches to making decisions. The majority of the chapters, however, direct the reader through tasks and activities aimed at achieving a particular end. Each chapter begins with a diagram, identifying for the reader the stage of the overall process on which the content focuses. These are designed to help the reader navigate through the handbook. Many chapters also include examples of work by jurisdictions that participated in the six projects.

## A Long-Term Investment

It has been our experience that work on parole and probation violation response policies is a long-term investment of time and energy. Jurisdictions that joined the violation project in 1991 continue to work on this issue today. Addressing violations is not a one-time effort. Rather, it is an important policy issue that has a significant impact on the criminal justice system that, once you begin your work on the process, is likely to engage you for many years to come.

### Note

1. Burke, Peggy B., Center for Effective Public Policy, 1997, *Policy-Driven Responses to Probation and Parole Violations*, Washington, D.C.: U.S. Department of Justice, National Institute of Corrections.

# Probation and Parole Violations: An Overview of Critical Issues

Peggy Burke

When the National Institute of Corrections (NIC) first began its series of technical assistance projects addressing violation practices for probation and parole in the late 1980s, the urgency of the issue arose from several concerns. Many of those concerns remain unaddressed today, while other issues have emerged to make an interest in violation responses more critical than ever.

## Violation Issues in Context

### *The community corrections dilemma*

At the end of 1998, roughly 3.8 million individuals in the United States were under some form of correctional supervision in the community—probation, parole, or other community corrections program.<sup>1</sup> That is a staggering number—more than double the population of offenders in American prisons and jails.

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

Because offenders under community supervision vastly outnumber those already incarcerated in our prisons and jails, the task facing probation

Components of the Process
Establish/maintain policy team
Assess current practice
Agree on goals
Explore policy options
Assess impact of options
Implement new policies/practices
Monitor and assess new policies/practices (ongoing)

and parole agencies is extremely challenging. The fiscal and operational reality is that not every individual on probation or parole can—or should—be removed from the community at the first sign of a problem. Rather, it is important to know who among those problem probationers and parolees needs to be removed quickly from the community and who can be managed safely in the community through some other response. Unarguably, if our jails and prisons are filled with offenders who are merely noncompliant, there will be no room for dangerous offenders. One can make the case that sensible violation policies are essential to the credibility of the system. It is not surprising, then, that parole and probation agencies recognize that they need to pay attention to the way in which they respond to violations of supervision, particularly to technical violations that do not involve new criminal behavior.

*If our jails and prisons are filled with offenders who are merely noncompliant, there will be no room for the dangerous offender.*

It is extremely troubling, then, that one of the most recent attempts to “reinvent probation,” spearheaded by the Center for Civic Innovation based at the Manhattan Institute, has sounded the alarm that “widespread political and public dissatisfaction with community corrections has often been totally justified.”<sup>2</sup> Further, authors Terryl Arola and Richard Lawrence indicate that only one-fifth of those who violate the terms of their probation supervision go to jail. The assumption seems to be that quick arrest is the most appropriate response for technical violations. This contradicts the experiences of the NIC-sponsored violation projects.

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## **Prison and jail crowding**

With the growth in prison populations slowing somewhat (during 1998, the prison population nationwide grew at a rate of 4.8 percent over the previous year, the smallest rate of growth since 1979<sup>3</sup>), there seems to be less concern over the impact of violators on prison and jail populations. However, roughly 172,600 admissions to prison in 1996 were probation or parole violators—about one-third of the total. Of those violators, about two-thirds—more than 114,000—had no new sentence. Technical violations were most likely the reason for their incarceration.<sup>4</sup> Some would argue that the absence of a new sentence does not mean the absence of new criminal behavior. It may simply indicate that revocation on technical grounds was pursued in lieu of a new criminal proceeding. This is undoubtedly true for some revocations. However, experience on the NIC projects indicates that a significant number of such revocations are exclusively the result of technical violations. This information would indicate that the concerns emerging in the late 1980s about admissions to prison as a result of violations—and their impact on the prison population—are still well founded.

The picture in jails is somewhat more difficult to document. A Bureau of Justice Statistics (BJS) Special Report indicated that almost half of jail inmates were on either probation or parole when they were admitted to jail.<sup>5</sup> Although BJS documents that only 3 percent of jail inmates were in custody for a probation or parole violation, anecdotal information from jurisdictions participating in the NIC projects suggests that this percentage is much higher. Parole and probation violators awaiting violation hearings or transfer to State institutions after revocation hearings are likely a significant portion of our crowded jail populations—as well as a source of friction between local and State governments and their respective correctional agencies.

*In one jurisdiction participating in a NIC project, it was estimated that, in addition to the equivalent of more than two full-time probation officers, the equivalent of a full-time judge, prosecutor, and courtroom staff was consumed by the various stages of the probation violation process.*

## **Workload**

In addition to the burden that parole and probation violators place on crowded jail and prison facilities, the handling of violators by supervision agencies, the courts, and parole boards

*If we focus on the lessons emerging from the research about “what works” in managing offenders, we find that it is the treatment and rehabilitative resources linked to probation or parole—rather than surveillance or enforcement—that have a demonstrable effect on reduced recidivism.*

also has drawn attention. For example, probation violators—who are processed through crowded courtrooms and, in some jurisdictions, may require multiple appearances in court for arraignment, violation, and dispositional hearings—can consume a significant portion of the court’s time, energy, and resources. Often, violation hearings are not scheduled but simply “worked into” an already crowded calendar, which requires that probation officers wait in the courthouse for a hearing to be called. In one jurisdiction participating in a NIC project, it was estimated that, in addition to the equivalent of more than two full-time probation officers, the equivalent of a full-time judge, prosecutor, and courtroom staff was consumed by the various stages of the probation violation process.

## **Responding to violations in a timely fashion**

Given the due process requirements of handling violations, along with the general backlog found in most courts and parole dockets, months often pass between a violation and formal disposition. A response several months after a violation is not likely to achieve a specific result linked to the violation behavior. For example, if the intent of dealing more effectively with a drug-using offender is to get him or her into a different or more intensive treatment regime and provide job placement assistance, the current formal violation process is a slow and ineffective tool.

Many agencies in the NIC-sponsored projects sought to either streamline or replace their formal hearing processes. The formal processes were supplanted by more informal procedures

designed to intervene quickly and appropriately during the course of an offender's supervision. Indeed, if we focus on the lessons emerging from the research about "what works" in managing offenders, we find that it is the treatment and rehabilitative resources linked to probation or parole—rather than surveillance or enforcement efforts alone—that have a demonstrable effect on reducing recidivism.

In her article "A Decade of Experimenting With Intermediate Sanctions," Joan Petersilia says:

[A]n important and tantalizing finding—consistent across all the evaluations regardless of program design—points to the importance of combining surveillance and drug treatment program participation. In the RAND ISP [Intensive Supervision Program] demonstration, offenders who participated in treatment, community service, and employment programs—prosocial activities—had recidivism rates 10 to 20 percent below that of those who did not participate in such additional activities.<sup>6</sup>

Researchers have found similar results in Massachusetts, Ohio, and Oregon, and a recent meta-analysis of 175 evaluations of intermediate sanctions programs concluded that the combination of surveillance and treatment is associated with reduced recidivism.<sup>7</sup> Paul Gendreau and Tracy Little state: "In essence, the supervision of high-risk probationers and parolees must be structured, [be] intensive, maintain firm accountability for program participation, and connect the offenders with prosocial networks and activities."<sup>8</sup>

The empirical evidence regarding intermediate sanctions is decisive: Without a rehabilitation component, reductions in recidivism are elusive.

## **Consistency and equity in responding to violations**

Another reason often given for an interest in the violation issue is the need and desire for a certain amount of consistency and equity in handling violations. In an agency with many probation or parole officers, there is the possibility that similar violations will be handled differently, even when everyone is operating in good faith. Differences in personal philosophy, supervision style, and interpretations of agency policy can generate unintentional disparities in violation responses. This is one of the most frequent reasons agency policymakers become interested in looking more closely at the violation process.

Indeed, among those jurisdictions that looked empirically at the practice of responding to violations, it is common to find considerable disparity in their handling. One offender may have a record of numerous technical violations and still be on supervision, while another may have his or her parole or probation revoked after only one minor technical violation. This raises questions of fairness and, absent clear rationale for these differences, can often undermine the credibility of the supervising agency.

## **Defining success as a goal of supervision**

What many agencies involved in the NIC projects discovered is that a thorough review of how best to respond to violations cannot be undertaken without also reexamining an agency's approach to supervision and considering the following questions:

- Why do we supervise probationers and parolees?
- What is "successful" supervision?
- What is "unsuccessful" supervision?
- Where is the line drawn between the two?
- When is a violation serious enough to warrant revocation?
- When are responses other than revocation appropriate?

This reexamination of violation responses fits well with the work that many parole and probation agencies began during the 1990s. As one

*"Make sure your philosophy is clear. Understand what you want to do in supervision and what you want to achieve. This forms the basis for going forward. The rest of it is just strategy. People have to know where they're going and what they want as outcomes."*

*—Supervision agency supervisor*

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**EXHIBIT 1-1.**

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**Typical “New Generation” Policy Language  
Regarding Violations**

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The purpose of the “new generation” policy is to provide a framework to guide officer decisionmaking when a violation of probation occurs. A clear, consistent understanding of the steps to be taken when responding to violation behavior should increase officer autonomy and reduce the filing of petitions to revoke probation in cases in which a response short of revocation and incarceration is appropriate.

Administrative violations of the conditions of probation are inevitable. It is unrealistic to believe that offenders, even if they sincerely desire to develop drug-free, prosocial lifestyles, will immediately have the skills or abilities to meet their goals. The issues and forces that brought them into the system will most likely continue to influence their behavior to some extent until they learn new coping skills.

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

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

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

- There will be a response to every detected violation.
- The response to a violation will be proportional to the risk to the community posed by the offender, the severity of the violation, and the current situational risk.
- The least restrictive response that is necessary to respond to the behavior will be used.
- There will be consistency in handling similar violation behavior given similar risk factors.
- The response to a violation should hold some potential for long-term positive outcomes in the context of the supervision strategy.
- Although response to violation behavior is determined by considering both risk and need, risk to the community is the overriding consideration.
- A probationer or parolee who demonstrates a general unwillingness to abide by supervision requirements or who poses undue risk to the community should be subject to a Petition to Revoke Probation or Parole.

agency administrator advises, prior to revamping violation practice: “Make sure your philosophy is clear. Understand what you want to do in supervision and what you want to achieve. This forms the basis for going forward. The rest of it is just strategy. People have to know where they’re going and what they want as outcomes.” Exhibits 1-1 and 1-2 provide examples of the “new generation” policy developed by many jurisdictions. This policy articulates both the goal of supervision and the department’s policy regarding violation responses.

### ***A reemerging interest in treatment***

Motivated by a primary concern for public safety and discouraged by the constant recycling of offenders through the system, many probation and parole policymakers are looking for

better answers to the question of what works. Policymakers need to know whether revocation of probation will make it less likely that offenders will reoffend in the future or whether another intervention will be more effective. Indeed, many probation and parole agencies are beginning to question the assumption that revocation will “get the offender’s attention” and result in better performance.

What these policymakers are seeing is echoed in the research by Don Andrews, James Bonta, Paul Gendreau, and others. Often referred to as the “what works” literature, this research highlights the results of hundreds of studies produced during the past few decades that conclude that official punishment without treatment has not been shown to be a specific deterrent to future criminal behavior. The same literature suggests that

## Violation of Probation Policy (City of New York Department of Probation)

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### **Mission**

The Department of Probation, in response to probationer misconduct, promotes public safety by supervising offenders in the community through monitoring and enforcing probationer compliance with the conditions of probation and responding to misconduct in a consistent and proportional manner that takes into account:

- The severity of the misconduct.
- The risk posed by the offender.
- The threat to community safety posed by the misconduct.

The Department, by filing a Violation of Probation (VOP), seeks to remove from the community those probationers whose breaches of conduct pose undue threat to the safety of the community and/or who significantly violate the terms of their probation or continually fail to comply with supervision requirements despite corrective interventions.

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### **Definition of VOP**

The law defines VOP as:

- The commission of any crime or offense.
  - Failure to comply with any condition of probation.
  - Absconding by remaining away from the jurisdiction of the Court or by keeping one's whereabouts hidden.
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### **Handling of Violations**

The law does not require, however, that every violation be brought before the Court for adjudication. Violations may be handled on two levels:

- By appearance before the Court.
  - Administratively.
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### **Purpose of Administrative VOP**

VOPs may be handled administratively to:

- Determine if the breach of conduct is so severe as to require Court action.
  - Reach an acceptable understanding with the probationer as to his or her future conduct.
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### **Policy Guidelines**

The policy guidelines and principles that follow represent the department's attempt to structure the decisionmaking process and provide a rationale for determining, in response to probationer misconduct, when or whether to file a VOP, refer the matter to a newly constituted Misconduct Review Board (MRB) for strategy and review and/or for an administrative hearing, or conduct an administrative hearing at the unit level.

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### **Guiding Principles**

#### **Principle 1**

Probation officers shall initiate a VOP *only* when the objective is to seek revocation and incarceration.

#### **Principle 2**

Absent significant risk to community safety, a recommendation to revoke probation and sentence to incarceration shall be made *only* when:

- Alternative, less restrictive intermediate sanctions are not deemed sufficient or proportional to the misconduct that has occurred, and/or
  - The graduated responses or interventions fashioned to deal with the probationer's misconduct have not been successful in effecting the probationer's compliance with the conditions of probation and/or are not likely to deter the probationer from future misconduct.
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## **Violation of Probation Policy (City of New York Department of Probation)**

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### **Principle 3**

Only technical violations that constitute the most serious misbehavior will result in an immediate VOP. Otherwise, MRB will review all nonviolent technical violations of probation. To ensure consistency and uniformity in terms of these decisions, both the severity of the misconduct and the degree of risk posed by the probationer shall be considered and analyzed; that is, whether the probationer is violence prone, whether the misconduct resulted in a rearrest or is a technical violation, and whether the misconduct represents a threat to community safety. Confirmed reports of assault of or threats against another person and/or threats of harm to oneself constitute community danger, whether or not the misconduct causes actual hurt or is an attempt or threat to hurt another.

Generally speaking, rearrests are considered more serious than technical violations, and rearrests for violent offenses are considered more serious than rearrests for nonviolent offenses. Any offense in which a potential for violence exists constitutes a violent offense. This includes possession of a weapon, violation of any Order of Protection reported by the complainant, child or sexual abuse, and/or a threat to carry out a violent act. A violence-prone probationer who threatens violence or harm may, by such threat, increase the dangerousness/seriousness quotient even if no arrest has been effected.

A violence-prone probationer who is AWOL (absent without leave) and/or fails to make his or her whereabouts known may, because he or she prevents us from performing our ministerial functions, presents a potential danger.

### **Principle 4**

How one responds to absconders will vary according to the track to which the probationer is assigned. All violent track cases who abscond require a VOP. A VOP is likewise required when a probationer fails to report to the Intake and Assessment Unit after sentencing and subsequently fails to respond to a maximum of three rescheduled appointments and/or other efforts expended to get the probationer to report.

### **Principle 5**

While a VOP requires the approval of a supervising probation officer (SPO), a request for a forthwith warrant requires the approval of the SPO and the branch chief. An assessment that the probationer's behavior poses significant and imminent risk to community safety may provide sufficient cause to seek to expedite the VOP.

### **Principle 6**

Excepting absconders and excepting those situations in which an expedited VOP and/or forthwith warrant is (are) deemed necessary, an administrative hearing at the unit level will be a precursor to an MRB referral. The presumption is that for every technical violation, there will be a reasoned and proportionate response from the repertory or arsenal of responses that are at a probation officer's disposal, and that before reaching the decision whether to file a VOP or refer to MRB, appropriate and graduated responses will have been made, including an administrative hearing, if indicated, at the corresponding special unit level. If these interventions do not succeed in getting the probationer to modify negative behavior, then a VOP or referral to MRB may be required.

### **Other Principles**

Other broad principles that may apply in determining responses to failures to report or other technical violations follow:

- To ensure that our efforts and resources are reserved for those at high risk for recidivism and violence, responses to low-level transgressions committed by nonviolence-prone, noncrime-prone probationers should, to the extent possible, be automatic and sequential or graduated but limited in option or scope, particularly if there exists a need to conserve

## **Violation of Probation Policy (City of New York Department of Probation)**

department resources. Responses, even if limited, should not, however, be guided purely by resources and cost-effectiveness; rather, the focus shall be on responses that are appropriate and proportionate to the misconduct.

- Not all misconduct requires formal processing of a VOP and revocation and imprisonment. Some violators may be able to remain in the community with corrective interventions that are measured and reasoned and meet identified rehabilitative needs.
- Individuals who are unwilling to abide by supervision requirements but who do not pose undue risk to the safety of the community may, in order to conserve department and court resources, be allowed to max out [complete their entire term] from probation, but not without [a written] record of their performance [while on probation] so as to guide future recommendations.
- With certain exceptions, we should never proceed with a VOP simply because we are frustrated that our supervision efforts have been thwarted, unless we have concluded that the individual poses a significant risk to community safety; whenever possible, we should use administrative and internal measures to deal with probationer intransigence and his or her failure to meet probation supervision standards.
- Sanctions should not be driven by anger or vengeance or be so emotionally laden as with angry, empty threats that cannot be carried out (without undermining the probation process).
- Sanctions should be:
  - Objective.                      — Specific.                      — Realistic.
  - Clear.                              — Appropriate.                      — Enforceable.

Sanctions should also be enforceable and achievable by the probationer.

- Interventions should be matched to the particular offender, realistically address the particular misconduct, and be considered necessary and appropriate to bring about positive or sufficient change to alter/modify/control the behavior or to encourage/assist/enable the probationer to successfully complete the probation sentence.

appropriate correctional treatment can be effective in reducing future recidivism with certain types of offenders.<sup>9</sup> Given this insight, policymakers are asking, “What interventions will be most effective in reducing future crime?” and “How can we make sure that our agency policies support these kinds of interventions as responses to technical violations of parole and probation?”

### **Redefining the Vision of Community Corrections**

Perhaps it is because dissatisfaction with past performance has become so much a part of the conventional wisdom that one cannot open a professional journal or attend a professional conference in corrections today without coming face to face with “paradigm shifts,” “redefining probation,” or “visioning.” A sea change is occurring in the field. Regardless of the particular manifestation of this change, it has three common themes.

- The system can no longer focus exclusively on processing cases.
- The paradigm selected to replace the “processing cases” approach must include such outcomes as greater safety, greater responsiveness to victims, and reduced future criminal behavior. Those outcomes must be defined and measured, and parole and probation agencies must be held accountable to them.
- Police, prosecutors, judges, correctional officials, probation and parole officers, and community members can no longer continue to operate as if their roles, responsibilities, and perspectives are unrelated. Collaboration across traditional boundaries—agencies, branches of government, and public and private arenas—is essential.

Debate and innovation continue to reflect these themes. Discussion surrounds the concepts of restorative and community justice. The reality

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is, however, that a careful reassessment of responses to violation behavior becomes even more critical as these changes take place, for this is an arena through which supervision agencies can carefully define and carry out their vision in significant ways.

In the course of reworking violation policy, agencies have begun to rethink supervision and, in some instances, to “reinvent” themselves. In the same way that law enforcement agencies have begun to redefine their work as “community” or “problem oriented” policing, probation and parole agencies are beginning to see themselves as more in the business of “community justice.”<sup>10</sup>

Innovative responses to violation behavior contain the seeds of such a revolution in community corrections. Some agencies make every effort to ensure the success of probationers. This includes not simply responding to noncompliance but also working to ensure community safety, mobilizing community resources to break the cycle of addiction and violence, facilitating restoration of the community through community service and victim restitution, and partnering with law enforcement and community agencies to respond to the demands of the community for a greater sense of security.

Thus, what began as a modest attempt to fine tune violation policy may prove to be a critically important step for probation and parole agencies as they strive to reinvent a supervision system to effectively manage offender behavior.

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# The Importance of Vision, Mission, Goals, and Core Values

Richard Stroker

*The most important thing lies not in knowing where you are, but in where you are going.*

—Oliver Wendell Holmes, Jr.

## Why Start With a Vision?

The notion of a “vision statement” or a “goal statement” may cause some to think of a collection of words that gives little guidance to staff and may seem to have little connection to day-to-day work responsibilities. But without a clear idea of where you are going and where you want to be, the day-to-day work becomes filled with unfocused activities that are done for undeterminable reasons and may involve acts or processes by some employees that are contrary to those being performed by others. The truth is, as hard as it may be to spend time focusing on critical goals, values, and a mission, little is more important to an agency than having a clearly articulated vision of what you ultimately want to accomplish.

Most agencies seem to focus a great deal of attention on their work processes. Rules or procedures usually outline in detail what actions must be taken, when they must be done, what forms to use, who to notify, and so forth. Because detailed instructions are developed over a substantial period of time, most of the procedures are layered with old and new ideas that stem from both old and new insights or issues. The result is often a complex collection of methods and responsibilities. Perhaps the size and

Components of the Process
Establish/maintain policy team
Assess current practice
Agree on goals
Explore policy options
Assess impact of options
Implement new policies/practices
Monitor and assess new policies/practices (ongoing)

depth of your procedures make it difficult for you to view the whole of your efforts. But to engage in the best possible analysis of your violation process, you have to be willing to think beyond what you currently do and focus on what you ultimately want your work to look like.

As an analogy, assume you want to take a much deserved vacation. Before you leave, it is helpful to know your ultimate destination and determine the best way to get there. The procedures we develop in our everyday work are roads that take us somewhere. Unless you understand where you want your work efforts to take you, it is difficult to understand which roads you should take. As Alice found out in Wonderland, if you don’t know where you’re going, then any road will do.

## ***To develop your vision, start with the end in mind***

When thinking about your agency’s goals for its violation process, try to avoid focusing on your current situation and its limitations. Exploring this area should start with the end in mind. If you can envision the best violation practices working in conjunction with the best policies and direction that can be developed, what would that system look like? What kind of results would you be trying to achieve? How would people be investing their time or energies? If you focus on your best line officers and how they respond to a particular violation, what types of practices would you find? The picture you develop in response to such questions reflects, in part, your vision of what you want your violation process to become.

Such a system may include the following:

- Offenders clearly understand their supervision requirements.

- Offenders believe there will be appropriate consequences for misbehavior.
- Staff have a clear picture of how best to manage offenders and affect behavior.
- Policies and procedures give clear guidance to staff about the agency's expectations.
- Every violation is responded to in a prompt and appropriate fashion.
- A range of violation responses is available and used wisely.
- Staff respond to violations with flexibility and consistency.
- The system is designed to be efficient and not waste staff time.
- Offenders receive appropriate dispositions for their violations.
- Other appropriate entities understand the agency's violation system and its purposes.
- The violation system assists staff to reach supervision goals.

It is not impossible to imagine such a system. The development of improved violation processes begins with these types of ambitious ideas. A vision statement does not specify precisely how you will carry out tasks or overcome obstacles. It simply identifies where you want to go with your violation system. Exhibits 2-1 through 2-3 are examples of some of the goal statements developed by NIC's project participants. Exercise 2-1 is designed to help *your* team develop goals.

To initiate dialogue about your agency's vision for its violation process, ask staff members from various offices and levels of your agency to work together to articulate a specific vision. It is important to realize that this vision does not have to come from the top of the agency. People who work most closely with the violation process may have the best ideas about what your violation process should be trying to achieve. This group should have access to all the data, flowcharts, and other information that has been collected to date about the violation process (see chapter 4 for a detailed discussion of the types of information to be collected), but the group should not be asked to focus on the best way to realize the vision. The group should concentrate on where your agency wants to go, then decide if consensus can be developed for this destination.

### ***It is difficult to build upward without a solid foundation***

In looking at the abovementioned list, the vision of your violation process will have a distinct impact on your supervision practices. This connection between offender supervision and your violation process is deep and complex. Indeed, it will probably not be possible for your agency to realize the vision you have for the violation process without also making significant changes in the way that offender supervision is performed.

Perhaps the single most critical question you must answer in developing your violation vision concerns your purpose or goals of offender supervision. For example, if your primary supervision goal is to assist offenders in successfully completing supervision, your violation practices

#### **EXHIBIT 2-1.**

### **Goal of the Violation Process (Maricopa County, Arizona, Adult Probation Department)**

The goal of the violation process is to respond to violation behavior in order to achieve successful adjustment to supervision and compliance with the terms of probation to reduce the likelihood of future criminal activity. This goal is met by:

- Responding immediately to all violation behavior in a proportional and least restrictive manner at the lowest possible level within the agency.
- Employing effective, meaningful interventions as responses to offender needs that may be contributing factors to their violation behavior.
- Identifying nonresponsive and/or high-risk/dangerous individuals who have exhausted all appropriate interventions and judicially remove them from the community.
- Returning to court only those individuals who have failed to respond to all appropriate intervention options and for whom additional judicial sanctions will be recommended.

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**EXHIBIT 2-2.****Sample Mission and Goals**

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**Mission Statement**

The mission of the Office of Adult Probation is to control the behavior of offenders in the community and use suitable methods to aid and encourage improvement in their conduct and condition.

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**Goal of Supervision**

The goal of supervision is to reduce the likelihood of future criminal behavior. This will be accomplished by intervening in proportion to an offender's risk and need.

The Office of Adult Probation will use all available, relevant resources in the supervision of an offender until the offender reaches an unacceptable level of risk in the community or successfully completes the period of probation.

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**Goal of the Violation Process**

The goal of the violation process is to respond to the offender's violation behavior in a way that is consistent, timely, and proportionate to safely maintain the probationer on supervision.

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should reflect this aspect. If the purpose of supervision is to identify individuals who pose the greatest risk to the community and monitor their activities closely, your violation practices should reflect this goal. Offender supervision and violation practices are parts of the same puzzle, and, if you treat them as separate and distinct activities, you may have difficulty making sense of your everyday work. Considering this issue from another perspective, your present violation system is a window into your philosophy and goals about offender supervision. The way a violation is currently handled indicates preferences, attitudes, and beliefs about your jurisdiction's offender supervision.

Appreciating the critical connection between supervision goals and the violation process might be easier if you reflect on your experience with other supervision-related matters. Often, a new program or initiative may be undertaken because it sounds attractive, has imagined positive outcomes, or seems to have been successful in another location. When you try to replicate this program or idea, the original jurisdiction's vision, goals, and beliefs about the supervision of offenders may not transfer. Jurisdictions that are not pleased with their transplanted intensive supervision programs, home detention efforts, or residential or day reporting programs might find that the root of the problem is their difficulty in clearly indicating how these activities are intended to fit with their system of supervision

goals and beliefs. Programs and efforts that operate apart from, and not as a part of, your primary supervision efforts often will fail because the vision and goals for the new program have not been integrated into your vision and goals for offender supervision. The same issue is present when a jurisdiction starts work on its violation process. You should determine how this effort will fit within your beliefs, goals, and vision regarding the supervision of offenders.

Turning this issue around, it is also improbable that you can achieve your supervision goals without having in place an effective violation system. For example, if one of your supervision goals is to protect public safety, how can this be accomplished if your violation system fails to identify and respond promptly and effectively to offenders who require additional sanctions or services? If one of your supervision goals is to encourage offenders to become law-abiding citizens, how can you accomplish this without an effective violation system that identifies offender problems and promotes swift and meaningful outcomes?

As you explore the violation area, it is important to appreciate that the articulation of your violation goals may also require a full examination of your vision and beliefs about offender supervision. For this reason, working on your violation process will prompt an examination—and potentially a clarification—of the very foundation of your agency: your goals for supervision.

## Sample Policy Language

### Violations Policy

Personnel will respond to all violations in an appropriate manner, taking into account the severity of the violation and the risk posed by the offender. The purpose of the response will be to selectively intervene with the offender to reduce the likelihood of future criminal activity.

### Definition of a Violation

A violation is a willful action or inaction on the part of the offender that is contrary to the conditions of supervision established by the court, board, hearing officer, or agent.

### Response to Violations

In responding to a violation, the agent or supervisor should:

- Select a response that is proportional to the severity of the violation.
- Be proactive in responding to every violation.
- Select the least onerous response necessary to address the particular violation.
- Be consistent in handling similar violations in a similar way.
- Select a response that takes into account the severity of the violation and the risk posed by the offender.

### ***The first steps of a journey always seem the longest***

Often, when someone presents a new vision or method of working, he or she is greeted immediately with a laundry list of why this vision cannot be realized. The urge to tell someone else why his or her vision is simply not possible to accomplish can be overwhelming. Perhaps this is because it is easier for someone to identify what cannot be done than to understand different and possibly better ways of working. The weight of history (“We’ve always done it this way,” or “We tried that once and it didn’t work”) can be persuasive. The reasons offered on why things cannot be done or changed might involve some or all of the following:

- It is too expensive, and there are limited or no resources.
- It will never be accepted by an important manager or judge.
- It will not do any good because people (staff or offenders) do not change.
- It is too hard to figure out and will take too much work.
- It is not consistent with another vision or mission.
- It will take too much time to implement.

- It will increase the agency’s liability.
- It is not legal.

It is important to recognize that new ideas for the violation process may have some initial detractors. However, it is essential to this process that you not abandon developing a vision because of current limitations, restrictions, or a lack of understanding about current practices. In government, almost everything can (and often does) change. Instead of being the recipient of change, become an advocate for the change you want to implement. The key is to focus on what you want to do and use your staff talent, resources, and imagination to make it happen. If your agency’s vision reflects its intentions for the violation process, and if these intentions are consistent with your agency’s beliefs about offender supervision, then you *can* find and develop ways to move towards that vision.

Once you overcome the substantial mental hurdles and articulate a new vision to guide you in this work, new doors and avenues will open. You may find it easier to justify requests for new resources or make better decisions about allocating your existing resources. The ability to place your violation process goals into clear focus will also help you to distinguish real obstacles from long-held, and sometimes inaccurate, assumptions.

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**EXERCISE 2-1.**

## What Are Your Goals for Supervision and for the Violation Process?

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Developing clarity in purpose for the goals of supervision is an essential step toward establishing a rational system of violation responses. Equally, articulating goals for the violation process serves as an important reference point in developing policy to guide its implementation. The goals of this team work session are (1) to assess what (if any) language already exists regarding the goals of supervision and of the violation process, and (2) to modify or craft new language where needed.

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### Work Session Activities

- Review existing statements that describe your jurisdiction's goals for the supervision of offenders. How effectively (fully, specifically) does this statement describe the current goals of your agency? To help with this exercise, imagine that this statement is the only guidance new agents have to help them determine the focus and purpose of their work. Can your statement effectively guide these new employees?
  - If an effective goal statement does not currently exist, discuss what the elements of such a statement should be. What are the goals of your agency? What do you hope to accomplish through the supervision of probationers? What words or phrases describe these? (Remember your new employees. What are the essential ideas you want to communicate to them?)
  - Review existing statements that describe your jurisdiction's goals for the violation process. How effectively (fully, specifically) do these statements describe these goals? (Again, use the analogy of the new employees to consider this question.)
  - If an effective goal statement does not currently exist, discuss what the elements of such a statement should contain. What are the goals of the violation process? What should it accomplish? What words or phrases describe these goals? (What more should your new employees know about responding to violations, other than how to fill out the forms when a probationer or parolee commits one?)
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Many line staff worry about their potential liabilities in conducting offender supervision and responding to violations. This may be true because of the absence of a clear vision, policy, or explanation of their agency's expectations. Having a clear policy and following it reduces potential liabilities. By having an explicit vision of where you want to go, these liability issues can be better analyzed and addressed. As is often the case, once you make some positive first steps, you may find your next steps often are easier to see and to take.

### You *Can* Get There From Here

Once you have developed a vision of what you want to accomplish in the violation area, you should compare it with your current circumstances. The gaps that exist between where you want to be and where you are highlight the issues on which you should focus. The areas you select to pursue to work toward your vision will represent the first specific goals for your violation process.

The goals of your agency concerning the violation process should be consistent with your vision statement. For example, if your vision statement includes language about how to respond quickly to violations and this is not currently part of your practices, you should develop specific goals related to this vision. Such goals might include developing better means to identify that violations have occurred, creating new methods to respond to minor violations, and creating specific timeframes to respond to violations.

Many agencies that have worked on their violation process have identified particular goals that have some common elements. These goals include:

- Holding offenders accountable by responding more swiftly to all violations.
- Considering the risk posed by the offender in developing a violation response.
- Considering the severity of the offense in developing a violation response.

- Encouraging consistency among staff in formulating responses.
- Using the least onerous response necessary to address the violation.
- Developing alternative violation responses.
- Increasing or improving staff training about the violation process.
- Making the best use of automated technologies.
- Streamlining the violation process to make the best use of staff time.

Other goals that emerged from some of the jurisdictions include:

- Empowering staff to respond directly to certain types of violations.
- Developing an alternative hearing process for certain offenses.
- Developing better court or parole board scheduling procedures.
- Improving coordination and information sharing with local law enforcement.
- Improving dialogue with courts and prosecutors about violations.
- Improving offenders' understanding of supervision conditions.
- Improving responses available to address offender needs (e.g., drug use) that fuel violations.
- Developing "paperless" systems or reducing paperwork.
- Creating summonses as alternatives to warrants.

Establishing specific goals will allow a jurisdiction to determine which activities or "roads" it wishes to explore. Articulating these goals will help your jurisdiction focus on the rest of the work it will perform in the violation area.

### ***An effective system requires the harmony of its parts***

The particular goals selected by a jurisdiction generally reflect its vision for the violation process and its core values about the supervision of offenders. These core values are critical to the ultimate development of offender supervision policies and procedures. At the heart of many

jurisdictions' violation practices is the belief that an offender's behavior can be affected by the actions taken by the supervising entity. There also seems to be considerable consensus that the purpose of supervision is to encourage or aid the offender in successfully completing his or her supervision. When these powerful concepts are linked to a particular violation goal, the resulting policies and the work of staff can fit within a consistent conceptual framework. It is the harmony of these beliefs and goals that makes effective work possible.

For example, a jurisdiction believes that the purpose of supervision is to encourage the offender to complete supervision successfully and that its actions can directly affect the behavior of the offender in accomplishing this. If one of the jurisdiction's visions is to respond to all violations swiftly, and the jurisdiction creates a violation goal of responding to each discovered violation within 7 working days, it is developing a specific means for accomplishing its broader purpose. That is, an offender who knows that he or she will be held accountable for every violation may change or modify his or her behavior in a way that increases the likelihood of his or her successful completion of supervision.

Another example presents a jurisdiction that holds as one of its core values the belief that its staff are capable individuals who can engage in complex decisionmaking if given proper guidance. This jurisdiction's vision also includes that all violations should be responded to in a consistent manner, so it might establish a violation goal that the offender's risk and the severity of the offense should be taken into account when imposing sanctions for a violation. If this jurisdiction develops a decisionmaking tool or matrix to aid staff in determining the types of sanctions that can be imposed for different violations, this would be a logical extension of the values, vision, and goals of the agency. However, when any of these elements are not in accord with the others, it is difficult to make sense of the work.

It is also difficult to harmonize visions, goals, and values that are unstated. Your work on the violation process gives you the opportunity to explore your vision and goals and clearly articulate them for your agency. When you attempt to harmonize your core values, vision, and the specific goals of your violation system, you create the opportunity to harness the true potential of your agency.

# Collaboration: A Central Ingredient for Success

Madeline M. Carter

The management of offenders who violate the conditions of their supervision may appear to be an issue of interest to only those in a supervision agency. Indeed, during the first five NIC technical assistance projects, the focus of work was within the supervision agency. It was evident that collaboration within those agencies was essential to developing and implementing meaningful violation policy that could be embraced at all levels of the supervision agency. However, as the projects continued and expanded, it became increasingly clear that internal support is not *all* that is needed to successfully implement new policies: Equally important is external support.

Components of the Process
Establish/maintain policy team
Assess current practice
Agree on goals
Explore policy options
Assess impact of options
Implement new policies/practices
Monitor and assess new policies/practices (ongoing)

## The Need for External Collaboration

Violation policy, although primarily carried out within the supervision agency, affects those outside the agency as well. For example, an agency develops new policy to revoke to court all offenders who fail to participate in court-ordered treatment. If the judge presiding over these cases agrees with the policy, there will be no friction. But if the court disagrees, the judge can contradict the agency's recommendation by indicating it is the supervision agency's responsibility to ensure that offenders go to treatment. The agency's new policy is called into question, as is its reputation. Consider another scenario: The probation agency implements a new response

policy when offenders test positive for drugs. The district attorney, who sharply disagrees with the approach, is convinced that supervision is too lax and argues against probation as a sentencing option.

*"Whenever I bring cases like this to the board, they always revoke. So I know that this is the kind of case they don't want continued on supervision."*  
 —Parole agent

Those extreme examples illustrate a point. But consider the following situation, which occurred during a visit to one of the NIC project sites. Staff, visiting a jurisdiction new to the project, were given the opportunity to observe parole hearings. During one case, the parole officer requested that the board revoke an offender's supervision because of a technical violation. Project staff, who were interested in this case because the violation seemed relatively minor, interviewed the parole officer and asked, "What were the factors that led you to bring this case forward for a hearing?" The parole officer replied, "Whenever I bring cases like this to the board, they always revoke. So I know that this is the kind of case they don't want continued on supervision." Project staff then interviewed board members and asked a similar question, to which they replied, "When officers bring us cases, we know it is because they feel these offenders are no longer appropriate for community supervision. We demonstrate our support for their understanding of the individual and the case by granting revocation."

These examples illustrate the reasons it is important to develop violation policy—so that we are not doing what we *think* others want done but are doing what we have *agreed to do*. However, such policy can be developed only when all those affected work together to craft it.

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## **Key Stakeholders and Their Interests in the Violation Process**

Who to involve in the evaluation of existing violation policy—as well as the formation of new policy—will depend on the type of jurisdiction and the nature of the offender population. In general, however, jurisdictions should form a policy team that includes the head of the supervision agency and key actors from other agencies that influence or are influenced by violation cases. For probation violations, other key officials include the chief judge or his or her representative, the court administrator, the prosecutor, the public defender, a county commissioner, and the jail administrator, and mental health and substance abuse treatment administrators. For parole violations, key officials include the chair or members of the paroling authority and top staff, even if the authority itself is not responsible for supervision. Local jurisdictions working on this issue may want to consider including key State agency personnel whose assistance and support may be necessary to ensure the successful implementation of new policies and practices.

Why include such a broad group? The case for parole board members, judges, and prosecutors was illustrated in the preceding section. Some of the other stakeholders may seem less obvious but nonetheless hold equal interest in the violation process. The reasons each stakeholder is important follow:

### ***Judges and parole officials***

Judges and parole officials have ultimate decisionmaking authority over the outcome of a violation. They also express deep concern for these cases, both because of the harm an offender on supervision can cause and because of the extreme burden these cases can place on their workload. Their involvement and support are critical to the success of a policy development effort.

### ***Prosecutors***

The participation of prosecutors in the violation process varies from jurisdiction to jurisdiction. In some communities, prosecutors fully participate in violation hearings as they would in any other criminal matter. In other communities, prosecutors play no visible role in the process. Even in those communities where the prosecutor plays a diminished role, his or her participation can help ensure that the work of the team is a success.

### ***The defense bar***

A number of jurisdictions have developed alternative methods to respond to technical violations, such as administrative hearing boards and special violators' courts. These responses generally require the violator to waive his or her rights to a due process hearing. It has been important, therefore, to include representatives from the local public defender's office or defense bar on these policy teams. When these members are part of the development process, the potential for distrust and concern with the resultant strategies is reduced.

### ***Court administrators and parole board staff***

Court administrators and parole board staff play a key role in processing violation cases. Their participation will provide valuable insights into the existing process and better equip jurisdictions to consider methods to streamline it.

### ***Mental health staff and substance abuse treatment providers***

Mental health staff, substance abuse treatment providers, and others who provide services to offenders under supervision can assist the team in understanding how their services and resources can be used as effective interventions with offenders.

### ***Jail administrators***

Local jail administrators can be extremely helpful in identifying the number of violators entering the jail during a given period of time and in explaining the impact of these cases on local resources.

## **The External Collaboration Team**

The role of the external collaboration team is to assess current violation practices and develop and implement, if necessary, new violation policy. To accomplish this, the policy team must:

- Learn about the current violation process.
- Participate in discussions about the strengths and weaknesses of the current system.
- Discuss and articulate the goals of supervision and the outcomes to be achieved through the violation process.

- Examine the ways in which the current system can be strengthened to best meet those goals and outcomes.
- Create new policy that explains how to achieve the violation process goals and outcomes.
- Represent the interests of individual constituencies throughout this process by periodically updating members on the policy team's work, soliciting input and feedback at key junctures, and ultimately ensuring adequate training of constituency members in the new policy to maximize their support and investment.
- Participate in ongoing efforts to monitor the impact of the new policy and assess its effectiveness in achieving the intended outcomes.

### ***Engaging the participation of key individuals***

One of the challenges jurisdictions have faced is gaining the involvement of those outside the supervision arena. In some cases, supervision agency administrators have approached prosecutors, judges, and others to gain their commitment to address this issue collectively. Many have found that those policymakers are equally concerned about violations. In these cases, an external collaboration team can be assembled quite effortlessly.

However, in other instances, this has not been the case. The mere mention of “violations” does not always bring policymakers to the table immediately. In these situations, the supervision agency administrator must lay important groundwork to elicit the commitment of other key leaders. It is important to consider the concerns of each individual being approached. For example, before discussing with the chief judge the need to identify a member of the judiciary to sit on an external collaboration team, gather information—such as the number of revocations filed in a year, the average length of time from filing to final disposition, the number of violators awaiting these hearings who are in jail and how long they spend in custody, and the average amount of time any single judge spends managing these cases—that will highlight the importance of this issue to the bench.

Be prepared to discuss not only the ultimate goal of the effort but also how this issue affects each agency and what each stands to gain by participating. Depending on the level of resistance anticipated, you may want to first assemble the

internal collaboration team to gather key information before approaching external agencies (see chapter 4 about the types of information to collect and how to gather it).

## **The Internal Collaboration Team**

An internal collaboration team has two district roles.

In addition to the external policy team, jurisdictions may find it helpful to establish an internal team in the supervision agency to work in conjunction with the external team. The internal team can help develop an understanding of the current violation process among administrators and staff, build support for change within the supervision agency, and assist the external policy team with its work.

In some jurisdictions, it may not be possible to assemble an external collaboration team. For example, key leadership roles are vacant, external agencies are grappling with other problems that divert their attention, or, the issue of probation and parole violations is not a significant enough concern to draw together a policy team. In those cases, the internal collaboration team plays an even more important role.

### ***Membership***

The internal collaboration team should be chaired by the head of the supervision agency (or a designee in the case of extremely large agencies), who should also be a full member of the external collaboration team. The internal collaboration team should be composed of individuals who represent all levels of the agency's hierarchy and its significant specialized units. The same selection rule applies to this group as to the external team: those individuals or units who affect or are affected by violations should be represented. In addition, it is best that this group include newer *and* more senior staff, as well as those with different philosophies of the supervision of offenders. The diversity of the team should represent the diversity of the overall staff to enable the internal collaboration team members to quickly surface the interests and concerns of their colleagues.

### ***Role***

The role of the internal collaboration team will vary depending on the existence of an external team. In the absence of an external team, the

internal collaboration team must assume the “visioning” role described previously. Because the buy-in of key external leaders is usually essential to the successful implementation of new policy, it is more desirable to have the external group in place early on in the process. When this is not possible, the internal collaboration team needs to assume responsibility for developing policy. However, the team must build into its workplan strategies to elicit the support of the external agencies prior to the policy’s implementation.

*How an agency responds to violations has everything to do with how the agency views its role and its vision.*

Whether or not an external collaboration team is in place, the internal team’s goals—developing an internal understanding of the current violation process, building support for change, and assisting the policy team with its work—can be accomplished through the following work activities:

- Developing baseline information about the current violation process, including:
  - Assisting the policy team to develop a map or flowchart of the violation process.
  - Gathering data on those who violate the conditions of their supervision and the responses to those violations.
  - Collecting data on those who do not violate the conditions of their supervision.
- Reviewing existing policy on responding to violations.
- Determining how officers are trained to manage violations, including conducting interviews with staff (personally or by supporting the work of an objective outsider) and reviewing training curriculums.
- Assisting in the development of new policy and tools to carry it out.
- Keeping supervision agency staff informed of the overall process, garnering input at appropriate times, and addressing colleagues’ concerns.
- Developing systems to monitor the impact of the new policy.

- Assisting in the development and delivery of staff training programs on the new policies.
- Participating in the ongoing monitoring of the violation policy to determine its effectiveness in achieving the stated outcomes.

## **Leadership**

Arguably the single most important ingredient to the success of this effort is leadership. From where will it come? Occasionally, it comes from a judge or prosecutor who is particularly interested in the violation response issue. Jurisdictions that have had the greatest impact in this area, however, found that leadership most often comes from within the supervision agency. For reasons that will become clear in this handbook, how an agency responds to violations has everything to do with how the agency views its role and its vision.

Leadership from the agency’s midlevel managers is also essential. Those individuals—the supervisors who oversee, guide, and monitor the line officers’ work—can singlehandedly make or break this effort. Without support and commitment from midlevel managers, officers will not be encouraged to behave or think differently about how they respond to violations. Agency administrators need to work closely with this key internal group and make every effort to ensure their buy-in and support.

Critically important to this work as well is the support and investment of line staff, who ultimately will be the key to change in the agency. Vision, goals, and external support will create the framework for the work, and clear policy will explain how it is to be implemented. However, staff support or resistance ultimately will determine the extent to which implementation is successful. During the NIC-sponsored projects, we repeatedly observed line staff who were heavily invested in their work and who keenly understood what was not working effectively. Line staff often can offer creative and practical solutions that policymakers cannot see. Although line staff may at first be reluctant, their reaction is generally the result of unclear direction or fear of increasing work demands. However, as line staff become involved in identifying the goals to be addressed and crafting the methods to achieve them, resistance will be replaced by shared vision and investment.

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## An Inclusive Process: The Single Most Important Ingredient for Success

The process of understanding current violation practice and developing new goal-driven policy should be highly inclusive. Beginning with strong leadership from the administrator and managers of the supervision agency, guided by an external stakeholder group that represents

those who affect or are affected by the violation process, and supported by an internal collaboration team, a jurisdiction should be well positioned to make significant and long-lasting progress in this area. Exercise 3–1 has been developed to guide teams through the types of work activities that might be undertaken and the support and stakeholder involvement it will be important to secure to ensure success.

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### EXERCISE 3-1.

## Developing a Policy Framework to Guide the Violation Process

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The goal of this work session is to identify the scope of work your jurisdiction will undertake and the individuals who are essential to make your effort a success.

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### Work Session Activities

1. Many agencies have all or some of the following: an agency mission statement; a statement of supervision philosophy; a statement of values and principles underlying supervision and violation practices; a list of specific procedures; a delineation of roles (what the supervisor does, what a line agent does, etc.); operating principles; training curriculums that introduce staff to policy and practice; and a set of tools, forms, or instruments that assist staff in effectively carrying out the policy. List those you need to develop to create a structure for practice in your jurisdiction.
2. What policies and/or tools does your jurisdiction need to put into place to ensure that violations are responded to more effectively?
  - A. If policy is needed, outline what the policy should contain.
  - B. If tools (e.g., decisionmaking matrixes, violation response guidelines) are needed, describe their purpose and what they should contain.
3. Outline the content of each element. Answer the following questions for each: For which audience is this intended? For what will it be used? What major content items should it include?
4. Who has to be “on board” to make this work? List the essential agencies and the levels of hierarchy from those agencies that are important to the development and implementation of the noted items.
5. Consider those who could present obstacles to your efforts. Are all of these individuals included on your list under number 4?
6. Consider how best to engage these critical individuals and agencies in your work.

# Developing Baseline Information: Understanding Current Policy and Practice

Becki Ney and Donna Reback

## The Importance of Baseline Information to the Policy Development Process<sup>1</sup>

Baseline information about the violation and revocation process is critical to understanding how violations currently are handled in a jurisdiction. The information can help a policy team formulate questions about the violation and revocation process and arrive at answers. Because of their day-to-day familiarity with the system, policymakers often believe they know everything they need to know to affect decision-making. However, policymakers repeatedly have been surprised by what these data reveal—results that often differ from their perceptions or beliefs about what is happening. Without solid data, jurisdictions are forced to make best guesses on change strategies and, therefore, cannot develop the informed policies and practices that are essential for achieving the outcomes and goals they envision for their criminal justice system.

Additional reasons for establishing baseline data include the following:

**Information and data are critical to effective problem solving.** Policymakers generally do not have occasion to examine violation and revocation practices, and, therefore, these practices are often not understood by those in the criminal justice system.

Components of the Process
Establish/maintain policy team
Assess current practice
Agree on goals
Explore policy options
Assess impact of options
Implement new policies/practices
Monitor and assess new policies/practices (ongoing)

Policymakers often have a limited view of the system and those affected by it. For example, in one jurisdiction, the prosecutor did not realize that the way he scheduled violation cases created conflicts with other agencies' schedules, which in turn created bottlenecks in the processing of violation cases. Once the policy team began reviewing data from a systemwide perspective, the prosecutor was able to see how something as simple as scheduling cases could affect everyone else in the system.

**To match responses to violation behavior and hold offenders accountable for their behavior, policymakers must understand the type of offenders in their system as well as the capacity and purposes of the existing range of options available to respond to offenders' violation behavior.** Policymakers often make assumptions about the offender population and the range of options available for responding to violation behavior.

**To understand the impact of new policies and practices and to monitor progress toward achieving specific goals, policymakers must have both before (baseline) and after information.** This chapter addresses the *before* picture; see chapter 9 for a discussion on monitoring, the *after* picture.

Baseline data can provide a clear understanding of what is *currently* happening with respect to violation policies and practices and can help to form a vision for how such policies and practices might work differently in the future. A basic assumption of this approach is that, to make rational, informed policy decisions, a detailed examination of current practice is necessary. Developing a complete picture of current practice requires more than simply compiling a list of responses available or documenting the written policy of a probation agency. Developing that picture also involves understanding supervision

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practices and gathering information that may exist only in the individual experiences of staff occupying different roles at different levels in the agency (see diagram 4–1).

### **Understanding baseline data**

The problem with understanding violation practices is that no single person usually sees or understands the process in its entirety. Criminal justice decisionmakers come in contact with and experience different parts of the violation process and see those separate parts from their own unique perspectives. Baseline data, if it is to be used to improve the system, must paint a picture that is understood as a system—the entire collaboration team. That is, it is not enough to simply collect information; it must be synthesized and understood by everyone involved to understand the picture as a whole.

The process of gathering information and data about current violation policies and practices should be viewed as a collaborative endeavor to synthesize individuals' experiences and quantitative information into a shared understanding of how things currently work. This provides a common base on which to evaluate the present, shape a common vision for the future, and make that vision a reality.

### **How do I begin?**

The most effective strategy for gaining a shared understanding of the *entire* violation and revocation picture is to complete a map or flowchart of the violation process. This map documents all the decision points in the violation process, the decisionmakers at each of those points, and the flow of offenders through the process. The map includes statistics in every decision box (such as the number of offenders for whom citations are used and the number receiving warrants, and the

number of revocations filed and the number of filings resulting in each potential disposition) and depicts the amount of time from one step to the next. Exercises 4–1 through 4–3 offer guidance on how to do this. Exhibit 4–1 presents a process flowchart containing these critical pieces of information.

Mapping the violation process as a team can accomplish the following.

- It brings criminal justice system policymakers and agency staff together to articulate what decisions they make, how they arrive at those decisions, and the points in time throughout the violation process that these decisions are made.
- It quickly points out what is known and not known about the violation process and can help establish research priorities for the team.
- It educates policy team members about the violation process as a whole and the impact each individual team member has on the others.

If used as a planning framework, mapping can provide a complete picture of the violation process—one that is understood by the entire team rather than by a single agency or a few individuals.

The initial development of a map can take from a few hours to several days to complete, depending on how much information needs to be gathered or discussed and how complex the violation process is in that jurisdiction. The mapping process itself is highly instructive, but the product is also a useful tool. Consider the map as an aid to future policy discussions and identification of needed work activities. Discussions about the map may result in additional data collection, a change in procedure, or a new sanction.

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#### **DIAGRAM 4-1.**

### **Advantages of Conducting an Analysis of Current Practice**

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Understanding current practice provides an appreciation of the complexity of the process and the time invested in it by probation and parole officers, prosecutors, judges, defense attorneys, and other court officials. Understanding the duration of the process is important to assessing its efficiency.

Examining options currently available to probation and parole officers is an important step in ensuring that supervision staff have adequate resources to respond to violations.

Understanding key decision points and who the decisionmakers are is important to determine who is managing the current process and the information available to them as key decisions are made.

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**EXERCISE 4-1.**

## Developing Baseline Information: Summary of Information to Be Analyzed

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As an initial set of activities, jurisdictions should develop baseline information reflecting the current process of managing violations and the impact of those violations on the local community. The items below detail the work activities involved in developing this baseline picture.

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### Work Session Activities

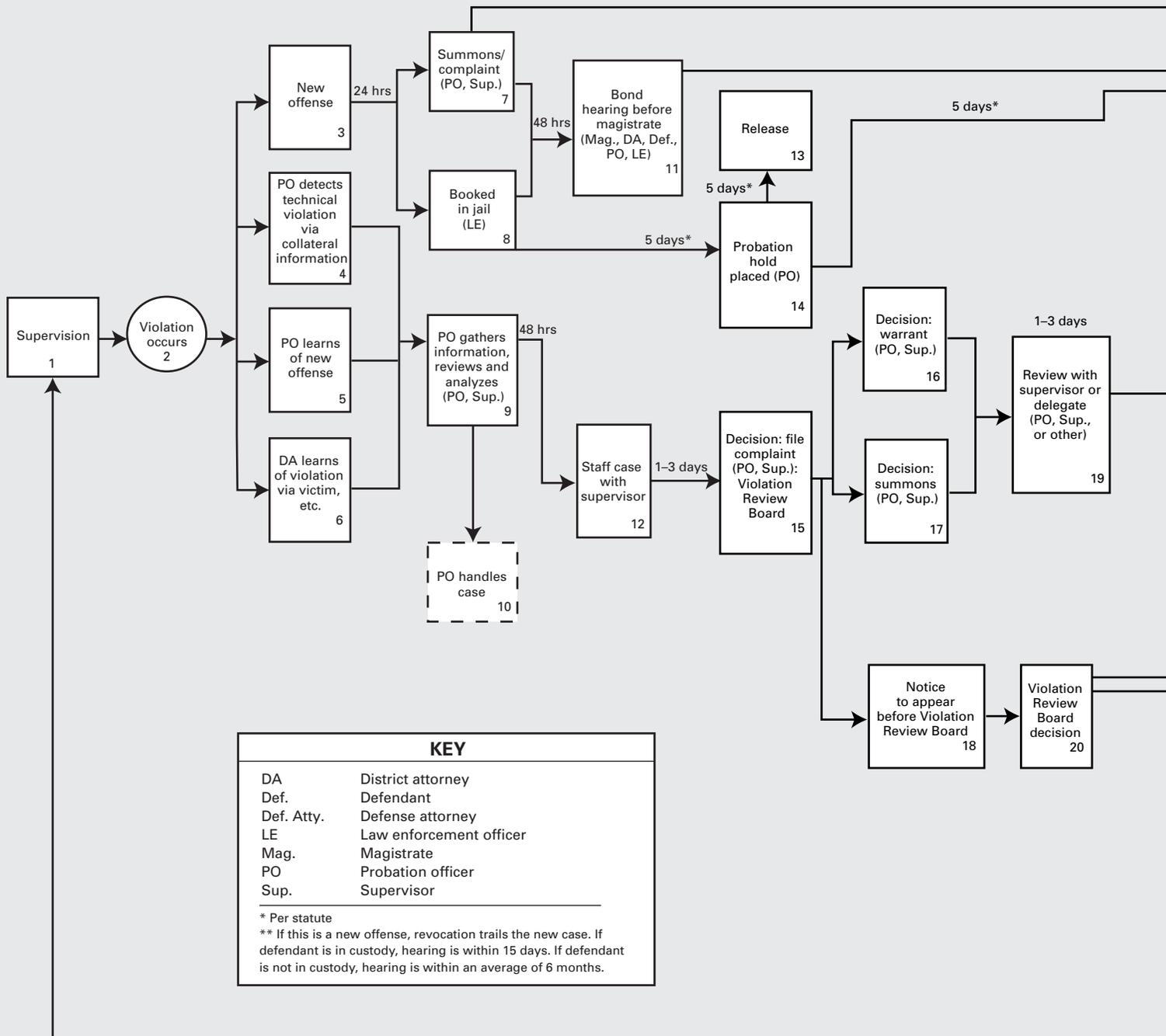
1. Document existing **policies** guiding responses to probation and/or parole violations. Review and summarize policies and procedures, memorandums of understanding, etc., from all relevant agencies.
2. Document existing **practices** that shape the ultimate responses to probation and/or parole violations. Examine informal decisionmaking processes and their roots, and analyze the practices of each relevant agency (e.g.: How do supervising agents determine when a probation or parole officer has responded to a violation? Does the prosecutor's office participate in some violation hearings but not others? Have system actors developed a practice of punishing violators with a set number of days in the local jail under certain circumstances?).
3. Document the existing violations **process**. Develop a flowchart reflecting each decision point in the process and the decisionmakers involved at each point. Reflect the time-span from point to point on the flowchart as well as the volume of cases that flow through each point over a given period of time.
4. Document the use of **system resources** on violators. Measure the use of jail bed days, the types of admissions, and the lengths of stay for all violators and for select sub-groups of violators. Measure the use of personnel resources invested in the violations process.
5. Document violation and revocation **rates**. Determine the number of offenders who committed violations in a given period of time, the actual revocation rates and the concurrence rates between revocations recommended to the court or parole board by probation or parole staff and those actually revoked.
6. Document existing **data collection systems** to monitor probation or parole violation activity and impact. Identify and describe the extent to which the criminal justice system can capture and analyze information on the violator population and the impact of this population on the system.
7. Document the **range of sanctions** available to respond to violations. Identify and summarize each violation response and intermediate sanction available to criminal justice actors as they attempt to respond effectively to probation or parole violations. Document the extent to which these responses and sanctions are used for violators.

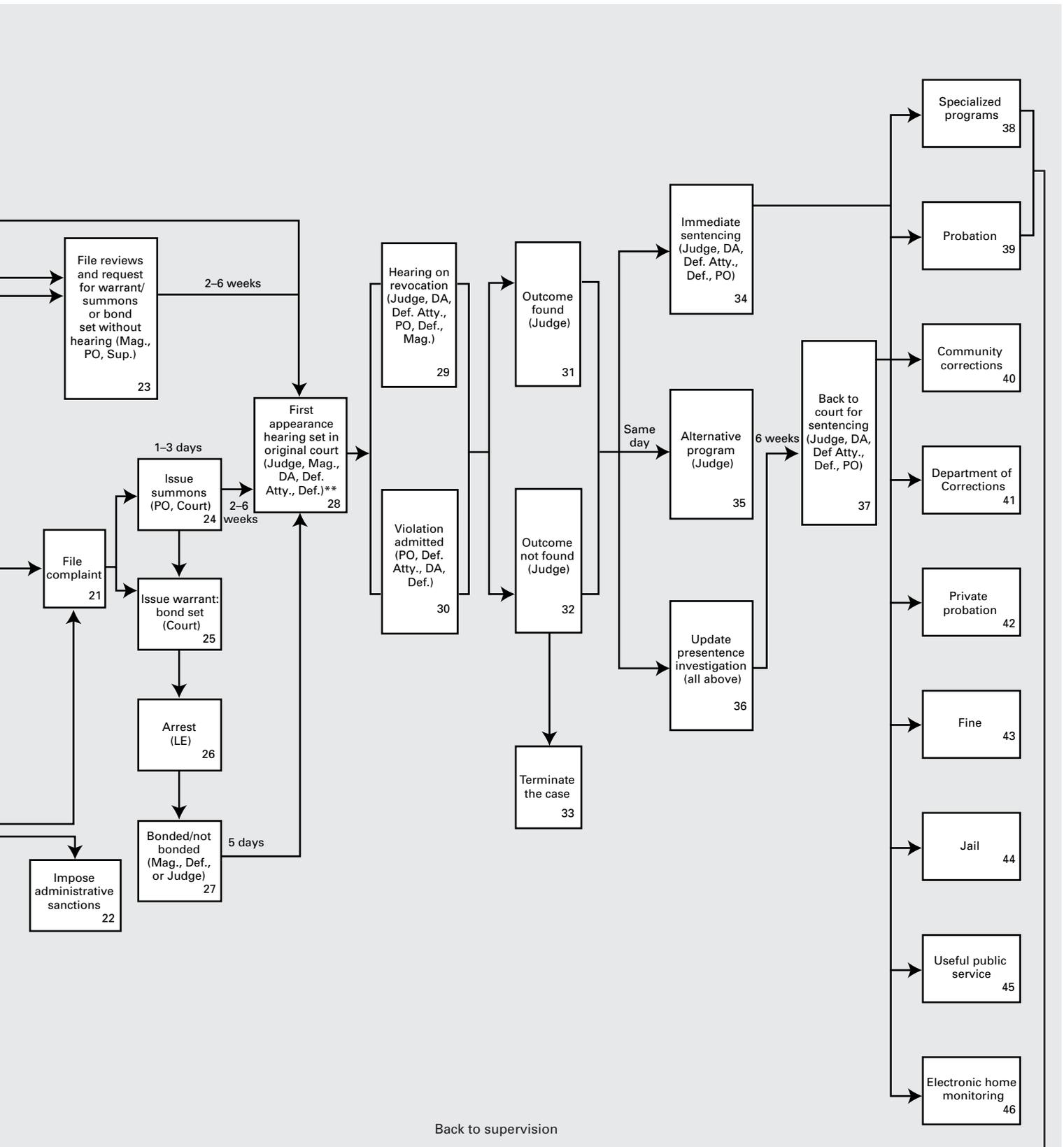
Reflect back on the map to determine, for example, how the addition of a new sanction or the modification of current practice will affect the process. View the map as an ongoing planning tool, a benchmark against which progress toward specific goals can be measured (e.g., creating a more efficient process). It often is easier to effectively plan new processes when it is possible to visualize their integration with, and impact on, the rest of the system.

A second strategy for beginning the process of establishing baseline data is to engage the policy team members in a discussion about their beliefs

and perceptions about the violation process. Do policymakers feel overwhelmed by the volume of violation cases flowing through the system? Is the revocation rate, according to policymakers' opinions, too high or too low? How adequate is the range of available responses to violation behavior? Providing data and information to facilitate these discussions can confirm viewpoints or suggest new areas of needed work. Data and information that inform policymakers' views about the process can immediately engage them in understanding the violation process and can help focus efforts on those issues that are most important to those affected by the process.

# EXHIBIT 4-1. Violation and Revocation Flowchart (Weld County, Colorado)





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**EXERCISE 4-2.**

## How Complete Is Your Map?

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The goal of this work session is to provide teams with a framework for reviewing their violation flowchart—both to assess its completeness and to explore its implications.

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**Work  
Session  
Activities**

1. Review the violations flowchart; as a group, answer the following questions:
  - **Stages of the process.** How effectively does the flowchart capture the stages of the violation process? Are all of the steps accounted for?
  - **Time elapse of the process.** Does the flowchart reflect the time it takes to pass from one stage to the next? Is the time elapse based on an estimation or a more objective measure?
  - **Decisionmakers and influencers of the process.** Does the flowchart reflect the individuals who are key decisionmakers and influencers at each stage in the process?
  - **Volume of cases.** Does the flowchart reflect the volume of cases that move through each stage of the process?
2. Review the questions and discuss the implications of each of these items. For example, does the flowchart help to identify any points that could be streamlined or otherwise made more efficient? Do the data reflect a large number of cases following a particular path that should be altered (e.g., in the majority of cases, a warrant is used when a summons might work as effectively)? Are there long time delays that could be reduced? Are many violators moving through the violation process, only to be returned to supervision with no change in their conditions? Make a list of the issues you identify through your discussions as well as their implications.

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**EXERCISE 4-3.**

## What Do You Know About Violations in Your Jurisdiction?

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The goal of this work session is to provide jurisdictions with a framework for reviewing the data they have collected about the violation process as well as the policies and informal practices that guide the process. In addition, this exercise includes questions teams should answer about the range of violation behavior responses available in their communities.

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**Work  
Session  
Activities**

1. Your team has undertaken a process to collect data about the violation process in your jurisdiction. Briefly review the findings of these data collection efforts. What are the major conclusions, and what are their implications? What additional information needs to be collected to provide an accurate picture of the violation process?
2. On close examination, many jurisdictions find little in the way of formal policy to guide the violation process. Discuss the formal policies in place in your jurisdiction. What is missing?
3. What have you learned about the informal practices that have developed in your agency with regard to responding to violations? What are their implications?
4. To respond effectively to violations, supervision staff need “tools” in their “toolbox” to respond to the variety of needs and noncompliant behaviors of offenders under supervision. Has your team developed a comprehensive inventory of the resources available to officers to respond to violation behaviors? (If not, begin to do so.) What distinguishes one type of response from another? How can guidance be provided to staff on which response is appropriate under a particular set of circumstances?

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A third strategy is to review existing data. What data currently are in automated information systems? Are these data local or State level? What data are produced on a regular basis that can be found in agency annual reports? An initial team meeting devoted to reviewing existing data may help identify gaps in the data and whether the currently available information can answer team members' questions. It will likely produce additional research questions that respond to the team's immediate concerns about violations.

## **Methods of Capturing Baseline Information**

Mapping the violation process can help policymakers understand the stages of the process, the volume of cases that flow through the system, and the time span between decision points. It can also identify bottlenecks in the system, decision points where information is critical, and strategies for making the process more efficient. Policymakers should also consider collecting and analyzing other categories of baseline information when developing new policies (see diagram 4-2 for a more detailed discussion of the key categories of information).

### ***Document existing policies that guide violation responses***

First, gather the formal policy—including written procedures, memorandums, and other materials—that exists within agencies on how and when they respond to violations. Look for training materials that are provided to new staff to determine whether they contain guidance on handling these cases. This type of information is typically found within the supervision agency, but the prosecutor's office and others may also have documented guidance for staff. These documents will offer an excellent understanding of the formal direction provided to staff regarding how to respond to violation cases.

### ***Document existing practices and attitudes that shape violation responses***

Consider the informal decisionmaking processes that exist in each agency. For example, how do supervising officers determine when to respond to a violation? Do they make this decision independently, consult a peer, or seek approval from a supervisor? If officers deviate from official policy, are they consistent? That is, are all officers following the same practice, or is each officer

acting independently? Does the prosecutor's office participate in some violation hearings but not others? Do judges generally agree with the supervision officers' recommendations for responding to violations, or do they frequently return revokees with no change in the terms of their supervision?

### ***Document the offender population***

Too often, policymakers do not have offender profiling data available on which to make sentencing and sanctioning decisions.<sup>2</sup> What are the rates of revocation and the characteristics of this population? How does this population compare with the population of offenders whose probation or parole is not revoked? What are the number and types of violations? Are there any trends or patterns that can be noted about the violator population?

### ***Document the range of options available to respond to violation behaviors***

The full range of options available to respond to violation behavior is often not known by all criminal justice system actors. What is the full range of options available, and are they used? Are some options more fully used than others? Are there significant gaps in the range of responses that is available?

### ***Document the impact of violations and revocations on criminal justice system resources***

What is the impact of current responses to violations and revocations on the rest of the criminal justice system? How much time do probation officers spend "making the case" for a revocation? Are disproportionate resources spent on violators? For example, offender population analyses conducted in Macomb County, Michigan,<sup>3</sup> and Suffolk County, New York, revealed that a significant number of jail bed days were consumed by violators detained awaiting court hearings. Both jurisdictions were able to take actions that resulted in a reduced use of jail beds for violators. Exhibits 4-2 and 4-3 provide types of information that can be gathered through these documentation efforts.

### ***Assess the supports to the criminal justice system that affect the policy teams' ability to effect change***

Adequate staff, training, and research and information system capacities are necessary to

**DIAGRAM 4-2. Getting Started: What Information Do I Need to Collect, Where Is It, and How Do I Get It?**

Category	What Is It?	Where Is It?	How Do I Get It?
Current policies	Written policies and procedures, legislation, court decisions	Agency operating manuals, staff training curriculums, State statutes, State sentencing policies	<ul style="list-style-type: none"> <li>• Make a list of all the agencies and statutes that guide violation and revocation decisionmaking.</li> <li>• Compile written documents from each.</li> <li>• Note all policies that affect the violation process.</li> </ul>
Current practices and attitudes	Perceptions and attitudes of staff, decisionmakers, policymakers	Qualitative information to be collected through interviews, focus groups, surveys	<ul style="list-style-type: none"> <li>• Make a list of the agency personnel and decisionmakers who make violation and revocation decisions.</li> <li>• Determine the questions and information to be ascertained from them.</li> <li>• Conduct focus groups, interviews, or mail questionnaires.</li> <li>• Summarize information.</li> </ul>
Offender population profiling	Statistical and quantitative information about the offender population	Automated information systems in the court, probation, parole, corrections; manual records such as offender files or court records	<ul style="list-style-type: none"> <li>• Make a list of the questions and/or types of information desired about the offender population.</li> <li>• Develop a data collection instrument and/or list of variables to be collected.</li> <li>• Determine a strategy for collecting and analyzing the data.</li> </ul>
Range of options	All of the violation responses currently available and the extent to which they are used	Embedded in agency policy, statutes	<ul style="list-style-type: none"> <li>• Develop a list of all available responses to violation behavior.</li> <li>• Determine what is known about each response and develop a strategy for compiling this information.</li> <li>• Consider developing a directory for supervising agents that documents the range of available responses and the types of violation behavior that might warrant the use of each response.</li> <li>• Consider whether there are gaps in the existing range of options.</li> </ul>
Impact on resources	Behaviors, resource implications, impacts of the violation process on other parts of the system	Agencies, governments, and communities that are affected by the violation process	<ul style="list-style-type: none"> <li>• Make a list of all the agencies affected by the violation process.</li> <li>• Determine how they are affected. What impact do violations have on jail beds, for example? Are there costly bottlenecks in the violation process? What is the impact of the process on the court? What is the impact on supervision and agency workload?</li> </ul>
Supports to the system	Staffing, information system capacity, operating support	Data processing, court and corrections' information systems, staffing complements, budgets	<ul style="list-style-type: none"> <li>• Catalog the list of data variables, routine reports, and data collected from all relevant information systems.</li> <li>• Match this list (of what is in place) against what information and data is needed about the offender population, flow, and sanctions (what should be in place).</li> <li>• Identify the gaps in the information system capacity and what stopgaps and long-term measures will be required to address the deficiencies.</li> <li>• Assess adequacy of staffing and budget resources.</li> </ul>
Other types of information	Additional information that will enhance what is known about the current violation process	Perceptions and attitudes, attitudes, possibly information systems	<ul style="list-style-type: none"> <li>• Determine if there are critical issues about which more information is needed to enhance (or even challenge) current policy or practice.</li> <li>• Determine a strategy for collecting the information.</li> </ul>

**EXHIBIT 4-2.**

**Examples of Results of Statistical Analyses of Violation Practice**

**Length and Complexity of the Revocation Process**

**How long does it take to move from detection of a violation through court disposition?**  
The estimated average ranges from 44 to 64 days.

**Who is involved in the process?**  
Probation, prosecution, courts, law enforcement, jail administration, service providers.

**What mechanism is used to bring a probationer into the violation process?**  
Eighteen percent receive summonses.  
Eighty-two percent have warrants issued against them.

**Disposition of Motions to Revoke**

Disposition	Number	Percent of Dispositions	Percent of Total Probation Population
Prison <sup>a</sup>	94	36.0	2.50
Jail <sup>a</sup>	8	3.0	0.21
Jail with probation <sup>a</sup>	56	21.0	1.50
Probation with conditions <sup>b</sup>	4	1.5	0.10
Probation <sup>b</sup>	100	38.0	2.60
a. Incarcerative sanctions	158	60.0	4.21
b. Nonincarcerative sanctions	104	39.5	2.70

**For What Violations Do Probation Officers File Motions to Revoke?**

Types	Percent
Positive urinalysis	27.0
Failure to participate in treatment	20.0
Absconding	18.5
New felony	12.0
Failure to report	10.0
New misdemeanor	4.0
All other technical	8.5

undertake these data collection activities and, ultimately, to achieve the types of outcomes and long-lasting policy changes envisioned by criminal justice policymakers. In most jurisdictions, staff are not available to undertake research efforts, and few probation officers have the technical skills necessary to conduct an analysis of the offender population or the jurisdiction's revocation rate. In addition, automated information that can inform policymaking may be limited, not retrievable in a form that can be understood and used by policymakers, or, worse, absent altogether. Many agencies lack the supports needed

to aid informed decisionmaking. By working together, agencies can pool resources to create these supports or identify new resources for them.

**Document other types of information as appropriate**

Based on a jurisdiction's circumstances and policymaking environment, other types of information may be important to collect as well. For example, some probation agencies are surveying community members about their perceptions of the criminal justice system.

**EXHIBIT 4-3.**

**Case Processing Time of Violations**

Timeframe	Violation Type			
	All Cases (N=177)	Technical Violations Only (n=56)	Absconder Cases With No New Arrests (n=18)	New Arrests Only (n=12)
Average time from sentence date to rearrest date (new arrest cases)	N/A	N/A	N/A	471 days
Average time from rearrest date to VOP filing date (new arrests only)	N/A	N/A	N/A	53 days
Average time from sentence date to VOP filing date	539 days	523 days	595 days	N/A
Average time from VOP filing date to VOP disposition date	176 days	173 days	131 days	198 days
Percent of cases taking longer than 6 months from VOP filing to disposition	40%	35%	19%	42%
Percent of cases taking longer than 1 year from VOP filing to disposition	12%	12%	13%	17%

VOP = violation of probation  
 N/A = not applicable

Diagram 4–2 provides a summary of each of the categories of baseline data to consider collecting, potential locations of the data, and some suggestions for how to begin collecting them. The information, which is illustrative only and not inclusive, is an overview of how to begin collecting baseline information and developing a violations map.

**Collecting Baseline Information**

Collecting baseline information involves both quantitative and qualitative information gathering. The following describes the kinds of quantitative, or statistical, information a jurisdiction may consider collecting and the qualitative information that will also inform this process.

**Gathering quantitative information**

Developing a quantitative understanding of the characteristics related to the volume and types of cases processed within a certain timeframe is important for gathering baseline information. Access to an automated information system will facilitate the collection and analyses of this

information, but it is not essential. There are multiple ways to collect the needed information.

Once a jurisdiction elects to undertake a data-building effort, the mechanics of data collection and analysis will depend on the technical capacity of local information systems. No jurisdiction has the ideal data collection technology; in fact, many find their systems provide little, if any, valuable information effortlessly. Thus, a lack of automated technology should not deter your efforts. A jurisdiction undertaking this type of effort must find ways to collect, aggregate, and analyze data on a periodic basis.<sup>4</sup>

To understand more about the offender population, the impact of violations on resources, and the violation process, consider the data elements listed in diagram 4–3. A jurisdiction needs to know how many offenders it is serving, what level of seriousness and risk these offenders represent, and how they are being sanctioned. Exhibits 4–4 and 4–5 provide examples of findings from two jurisdictions following the completion of their baseline data analyses.

**DIAGRAM 4-3.**

## Gathering Data on the Overall Criminal Justice Population of the Jurisdiction

How many violators are incarcerated in jail or prison? Of these, identify:

- The number of felony convictions.
- The percentage of felony convictions.
- The number of misdemeanor convictions.
- The percentage of misdemeanor convictions.

What is the criminal history for those incarcerated in jail or prison? Of these, identify:

- The number with prior felony convictions.
- The number with prior misdemeanor convictions.

How many offenders are under community supervision (probation or parole)? Of these, identify:

- The number of felony convictions.
- The percentage of felony convictions.
- The number of misdemeanor convictions.
- The percentage of misdemeanor convictions.

What is the criminal history for those on probation or parole? Of these, identify:

- The number with prior felony convictions.
- The number with prior misdemeanor convictions.

**EXHIBIT 4-4.**

## Findings From Macomb County, Michigan, Data Analysis (Excerpt)

The purpose of the Macomb County Probation Violation Project was to study agent/judicial responses to technical rule violation behavior. To that end, all formal probation violations and 50 informal violations occurring in 1991 were reviewed. Violations in which the offender committed a new felony were included in data collection but separated for analysis. The data that remained represented the "technical rule violator population" in Macomb County in 1991. Some highlights are noted below, followed by what we feel are the most significant findings.

### Findings

- 40 percent of formal cases resulted in revocation.
- 54 percent of all cases received some jail or prison time as a response to the violation. Of those receiving incarceration, 40 percent were revoked, and 14 percent were continued.
- 60 percent of formal probation violations were continued on probation with the following outcomes:
  - 1 percent received new or modified conditions of probation.
  - 33 percent received extended terms.
  - 24 percent received jail time.
  - 22 percent had other actions.
  - 5 percent had no changes made to their probation.
  - 5 percent of the outcomes were unknown due to missing data.
- Four probation agents, representing 17 percent of the agent workforce, brought 32 percent of all formal violations before the court but accounted for 45 percent of the cases that ended in revocation.
- Five other agents, representing 21 percent of the agent workforce, were responsible for 33 percent of all formal violation activity but only 23 percent of all cases in which revocation occurred.
- Three judges, or 19 percent of all the judges, accounted for 48 percent of all cases involving revocation.
- Three other judges were responsible for only 17 percent of all revocations.

*continued*

The information described in diagram 4–4 specifically addresses probationers and parolees. With this type of information, a jurisdiction can identify the percentage of offenders by their risk categories and cross-tabulate this with the circumstances of their violations. By monitoring over time, policymakers can assess what affect new violation practices are having on offender behavior, the system’s response to violations, and the degree to which policies manage different levels of risk among the offender population.

The information described in diagram 4–5 is related to the impact of policies on offender recidivism and public safety. With this type of information, a jurisdiction can track changes in

the rate of new criminal activity over time and, through cross-tabulations, associate different violation behaviors with these changes. If rates of new arrests and convictions decrease over a period after the policy is implemented, the implication is that the policy is having a positive effect on public safety and, concurrently, the ability of offenders to successfully fulfill probation and sentence conditions.

The data described in diagram 4–6 can be useful for a jurisdiction’s budget and resource planning work. Clearly, if revocations to incarceration decrease as a result of a new violation policy, investments in incarcerative space may decrease. At the same time, although there may be a

**EXHIBIT 4-4.**  
*continued*

**Findings From Macomb County, Michigan,  
Data Analysis (Excerpt)**

- The three major reasons for technical violations, in order of frequency, were:
  - Failure to report.
  - Nonpayment of fines, costs, restitution, etc.
  - Misdemeanor behavior.
- Probationers whose probation was revoked were similar to those whose probation was continued, although three characteristics of those whose probation was revoked were found to have been statistically significant. Those with revoked probation were more likely to:
  - Have a history of substance abuse.
  - Have committed a misdemeanor behavior as a violation.
  - Have been arrested at a younger age.
- Of the 54 percent of cases in which incarceration was an outcome of the petition to revoke, 22 percent were sent to prison, 43 percent received more than 90 days in jail, and the remaining 35 percent received less than 90 days in jail. Thus, when incarceration was an outcome of the violation, 65 percent of cases received 90 days or more.
- Of the 54 percent receiving incarceration, 74 percent also had their probation revoked.

**Some  
Conclusions**

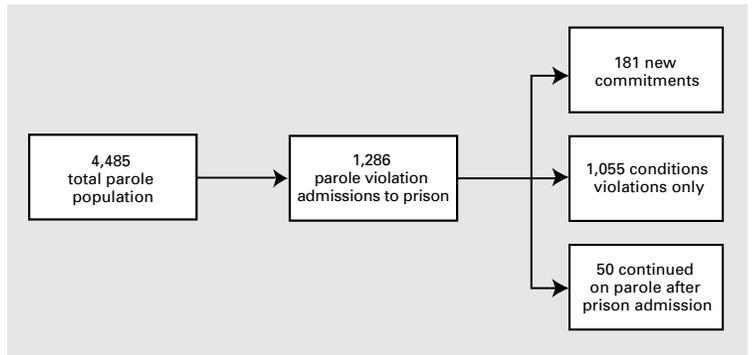
- Individual decisionmaking by agents and judges is highly significant in the violation procedure.
- The purpose of the violation process is not consistent among agents or judges, based on their differing rates of revocation.
- The general risk of the offender does not appear to be an explicit factor in the violation process.
- The violation process is not systematic.
- Agent responses to violations are more likely based on individual values rather than department objectives and expectations.
- Use of jail tended to be linked to revocation of probation.
- When incarceration was used in disposition, terms tended to be lengthy (65 percent received more than 90 days), and the term of probation was generally revoked (74 percent). Short jail terms (less than 90 days) were used in only 35 percent of the cases receiving incarceration and only 14 percent were continued on probation.

**EXHIBIT 4-5.**

**Example of Baseline Analysis of Past Parole Violations in Utah**

**1995 Parole Violations**

- 28.7 percent of parolees ended in a parole violation.
- 4.0 percent had a new commitment for a new offense.
- 23.5 percent had a violation for conditions.
- 1.1 percent were continued on parole after being admitted to prison for a violation of conditions.



**Reasons for Parole Violations in 1994**

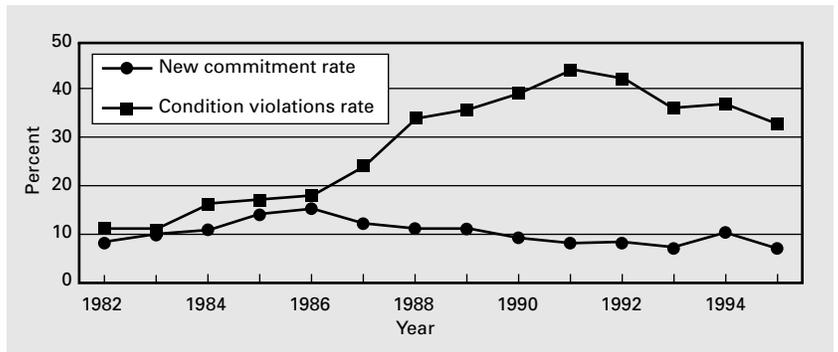
A random sample of 115 parole violations from 1994 provided the following reasons:

Violation	Number of Occurrences	Percent of Total	Comments
New crime	33	28.7%	52.5% included only a single allegation 47.5% included multiple allegations
Arrest	1	0.9	
Absconding	20	17.4	
Alcohol or drug violation	38	33.0	
Failing a program	16	13.9	
Changing residence	5	4.3	
Failure to report	2	1.7	

**Rates of New Prison Commitments for Parolees and Violations of Parole Conditions**

- In 1982, 8 percent of parolees went to prison for a new commitment, and 11 percent went to prison for a violation of parole conditions.
- By 1986, this had increased to 15 percent for new commitments and 19 percent for condition violations.
- Violations of conditions reached a high point in 1991 (44 percent). This was reduced to 40 percent in 1995.
- The rate of prison admissions for violations of conditions has increased dramatically since 1986, while the rate of new commitments has decreased.

Source: Utah Department of Corrections, 1996.



**DIAGRAM 4-4.**

## **Gathering Data on Probation and Parole Populations Involved in Violation Actions**

What number and type of original conviction offenses within the pool of violators result in:

- A technical violation with a return to supervision?
- A new law violation with a return to supervision?
- A technical violation with a revocation to incarceration?
- A new law violation with a revocation to incarceration?

What number of lower risk offenders commit:

- A technical violation with a return to supervision with new conditions?
- A new law violation with a return to supervision with new conditions?
- A technical violation with a revocation to incarceration?
- A new law violation with a revocation to incarceration?

What number of higher risk offenders commit:

- A technical violation with a return to supervision with new conditions?
- A new law violation with a return to supervision with new conditions?
- A technical violation with a revocation to incarceration?
- A new law violation with a revocation to incarceration?

**DIAGRAM 4-5.**

## **Gathering Data on the Level of Criminal Activity in the Jurisdiction**

Criminal activity is measured by the:

- Number of new felony arrests for probationers or parolees.
- Number of new misdemeanor arrests for probationers or parolees.
- Number of new felony convictions for probationers or parolees.
- Number of new misdemeanor convictions for probationers or parolees.
- Types of circumstances prompting technical violations, for both compliance violations and new law violations.

perceived cost savings based on a reduced need for jail or prison beds, this data will help target the additional resources the jurisdiction will need to invest in nonincarcerative interventions (e.g., additional probation staff, additional treatment, surveillance technology, employment and skill-building services) to maintain violators in intermediate sanctions.

### ***Gathering qualitative information***

#### ***Interviewing as an information-gathering activity***

Too often, policies are developed without input from the people charged with implementing them; it is vitally important to talk with system

players who are responsible for carrying out these policies. Key policymakers—such as judges, prosecutors, defense attorneys, probation and parole administrators, and, potentially most important, line staff who supervise offenders and are responsible for filing violation motions—are among those who must be interviewed.

Why gather information from those responsible for implementing these policies? Understanding how and why individuals are making decisions; developing a sense of appreciation for the level of consistency among the approaches to violations across and within agencies; gathering from these individuals their thoughts regarding challenges, potentials, and suggestions for improvement; and

**DIAGRAM 4-6.**

## **Gathering Data on the Impact of Criminal Justice Resources in the Jurisdiction**

Use of criminal justice resources can be measured by the:

- Range of intermediate sanctions used to supervise technical violators.
- Range of intermediate sanctions used to supervise new law violators.
- Length of supervision for technical violators returned to supervision.
- Length of supervision for new law violators returned to supervision.
- Length of stay for technical violators revoked to incarceration.
- Length of stay for new law violators revoked to incarceration.

**DIAGRAM 4-7.**

## **Gathering Qualitative Data: Suggested Interview Areas**

- How do judges, prosecutors, and defense attorneys view the probation or parole authority's decisionmaking practices?
- To what extent is there clarity about the circumstances that prompt the filing of a violation?
- Is violation policy in a written form that everyone has seen, or is it implicitly understood through a pattern of practices that has evolved over time?
- Is there a common understanding of the policy that guides violation decisionmaking?
- To what extent are the recommendations from the probation or parole agency generally accepted?
- To what extent are recommendations rejected?
- Under what circumstances are violation recommendations made by probation or parole staff not accepted?
- What is the quality of working relationships between the probation or parole agency and the courts, the prosecutor, and the defense?
- How do each of these constituencies describe the purpose of the violation process?
- What outcomes do judges and prosecutors seek through a technical violation?
- What changes in policy would be desirable?
- What changes in practice and procedure would be desirable?

knowing what it would take to gain widespread support for policy changes are all essential pieces of information and equally as valuable as the quantitative data that have been described previously.

**Interviewing judges, prosecutors, and defense attorneys.** Because probation and parole agents most commonly initiate motions to revoke, it is vital to gauge the level of confidence that judges, prosecutors, and defense attorneys have in these agents. It is also critical to pinpoint where consensus exists around violation policy and where there is disagreement. Diagram 4-7 identifies qualitative information that should be collected through an interview process.

**Interviewing probation and parole line staff.** Ultimately, probation and parole line staff, including supervisors, have substantial influence on how violation policies are implemented in their agencies. Policymakers should understand how well judges, prosecutors, and defense attorneys understand, agree with, and adhere to policies; it is imperative to determine the same of field staff. Because probation and parole staff are responsible for the supervision of offenders, their familiarity with the individual circumstances of each case can greatly affect their responses to technical and new law violations. For staff working in an environment in which policy has been implicit, the opportunity to exercise discretion is considerable. But, even with explicit policy

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guided by assessment tools and decision matrices, discretion must be available. The question is, how widely does its exercise lead to or divert from the achievement of the policy's goals? Because of this, it is important to explore the attitudes and beliefs that underlie the agents' decisions. Exhibit 4–6, an excerpt from a report, is an example of what one jurisdiction learned from these kinds of interviews.

### ***Interviewing methods***

There are several approaches for collecting this qualitative information.

**One-on-one interviews.** One-on-one interviews provide an excellent means for eliciting answers to specific questions and gaining knowledge about how the system as a whole responds to violation decisionmaking. Although individual interviews are time consuming, their value is significant. It is important to consider a number of factors in identifying who should conduct these interviews.

Interviewing judges, prosecutors, and defense attorneys while developing violation policy will greatly benefit the efforts of the supervision agency initiating this work. However, their positions and status within individual jurisdictions may require careful thinking about who is in the best position to gather honest information from them. The interviewer should be someone who is able to elicit information without feeling defensive about what is being said. If the probation or parole agency lacks someone who is appropriate for this role, it is advisable to look to members of the policy group for assistance. Some of the members may be willing to divide interview assignments—for example, the judge might speak with other judges, the prosecutor with his or her peers, and so forth. In addition to considering who will conduct these interviews, also consider how they will be conducted. Develop an interview protocol in advance to ensure that the right questions are asked and omissions are not made. Inform interviewees in advance of the purpose of the interview and its outcomes. Follow up with all who were interviewed with a brief summary of who was interviewed, some of the issues identified, and what will be done as a result. These interviews will elicit extraordinarily useful information. Thoughtful planning will ensure that the jurisdiction takes full advantage of this opportunity.

**Focus group interviews.** If time is an issue, conduct interviews using a “focus group” approach. Invite judges to one group, prosecutors to another, and defense attorneys to a third to elicit the same type of information as would be discussed in one-on-one interviews. This format allows for significant feedback in a short timeframe and also can serve to begin developing a common understanding of issues among a group of individuals. Identifying an appropriate individual to facilitate this dialogue is critical to ensuring that the conversation is focused and productive.

### **Interviewing probation and parole staff.**

Considering the size and complexity of the agency, plan to interview all members of a small agency or representatives from each level and specialty area of a larger agency. As with interviewing external stakeholders, give consideration to those who are in the best position to conduct these interviews. Because the goal is to gather information, it is important to use as interviewers those who can collect the testimony and report it in a nonjudgmental fashion. Consider whether individuals from other agencies might conduct these interviews. At one NIC project site, probation agency staff in two contiguous jurisdictions worked together to conduct this work, each interviewing the other's staff. Again, preparation and thoughtful planning are key. Be sure to explain thoroughly the intention of the project. Diagram 4–8 identifies the types of information to seek from supervision agency staff.

### ***Interviewing skills***

In an interview scenario, it is critical that interviewers are skilled in the art of open-ended questioning, interested in hearing what is being said, and clear that it is their task only to elicit information, not to debate or defend. Each interviewer should have a prepared set of questions and guidelines for conducting the interview that meet the informational objectives driving this task. If the designated interview team is not confident in its skill level, it may be worthwhile to contract with a skilled interviewer who can bolster this activity by:

- Reviewing and refining the interview questions and guidelines.
- Attending the first round of interviews.
- Modeling good interview skills.
- Critiquing the overall interview process.

## Example of Findings From Supervision Staff Interviews

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**TO:** Chief Probation Officer  
**FR:** Consultant  
**RE:** Summary of Interviews on the Violation Process

What follows is a summary of key findings from a series of interviews with 15 probation staff from your department. The background, responsibilities, and philosophies of those probation officers interviewed were diverse and, thus, intended to be representative of multiple perspectives and realms of experience within the department. Each participant was asked the same questions during an interview that took an average of 45 minutes. The topics as they related to probation violations sought to gather answers to the following questions:

- How do officers learn to do their jobs—what kind of training is available?
- What policy exists, both in substance and form, to guide violation decisionmaking?
- How do officers actually carry out the policy—what drives their decisions to violate?
- To what extent and under what conditions is discretion exercised in violation decision-making?
- Are existing responses sufficient for enhancing overall practice?
- What is most frustrating about the violation process?
- What changes are needed to enhance an officer's ability to do her or his job as it pertains to both violations and regular supervision?

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### Summary

For the most part, people expressed similar understandings of the issues they were asked to consider. The key findings are noted below.

- No written or unwritten policies guide the violation decisionmaking process.
- No formal training curriculum exists to help officers make and record the rationale for their decisions to charge an offender with a violation.
- Violation decisions are not monitored in a consistent manner.
- Discretion is widespread.
- Individual officer experience and philosophy drive violation decisionmaking.
- Deciding if an offender violated probation depends on the individual officer.
- There is general consensus that violations are a last resort, used only after all other avenues are exhausted.
- There is no consistency in judicial response to violation recommendations.
- There is widespread support of probation recommendations by courts and prosecutors.
- Adjournments and other court processing mechanisms slow down the violation process.
- Existing responses seem adequate, although officers are unaware of what lies outside the county.

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**DIAGRAM 4-8.**

## Understanding Probation and Parole Agents' Decisionmaking

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Understanding how agents formulate violation response decisions requires an understanding of:

- How agents learn to do their jobs (formal training versus peer training) and the extent of ongoing training and supervision available.
- What policy exists, both in substance and form, to guide violation decisionmaking.
- How agents carry out the policy and what drives their decisions to charge an offender with a violation.
- The extent to which discretion is exercised in the violation decision and under what conditions.
- The extent to which existing responses are sufficient for enhancing overall practice.
- The aspects of the violation process that are perceived as most frustrating.
- The changes that are needed to enhance an agent's ability to do her or his job as it pertains to both supervising offenders and responding to violations.

The use of a skilled interviewer at the beginning of the policy development effort can result in both good baseline information and the skills to apply these techniques later in the process.

### *Choosing who should be interviewed*

In relatively small jurisdictions, it may be possible to interview all of the key actors in each constituency group. However, in larger jurisdictions, it may be necessary to identify a subset of each group in which the following characteristics are represented:

- Geographic and demographic factors (e.g., rural courts, towns, suburban areas, urban courts).
- Legal jurisdiction (e.g., misdemeanor cases, felony cases).
- Perceived philosophic viewpoint (e.g., "tough on crime," "liberal," attentive to politics, attentive to policy).
- Pattern of practice (e.g., revokes to incarceration often, generally accepts probation and parole recommendations, always overrides recommendations, supports use of range of community responses).

### *How Often Information Should Be Collected*

Jurisdictions entering into these endeavors should consider how they can develop mecha-

nisms to gather information on an ongoing basis. The collection of this information provides the policy team with the ability to compare pre-policy and post-policy conditions and draw conclusions about the relationship between policy, practice, culture, and outcomes. This would imply that information gathering is not a one-time venture. In fact, the ongoing collection of data is the means of determining whether progress is being achieved over time. Chapter 9 of this handbook describes the importance of revisiting baseline data time and again.

### **Notes**

1. For additional discussion of this issue, see McGarry, Peggy, and Madeline M. Carter, eds., 1993, *The Intermediate Sanctions Handbook: Experiences and Tools for Policymakers*, Washington, D.C.: U.S. Department of Justice, National Institute of Corrections, and Alexandria, Virginia: State Justice Institute, ch. 9 and 10.
2. For more information on how to develop offender profiles, see McGarry and Carter, *The Intermediate Sanctions Handbook*, 101–113.
3. For a discussion of the Macomb County effort, see Burke, Peggy, Center for Effective Public Policy, 1997, *Policy-Driven Responses to Probation and Parole Violations*, Washington, D.C.: U.S. Department of Justice, National Institute of Corrections, 30–31.
4. For more information on how to build the capacity to collect and analyze data, see McGarry and Carter, *The Intermediate Sanctions Handbook*, ch. 10.

# Supervision: What Are We Trying to Achieve?

Richard Stroker

*We may be lost but we're making good time.*

—Yogi Berra, lost while driving his car in Upstate New York

Preceding chapters of this handbook discussed the value of clearly articulating the goals and objectives of the violation process. Establishing goals provides a clear direction for what you want to accomplish through your violation response system. This chapter discusses the next important step in going forward—the implementation of goals and their impact on offender supervision.

In stating your violation goals, you should have identified many supervision-related issues that require some attention to make those goals attainable. You will most likely find it necessary to address these supervision issues as part of your implementation process. These issues may relate to the overall objective of supervision or to more specific practices and procedures that have a direct bearing on your violation process. What is also likely is that making changes to your supervision goals and practices will require a willingness to change some of the fundamental operations and attitudes present in your agency. Although this will be difficult and will take some time, it is an integral part of pursuing your violation process goals.

Components of the Process
Establish/maintain policy team
Assess current practice
Agree on goals
Explore policy options
Assess impact of options
Implement new policies/practices
Monitor and assess new policies/practices (ongoing)

## Well Done Is Better Than Well Said

Once you have articulated your goals, the next step, which is no small task, is to find the best way to accomplish them. This will involve several considerations, and each jurisdiction has to find the best formula for itself. Some of the lessons learned by other jurisdictions that have spent a considerable amount of time working on their violation processes are discussed in the next sections.

### ***Engage in a broad dialogue about your intended course of action***

Many different areas of your agency—and many other agencies as well—may be affected by your actions. Solicit input from as many line and supervisory staff in your agency as possible. It is also important to discuss your intentions with appropriate supervising entities: judges, parole board members, jail administrators, prosecutors, and defense attorneys. Spending quality time up front with as many individuals as possible who may be affected by changes may prevent difficulty or misunderstandings later. The more clearly you articulate your goals and objectives, the better your staff and other entities will understand what is being suggested. Considering their feedback before you implement changes will help you anticipate problems and craft the best possible violation process.

### ***Understand this is a long-term process***

Your changes will not be accomplished quickly. This process can take from a few months to several years to complete fully. Your current violation practices were not developed overnight, and it will take considerable time to modify them

effectively. This issue goes deeply into the reasons and methods that underlie your work, and some individuals will be reluctant to change their perspective or practices in the short term. Be patient, try to appreciate the perspectives of others, and do not give up on your goals.

### ***Be willing to experiment with large ideas on a small scale***

Many jurisdictions that have worked on violation response policy first developed a small “pilot” program to test out new ideas and methods. This allows a jurisdiction to experiment and exercise some flexibility in its violation process before it fully commits to a particular course of action. Pilot-testing a program allows staff to see how new procedures or processes will affect their work demands and diminishes overall concerns about the new practices. A pilot program also provides the opportunity to determine the impact your new procedures will have on other areas of your work and on other entities.

### ***Be flexible but committed about how you move forward***

As you experiment with your violation practices, new ideas and other possible improvements will emerge. Be willing to change specific methods to improve how work gets done, and demonstrate your commitment to making this process succeed. If you become inflexible about how to do work, you may send the wrong message to others about what is most important. However, continue to stress the importance of striving toward your overall goals.

### ***Embrace every opportunity to improve your system and make it simpler***

The data you accumulate, the flowcharts you create, and all the other information you collect will help you understand how your current violation system operates. This information also will help you clarify the ways you can improve your violation practices. Become an advocate for

*Become an advocate for continuous improvement and simplification. Most violation systems are complicated and have evolved to their current form over a considerable length of time. Look for steps in your process that can be eliminated or shortened and take advantage of every opportunity to identify specific ways your system can work more efficiently.*

continuous improvement and simplification. Most violation systems are complicated and have evolved to their current form over a considerable length of time. Look for steps in your process that can be eliminated or shortened and take advantage of every opportunity to identify specific ways your system can work more efficiently.

### ***Maximize your available resources***

One of the greatest resources available in this arena is the staff of the supervision agency. Examine how staff currently use their available time and make certain that it is being devoted to the activities that have the most significance for your agency. Explore relationships with other entities that can expand or create new violation options where they are needed. Consider deploying staff in new ways, reassigning responsibilities, or accomplishing necessary activities with new technologies or methods.

Try to keep all of this in mind as you redesign your practices. Translating your ideas and vision into reality may require adjustments in fundamental beliefs and practices, such as how your probation or parole department thinks about supervision. Some ideas may be too difficult to achieve, and some positive notions may have to be sacrificed. However, keep moving forward with the implementation of ideas and innovations that further your violation goals. Having a good violation system in place is better than having a great violation system that only exists on paper.

### ***When Allocating Resources, Focus on the Most Important Things First***

Many participating jurisdictions that sought to make changes to their violation process found they had to reallocate their resources or redistribute work in ways that maximized their ability to reach their goals. Although your jurisdiction may be able to secure some additional funding or other resources before implementing changes, most jurisdictions that have gone forward in this area did so with little or no increases in staff or funding.

Limited resources force an agency to prioritize work assignments, analyze what work gets done or is left undone, and assess how staff use their work time. In a previous chapter, the importance of establishing goals was discussed. These goals will become invaluable to an agency attempting

to prioritize its use of limited resources. Once the critical goals and objectives of an agency are clear, resources must be reallocated so it can meet its goals. If an agency wants its officers to spend more time identifying violation behavior, following up on violations, or interacting with offenders posing a higher risk of failure, the time must come from somewhere. Most probation and parole officers have relatively high caseloads, and simply shifting cases from one officer

to another may not bring an agency closer to reaching its overall goals. The following information briefly identifies some of the strategies recently developed by agencies to allow them to better meet their supervision or violation objectives.

### ***Understand the finite nature of your resources***

Many jurisdictions have concluded that their probation and parole officers should devote the majority of their time to the supervision of offenders who appear to pose the highest likelihood of failing while under supervision. Such practices appear to be consistent with the desire to promote successful supervision outcomes, protect public safety, and allocate limited resources on a risk-management basis. Similarly, other jurisdictions have determined that officers must spend more time investigating and responding to violations committed by higher risk offenders. The problem, of course, is finding ways to reallocate time or duties so that officers have the time available to engage in these necessary activities. To better allocate staff time, many jurisdictions use a classification system to best determine which offenders pose the highest risk of failing under supervision or committing new offenses. (See exhibit 5-1, which presents the risk management approach of one jurisdiction that allocates resources based on the risk posed by the offender.) Some jurisdictions find, however, that as long as lower risk offenders

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continue to be on an officer's caseload, the officer is likely to continue to invest a considerable amount of time in them. There are several theories about why officers spend so much time with lower risk offenders: Practical or policy provisions require contacts and followup, this population has unmet needs or issues, and officers have an interest in interacting with individuals who are doing well under supervision.

Whatever the reason, some jurisdictions have experimented with methods that allow low-risk offenders to be managed in new ways that minimize the time invested by the officer. One of these new methods involves the development of group reporting stations. These automated stations collect information from offenders and free the officer from spending time in routine information collection activities. Similarly, other jurisdictions have started using volunteers, administrative staff, or other nonofficer staff to monitor low-risk offenders. These staff members ask standard questions of low-risk offenders and report problems or nonreporting issues to officers. The goal of these approaches seems clear—to find the best way to use limited staff resources to attend to your most important supervision needs.

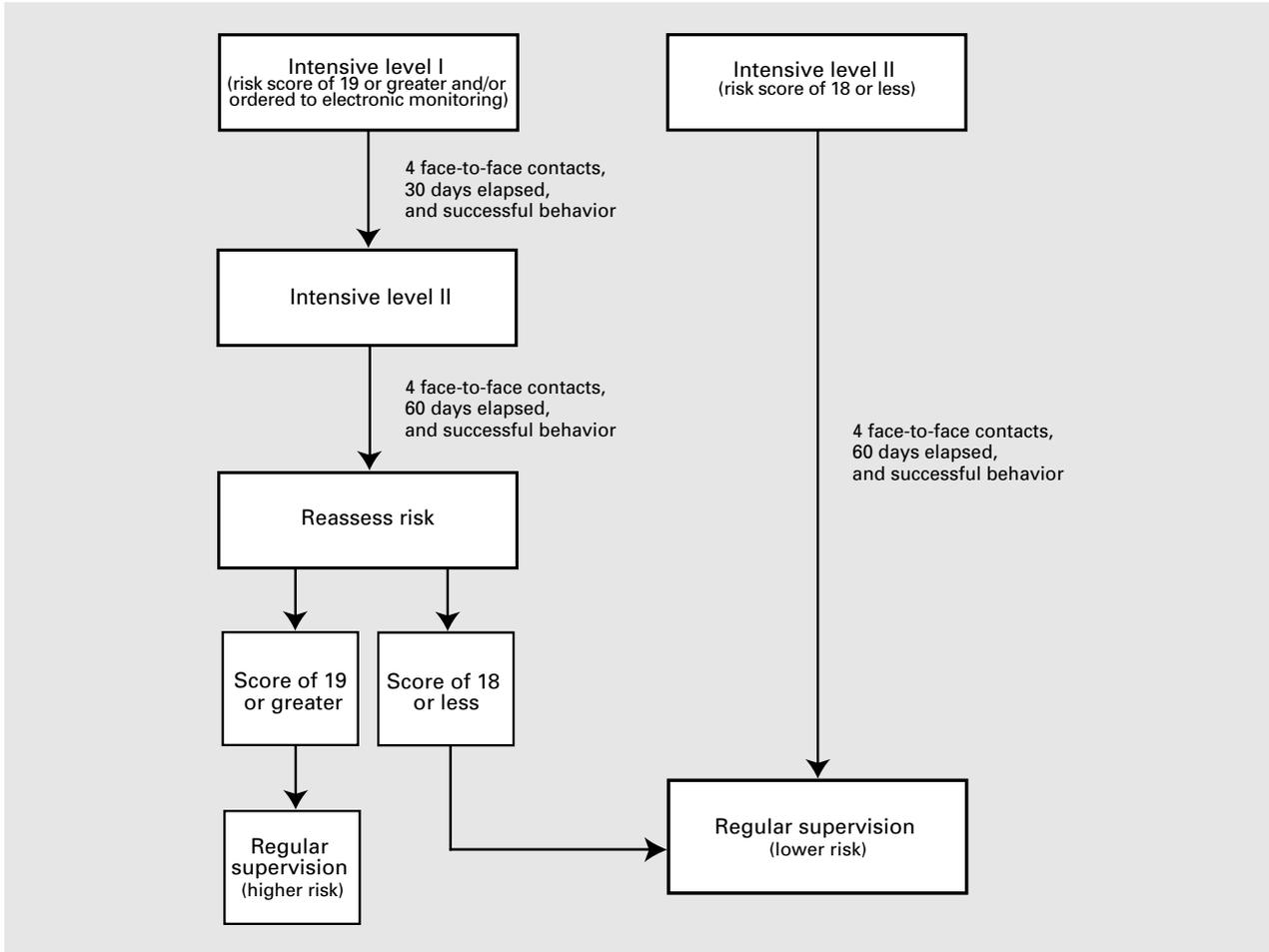
### ***Understand that "time is money"***

Some probation and parole agents spend a considerable amount of time making home visits to a widely dispersed population of offenders. The same officers might also have to visit several jails, offices, treatment providers, and so forth. Geographic assignment or deployment of staff might result in an officer spending less time getting to an offender's location and trying to determine where or how to gather information about an offender's compliance.

Closely related to this concept is community policing. By becoming more closely aligned with a specific part of a city or county, an officer might be better able to understand an offender's circumstances and more effectively use available time. By sharing information and working cooperatively with local police, community treatment services, and other neighborhood entities, an officer may be able to provide more effective supervision to a geographic population of offenders. This concept may require a jurisdiction to consider its values and goals and assess its willingness to share available information with other entities.

**EXHIBIT 5-1.**

## Risk Management Flowchart for Intensive Supervision Cases



### Structured Caseload System—Supervision Guidelines

Level of Supervision	Risk Assessment Score	Contact Schedule	Home Visit
Intensive Level I	19 or greater and/or currently on electronic monitoring	1 per week	1 per month
Intensive Level II	19 or greater	2 per month	1 every other month
Regular high risk	19 or greater	1 per month	1 every other month
Regular low risk	18 or less	1 each quarter, for a minimum of 6 months, then at least 1 per year	None required

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## **Encourage compliance through incentives and rewards**

Sometimes you focus exclusively on trying to control behavior through possible punishments and ignore the other side of the equation—encouraging compliance through incentives and rewards. To encourage better program and reporting compliance and alleviate caseload demands, many jurisdictions have explored incentives that encourage positive actions on the part of the offender. These incentives include reduced reporting requirements, allowing reports through phone calls or other methods that do not involve office visits, early termination of supervision, and extensions of time to accomplish specific activities. This aspect of supervision has received much less attention than the alternative—to respond to failures with disciplinary sanctions. Tying early termination of supervision to the completion of particular case objectives is an especially powerful one. Persuading the offender to accomplish his or her supervision requirements and demonstrating their value to the offender can have tremendous implications. A case that can be closed, or in which more compliance or success is occurring, is one that will not require the same amount of supervision time from the officer. Using rewards to recognize positive offender accomplishments can also be an important component of a violation system because it helps demonstrate to the offender the goals of your agency and the benefits of his or her positive action.

These are a few examples of ways in which jurisdictions have shifted priorities to allow officers more time to focus on aspects of their work that will better allow the agency to meet its goals. Allocating limited resources is difficult and will not please everyone. But if you can clearly articulate your purpose and explain your preferences and assumptions, you will be better able to demonstrate the logic associated with your particular distribution of resources.

*As you study your violation system, it may become apparent that almost all of the work done by staff involves responding to violations. However, some jurisdictions have been interested in investing more time and effort in preventing violations from occurring. Such efforts are consistent with a desire to protect public safety because the greatest safety is achieved when no offender violations occur.*

## **Focus on Preventing Violations**

As you study your violation system, it may become apparent that almost all of the work done by staff involves responding to violations. However, some jurisdictions have been interested in investing more time and effort in preventing violations from occurring. Such efforts are consistent with a desire to protect public safety because the greatest safety is achieved when no offender violations occur. Such efforts in this area include the following:

### **Better initial assessments and case planning**

Numerous jurisdictions have been updating, validating, and improving their risk and needs identification instruments. These tools aid the officer in determining which offenders pose a high risk of failing while under supervision and indicate particular issues or problems that would contribute to the likelihood of failure if not addressed. When used properly, this information should help the officer establish a supervision case plan to help the offender successfully complete supervision. Again, helping the offender understand the content of the case plan and what the officer expects from the offender can be a critical component of the supervision and violation system. Toward this end, some jurisdictions spend considerably more time developing a case plan and reviewing it with the offender.

### **Offender orientation sessions**

Other jurisdictions have developed more effective ways to communicate their supervision requirements and expectations to the offender. These formal orientation sessions involve explaining to the offender, in great detail, the conditions of supervision and the reasons for those conditions. The offender's family members and significant others often are invited to attend these sessions. The offender is provided with a guidebook that explains and summarizes the supervision requirements. Sharing this critical information with the offender and his or her supporters may prevent inadvertent violations, will enlist the aid of others in encouraging compliance, and can explain the consequences of failing to meet specified conditions. For example, if one of your goals is to reduce the number of violations that occur, considering how offenders receive information about your supervision expectations is important.

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## **Keeping offenders aware of obligations**

Consistent with the approach noted in the previous section, some jurisdictions have found ways to encourage compliance by reminding offenders of upcoming obligations and appointments. A prerecorded message, phone call, letter, or a postcard reminding the offender of what is expected of him or her in the short term (e.g., keep a substance abuse appointment during the week, pay a fine or fee by the end of the month) will accomplish two objectives. First, it will demonstrate that the officer knows what the offender is supposed to do. Second, it will demonstrate the officer's interest in having the offender meet this obligation. It eliminates the offender's common excuse of not knowing about a requirement, and it will help the final decisionmaker (judge, parole board) see how the officer tried to aid the offender in avoiding a violation of his or her supervision. These notices and reminders can be sent by administrative staff, volunteers, or others.

*Many jurisdictions believe their violation process takes too long to complete, is cumbersome, or involves too many decisionmakers. Generally, a flowchart will demonstrate whether these beliefs are true and will provide ideas about what needs to be done.*

Many offender violations involve the failure to fulfill specific, straightforward conditions. Preventing relatively minor violations ultimately saves your officers and your violation system a considerable amount of time and effort. Finding effective ways to help offenders avoid minor violations will save the time and effort associated with responding to them.

## **Case management of multiproblem offenders and better problem solving**

Another technique being tried in some jurisdictions involves the use of case management teams for offenders who appear to present multiple problems. This approach allows the team to address numerous issues while maintaining central control over an individual case. This avoids case transfers that can result in the loss of information or insights about the case. It also allows for the development of more effective strategies for those offenders. To prevent violations by offenders who present multiple issues, a case

management or team approach can help you anticipate problems and chart the best overall supervision course.

These efforts reflect a simple but often neglected truth: The time invested in *preventing* a violation will save the time it would take to *respond* to a violation.

## **Shortening the Length of Time to Reach a Final Disposition**

As described in chapter 4, it is critical for a jurisdiction to create a flowchart or map of its violation process so the steps and structure of the whole system can be fully appreciated. Many jurisdictions believe their violation process takes too long to complete, is cumbersome, or involves too many decisionmakers. Generally, a flowchart will demonstrate whether these beliefs are true and will provide ideas about what needs to be done.

Ultimately, each jurisdiction must decide for itself what level of review is required for each decision that occurs in the system. If an officer identifies a probable violation, who must concur with this assessment before any action can be taken? Who is empowered to impose certain low-level sanctions or responses? Who must agree to the issuance of a summons or citation? What types of responses can be imposed at the hearing stage? What other steps must be taken before a final review can occur? The answers to these questions directly affect both your violation process and your available resources to conduct supervision. The more time and effort that staff must devote to preparing paperwork, attending hearings, and otherwise responding to a violation, the less time they will have for other supervision activities.

Some violation systems take months to reach a final disposition. The length of time is frustrating for staff and managers and may discourage staff from swiftly responding to apparent violations. For example, if one of the goals of your supervision agency is to hold offenders accountable, a drawn-out violation system is not helping you achieve this goal. The following is a list of strategies developed by jurisdictions to help shorten the length of time involved in the violation process.

**Empower line staff to impose certain low-level violation responses**

Line officers are in the best position to know when a violation has occurred. Some jurisdictions have found ways to empower these staff members to impose sanctions such as public service, increased reporting requirements, or participation in particular programs. When an officer can take direct action in response to a violation, it reduces the time involved and demonstrates to the offender the importance of compliance.

**Eliminate multiple layers of administrative review**

Some jurisdictions have elaborate systems for reviewing every action an officer may wish to take against a violation. Each layer of review takes additional time and creates the impression that the officer cannot be relied on to take appropriate action. If a jurisdiction is willing to allow an officer to engage in offender supervision, it may need to consider eliminating certain layers of review

concerning violation behavior, including allowing officers to issue summonses and warrants. Many courts have granted supervision agencies the ability to impose intermediate responses without a formal court hearing. If your jurisdiction lacks this ability, it may be an avenue worth pursuing. Exhibit 5-2 is an example of an attachment to standard conditions allowing the imposition of intermediate responses for some violations.

**Create a meaningful probable cause hearing by using available sanctions**

In response to decisions of the U.S. Supreme Court, all jurisdictions have systems to meet the due process requirements associated with responding to violations. Some jurisdictions also have found ways that empower individuals who conduct probable cause hearings to impose mid-range or intermediate sanctions. If incarceration does not seem necessary to address the violation, and if other, more appropriate sanctions or responses are available, it would serve the

**EXHIBIT 5-2.**

**Attachment to Standard Conditions of Probation Allowing Imposition of Intermediate Responses for Certain Violations**

Defendant: \_\_\_\_\_ Case No.: \_\_\_\_\_

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

If so directed by the probation officer, you shall:

- Complete up to 24 hours of community service, ordered in increments of up to 8 hours.
- Be subject to a curfew for up to 21 days, ordered in increments of up to 7 days.

If so directed, and following a supervisory review, you shall:

- Participate in an approved drug program and abide by the program’s standard regulations.
- Complete up to 40 additional hours of community service.
- Be subject to a curfew, with or without electronic monitoring, for up to 30 days.

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

Dated \_\_\_\_\_, 20\_\_\_\_ Defendant \_\_\_\_\_

Defendant signature \_\_\_\_\_

Witness signature \_\_\_\_\_

Dated \_\_\_\_\_, 20\_\_\_\_

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interests of a jurisdiction to dispose of the violation at the probable cause stage. As cases are removed from the violation pipeline, valuable work hours are saved. These hours can then be used by the officer to engage in meaningful supervision or violation prevention activities.

### ***Develop new violation responses through partnerships***

Not all violations, however, require punitive sanctions. Many violations are best dealt with through program or treatment referrals. Many jurisdictions have created new ways of ensuring that offenders are enrolled in employment, substance abuse, educational, vocational, or other programs. Chambers of commerce, technical schools, and a variety of public- and private-sector organizations may work cooperative-

*The key to creating these types of violation responses is to understand that a violation may be the manifestation of a supervision issue. If a circumstance is discovered earlier, the need to impose sanctions may not arise.*

ly with you to develop meaningful offender initiatives. Do not overlook the possibilities presented by volunteers who can provide appropriate counseling and educational opportunities. The key to creating these types of violation responses is to understand that a violation may be the manifestation of a supervision issue. If a circumstance is discovered earlier, the need to impose sanctions may not arise.

There are innumerable ways to allocate resources, streamline processes, anticipate violations, and encourage the successful completion of supervision. This chapter suggests some particular objectives or methods to accomplish them. Ultimately, you must determine the purpose of your supervision activities and harmonize your supervision goals and objectives with your goals and objectives in the violation area. Once this is completed, the best strategies for arriving at your desired destination will become more apparent. Your belief that positive change within your agency is both possible and desirable is an indispensable ingredient to the new supervision and violation formula being developed.

# Making It Work: Developing Tools to Carry Out the Policy

Madeline M. Carter and Ann Ley

Thus far, this handbook has discussed the benefits of bringing a collaborative team together to encourage broad-based acceptance and input into the policymaking process, undertaking a systematic review of current practice, assessing the core values and principles of an agency's violation process, and developing that information into an effective violation policy. This chapter discusses the benefits of thoughtfully choosing tools to help carry out that policy.

Components of the Process
Establish/maintain policy team
Assess current practice
Agree on goals
Explore policy options
Assess impact of options
Implement new policies/practices
Monitor and assess new policies/practices (ongoing)

Once the initial activities are under way, most teams ask themselves, "What can this policy actually do for my jurisdiction?" Team members then will begin developing the methods and tools to carry out the new policies and procedures. Members have invested a good deal of time thinking abstractly and deliberating; they now will begin crafting concrete instruments to put their policy into action. However, teams need to keep in mind several significant issues before beginning this part of the process.

## Terminology

First, it is important to clarify some of the terms used in this chapter.

### Philosophy

Your philosophy is the set of beliefs, concepts, values, and attitudes of your agency. The philosophy

of an agency is the theory underlying its activities. For example, the Maricopa County, Arizona, Adult Probation Department's philosophical statement says: "We believe that we can assist our clients to live a life of freedom through law-abiding behavior and compliance with conditions of probation."

### Policy

This term describes the definite course or method of action selected to guide and determine present and future decisions. It is a written explanation of what should occur, a high-level, overall plan that embraces the general goals of an agency. For example, one of the policies of Iowa's Sixth Judicial District's Department of Correctional Services is, "When violations of probation occur, Department staff take corrective action in a consistent and proportional manner."

### Procedure

Procedures describe your protocols, or the established way of carrying out duties. Procedures are written descriptions of what actions will occur as a result of an agency's philosophy and policy. An example of a procedure related to violations is the following: "A Violation Severity Scale (Form 22) will be completed on all offenders for every violation committed. The scale will be completed according to the following instructions."

In many jurisdictions, procedures have proven to be essential to successful implementation of violation policy. Policy quickly becomes ineffective if individuals are not given methods to implement it. Thus, the level of compliance with a policy is greatly increased when staff are provided with tools that operationalize the policy.

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## Tips and Cautions

A common misconception is the belief that the tools discussed later in this chapter are synonymous with policy. Policy, however, must be developed before it is implemented. The instruments you create are the vehicle through which policy is effectively implemented. The policy is born of the team's agreed upon values and philosophy about how to deal with offenders who violate the terms of their probation or parole and includes the team's vision of effective and appropriate violation responses. That policy is *implemented* through the use of various instruments and tools that, if well thought out, will give weight to your policy and increase buy-in of staff and the larger community.

*That policy is implemented through the use of various instruments and tools that, if well thought out, will give weight to your policy and increase buy-in of staff and the larger community.*

It should be emphasized that teams need to create these tools *after* they have examined current practice; agreed on their goals, mission, vision, and core values; and created a viable policy from that discourse. Only then can teams begin to consider procedures and instruments to implement their policy. It is through this *process* that the necessary tools are created. Without engaging in the process, teams may adopt instruments that are incongruent with their jurisdiction's values, philosophy, or capacity. Jurisdictions in the NIC-sponsored projects that attempted to adopt a "one size fits all" tool found that it failed because it did not effectively meet their needs. As a result, those jurisdictions became discouraged and abandoned their efforts, resulting in wasted time and energy. Clearly defining one's goals, then, is a critically important step and must precede the defining of solutions.

Creating successful procedures and instruments is an indispensable part of your effort to change practice. If they are inadequate, generic, or inappropriate, they will fail, and your policy will not be properly implemented. The best tools and instruments are clear, concise, and user friendly. They are tailored to the individual needs of jurisdictions and are created to diminish resistance (e.g., they do not just give line staff extra paperwork). They are helpful to officers and conducive to their autonomous decisionmaking.

Many jurisdictions have put extensive work into the development of violation procedures, and there currently are a number of examples of implementation tools from which to draw. Following considerable deliberations, the teams determined which could best carry out their policies effectively. Some teams adapted previously used tools, others developed their own. Following are some of the instruments developed by the projects' participating sites.

## Risk Assessment

A critical piece of the violation puzzle is effective assessment of offender risk. Ideally, empirically tested and validated risk assessment instruments are used to determine the level of risk posed by an offender. Because risk assessment is so important, many agencies have had to reconsider their risk assessment protocols and make certain that those they are currently using are state of the art and empirically tested. In addition, jurisdictions have reevaluated their risk assessment processes to ensure that offenders continually are reassessed to determine how dynamic factors may change the risk they present at any given time. Teams are encouraged to examine closely their risk assessment protocols and refer to the extensive literature on this topic as it relates to the development of violation policy.

## Implementation Tools and Instruments

A variety of common tools that jurisdictions developed and used throughout the course of the six violation projects are described next, accompanied by explanations of their intended purpose.

### Violation log

The violation log was developed to document an offender's violation history in an easy-to-review format. Many project teams discovered how difficult it is to track offenders' violation behavior over time by reviewing case books or automated records. Further, many jurisdictions realized they had no standard procedure for noting an officer's response to a violation. Particularly for those jurisdictions that developed a policy that requires a response to every violation, this form has proved to be a helpful means to document both violations and responses. It also serves as a useful method for supervisors to review their officers' cases. Most jurisdictions developed the



**EXHIBIT 6-2.**

**Violation Severity Scale  
(Pima County, Arizona)**

Severity Rating	Violation	Risk Rating		
		1	2	3
H	Committing new offense	H	H	H
H	Possessing weapons	H	H	H
H	Denying access to residence and searches	H	H	H
H	Absconding	H	H	H
H	Testing positive for drugs	H	H	H
H	Testing positive for alcohol	H	H	H
H	Failing to register as a sex offender	H	H	H
L	Associating with felons, gangs, etc.	L	H	H
L	Possessing contraband	L	H	H
L	Violating travel restrictions	L	H	H
L	Failing to participate in treatment	L	H	H
L	Failing to submit urine/blood analysis	L	H	H
L	Failing to take antabuse	L	H	H
L	Failing to remit paycheck (Intensive Probation Supervision)	L	H	H
L	Failing to maintain employment	L	L	H
L	Failing to pay restitution, other fees	L	L	H
L	Failing to participate in education program	L	L	H
L	Failing to participate in community service	L	L	H
L	Changing residence without notice or permission	L	L	H
L	Failing to report	L	L	H
L	Violating curfew/approved schedule	L	L	H
L	Making false statements	L	L	H
L	Failing to follow orders	L	L	H
L	Violating jail rules	L	L	H
L	Failing to notify sheriff's office of change of address (sex offender)	L	L	H
L	Being financially irresponsible	L	L	H

H = high  
L = low

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to grid formats. Exhibits 6–3 through 6–8 provide examples of different ways jurisdictions have conceptualized violation response matrices.

In addition to these factors, some jurisdictions added others to the violation response matrices they believed were also critical indicators of an offender’s level of risk. These include the offender’s performance on the current period of supervision, past violations (during the current or previous periods of supervision), the offender’s history of failure to report to court, and other measures of the offender’s prior history or current level of stability.

Some jurisdictions have included an officer override capability in their matrices. These provide an officer the opportunity to downgrade or upgrade the violation response. Although these provide officers with added discretion, they also can undermine the agency’s efforts to instill consistency and rationality into the decision-making process.

Many jurisdictions that adopted response matrices required their completion on each and every violation. Although initially concerned about the time involved, most have been successful in developing easy-to-use instruments that can be completed in a few minutes. Further, a number of jurisdictions require a supervisor’s signature on the matrix to ensure they are being completed regularly and correctly, and some require the submission of the completed form to a supervisor when a warrant or summons is requested. Although the instruments result in new work tasks, those new work tasks more than likely *shift* the work from one place to another—from responding to violations to preventing them—rather than *adding* new work on top of the existing workload.

What is most important about the development of these types of instruments is that they be carefully tested to determine their effectiveness in guiding response decisions. The issue of pilot testing is discussed later in this chapter.

### **Response options list**

Response options lists provide officers with the variety of options available to respond to violation behavior. (Chapter 7 provides guidance on the development of this list.) The response options list can have multiple purposes. Some jurisdictions found that there were uneven

knowledge bases among officers regarding the responses available to them. Second, the list serves as a helpful aid to new officers. Third, many jurisdictions have used the list to tier their responses in accordance with their violation severity scale. For example, verbal reprimand may be categorized as a low-level sanction and residential treatment as a high-level sanction. Verbal reprimand would, therefore, not be an appropriate—or in some jurisdictions, even an available—response for a high-severity violation. Likewise, residential treatment would be unavailable, or at least inappropriate, for a low-level violation. The list therefore can serve to target resources to the most appropriate cases. In this regard, the list might also include the criteria for imposing a given sanction as well as for choosing one sanction over another. Exhibit 6–9 provides an example of a jurisdiction’s response options list.

### **Waiver**

In their efforts to create a more responsive, less cumbersome violation process, jurisdictions developed methods to respond administratively to some categories of violations rather than taking these cases to court. Eliminating the need to take certain cases through the court process saves probation officers, court personnel, prosecutors, and judges valuable time. Typically, jurisdictions have established administrative processes for cases that are serious enough to warrant court review (as such, they are not used for lower level violation matters that can be easily handled in the supervision agency), but where continued probation with increased sanctions will be recommended.

The waiver is used to indicate the offender’s agreement to accept the imposition of new sanctions in lieu of a formal revocation proceeding in court. For example, in some jurisdictions, a court hearing is required prior to increasing an offender’s supervision requirements to include electronic monitoring. In this instance, the offender might be offered the opportunity to waive his or her right to a court hearing and voluntarily agree to the imposition of this new sanction. Typically, signing the waiver does not mean the offender admits responsibility for the violation but, rather, simply accepts the additional sanctions. Exhibit 6–10 is an example of a waiver form.

**EXHIBIT 6-3.**

## Decisionmaking Matrix (New Haven, Connecticut)

Offender Risk			Violation Severity	
High risk	Medium risk	Low risk	High-severity violations	Less severe violations
B felony Sexual assault Sex-related offense Assault 1, 2 Arson, risk of injury Firearms, burglary 1, 2 Sale/possession with intent to distribute narcotics  Current or recent assaultive or violent behavior  Score of 21 or less	C & D felony  Score of 22–26 (misdemeanor only)  Harassment	Misdemeanor and score of 27 or higher  All motor vehicles  B & C misdemeanor (except harassment)	Noncompliance with residential placement  Failure to comply with evaluation or treatment for mental health and sex offender cases  Deliberate pattern of noncompliance  Absconder after 60 days  Multiple electronic monitoring curfew violations  Driving while intoxicated cases: Driving without a license  Offender’s behavior directly threatens an identifiable victim(s)	All other types of violations

Violation Response Guidelines				VOP Responses		
Risk	Severity	Response	Guidelines	High range	Medium range	Low range
High	High	High	A high-range response is generally appropriate. A medium- or low-range response requires staffing.*	Warrant  Summons to appear	Residential treatment (outpatient to inpatient)	Home/field visits  Increase contact
Medium	High or	Medium	A medium-range response is most appropriate. A high-range response requires staffing.	Residential (alternative to incarceration center, halfway house, or treatment)	Nonresidential  Charitable contributions	Counseling
Low	High	Medium			Community hours	Reprimand
High	Low or	Medium	A low- or medium-range response is generally appropriate. A high-range response requires staffing.	Day incarceration center	Curfew	
Medium	Low	Low		Electronic monitoring (house arrest or curfew)	Urinalysis	
Low	Low	Low	A low-range response is generally appropriate. High-range and residential treatment responses require staffing.	Intensive supervision  Alternative to incarceration center  Extension of probation		
* Staffing is a case conference between the probation officer and a designated staffing officer.				Court reprimand		

**EXHIBIT 6-4.**

**Probation Violation Matrix  
(Weld County, Colorado)**

Offender name:
Date:
Completed by:

Offender Risk (Level of Service Inventory Score)	Violation Severity	Current Situation	Decisionmaking Level
Maximum	High	N/A	Violation Review Board or revocation
	Low	High	Case staffing
		Low	Probation officer
Medium	High	High	Violation Review Board
		Low	Case staffing
	Low	High	Case staffing
		Low	Probation officer
Minimum	High	High	Case staffing
		Low	Probation officer
	Low	N/A	Probation officer

N/A = not applicable

**Current Situation Checklist**

The offender's current situation is considered low unless one or more is checked:

- Unstable residence
- Not in treatment
- Intermediate sanctions currently imposed for previous violation
- Special population offender
- Positive urine analysis/blood analysis in the last month

\_\_\_\_\_  
Probation officer signature/date

\_\_\_\_\_  
Probationer signature/date

**EXHIBIT 6-5.**

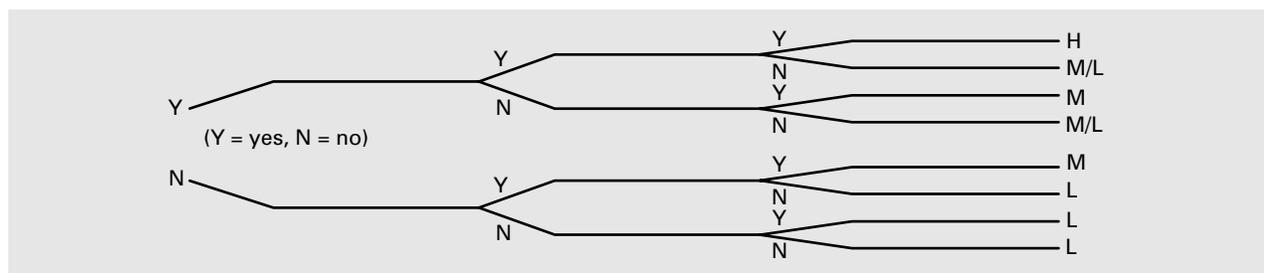
### Violation Response Matrix (Sixth Judicial District, Iowa, Department of Correctional Services)

Violation Severity	Offender Risk Level	Behavior Risk Level	Level of Decisionmaking
Class A	High	High	Judicial
		Low	Supervisory
	Low	High	Supervisory
		Low	Agent
Class B	High	High	Judicial
		Low	Supervisory
	Low	High	Agent
		Low	Agent

**EXHIBIT 6-6.**

### Violation Response Matrix (Pima County, Arizona)

Is Offender Risk High or Low?	Is Severity of Violation High or Low?	Is Current Situation Risk High or Low?	Response Level?
<p>High if:</p> <ul style="list-style-type: none"> <li>Original Intensive Probation Supervision matrix score is 8 or more.</li> <li>The probationer is a sex offender.</li> <li>The probationer is an acknowledged member of a street gang.</li> <li>The probationer has more than two DUIs within the last 5 years.</li> <li>The original offense involved a predatory, assaultive crime against a person.</li> </ul>	<ul style="list-style-type: none"> <li>Use the Violation Severity Table to determine severity.</li> <li>If the violation is not included in the table, case is staffed with the unit supervisor to determine level.</li> <li>If no violations have been documented during the preceding 6 months or more, the current violation should be considered a "first" violation for the purpose of determining severity.</li> </ul>	<p>If two or more of the following factors exist, the risk is high:</p> <ul style="list-style-type: none"> <li>Use of drugs or alcohol and/or failure to complete treatment.</li> <li>Current or recent pattern of avoiding officer contact.</li> <li>Emotional instability/distress—probationer or family—including domestic violence.</li> <li>Current or recent unacceptable pattern of employment, residence, or associations.</li> </ul> <p>Do other situational factors exist which could suggest an increased risk to reoffend? If yes, these should be documented and the situation considered high risk.</p>	<p>H = high M = moderate L = low</p>



**EXHIBIT 6-7.**

**Probation Violation Decision Guidelines  
(Macomb County, Michigan)**

<b>Violation Severity</b>	<b>Serving on Assaultive Offense?</b>	<b>Offender's Risk</b>	<b>Court Procedure</b>	<b>Staffing With Supervisor Required?</b>	<b>Response Range</b>
Minor Violations	Yes	High	Warrant	Yes	4
		Medium	Warrant	Yes	4
		Low	Warrant/show cause	Yes	3
	No	High	Warrant	Yes	4
		Medium	Warrant/show cause	Yes	3
		Low	Warrant/show cause	Yes	3
Major Violations	Yes	High	Warrant/show cause	Yes	3
		Medium	Show cause/informal	No	2
		Low	Show cause/informal	No	2
	No	High	Show cause/informal	No	2
		Medium	Show cause/informal	No	1
		Low	Show cause/informal	No	1

<b>Response Range 4</b>	<b>Response Range 3</b>	<b>Response Range 2</b>	<b>Response Range 1</b>
<p>Any response or combination of responses in ranges 1–3</p> <p>And/or:</p> <ul style="list-style-type: none"> <li>• Electronic monitoring up to 1 year</li> <li>• Jail up to 1 year</li> <li>• Prison</li> </ul>	<p>Any response or combination of responses in ranges 1–2</p> <p>And/or:</p> <ul style="list-style-type: none"> <li>• Day reporting up to 90 days</li> <li>• Electronic monitoring up to 180 days</li> <li>• Probation residential center placement</li> <li>• Detention center placement</li> <li>• Jail term up to 180 days</li> <li>• Boot camp</li> </ul>	<p>Any response or combination of responses in range 1</p> <p>And/or:</p> <ul style="list-style-type: none"> <li>• Day reporting center up to 30 days</li> <li>• Residential substance abuse or mental health treatment</li> <li>• Electronic monitoring up to 90 days</li> <li>• Jail up to 3 days</li> </ul>	<ul style="list-style-type: none"> <li>• Verbal warning or counseling</li> <li>• Add special conditions</li> <li>• Drug/alcohol testing</li> <li>• Outpatient counseling</li> <li>• Community service</li> <li>• Extend term of probation</li> <li>• Increase level of supervision</li> <li>• Day reporting center up to 7 days</li> <li>• Jail 5 days or less</li> <li>• 24-hour home confinement (electronic monitoring system offenders)</li> </ul>

**EXHIBIT 6-8.**

**Sample Violation Response Worksheet (Front)**

Utah Department of Corrections	<b>VIOLATION RESPONSE WORKSHEET</b>	Division of Field Operations
Offender Name: _____		Offender #: _____
Date: _____		
Most Severe Current Violation: _____	<input type="checkbox"/> Multiple Violations (see comments)	Offender Status: <input type="checkbox"/> Probation <input type="checkbox"/> Parole <input type="checkbox"/> ISP Probation <input type="checkbox"/> ISP Parole
CATEGORY		
Criminal History <i>Juvenile and Adult Arrests</i>	No felony or assaultive arrests=1 pt. Non-assaultive felonies=2 pts. Assaultive offenses=3 pts.	
Supervision History <i>Juvenile and Adult Supervision</i>	None=0 pts. Prior supervision=2 pts. Prior revocation or has absconded=3 pts.	
Current Supervision	Compliant/no other known violations=0 pts. Agent intervention has been necessary=2 pts. Major non-compliance=3 pts.	
Relationship of Violation to Convicted Offense	None=0 pts. Indirect=2 pts. Direct=3 pts.	
Severity of Violation	Non-criminal or non-adjudicated misdemeanor violation=1 pt. Misdemeanor=2 pts. Felony/assaultive/Federal/absconded=3 pts.	
LEVEL	(1-7 pts.=Minimum) (8-12 pts.=Medium) (13 pts.=Maximum)	SCORE: _____
RECOMMENDED RESPONSES		
Minimum	Medium <i>(may include appropriate minimum responses)</i>	Maximum <i>(may use appropriate min./med. responses)</i>
<input type="checkbox"/> Outpatient treatment <input type="checkbox"/> Community service <input type="checkbox"/> Structured work search <input type="checkbox"/> Vocational/educational program <input type="checkbox"/> Psychoeducational classes: _____ <input type="checkbox"/> Cornerstone <input type="checkbox"/> Payment schedule <input type="checkbox"/> Financial counseling <input type="checkbox"/> Antabuse <input type="checkbox"/> UAs/breathalyzer <input type="checkbox"/> Curfew (initiate or modify) <input type="checkbox"/> Limit contacts/associations <input type="checkbox"/> Modify special conditions <input type="checkbox"/> Increase supervision standards <input type="checkbox"/> Hold violation in abeyance <input type="checkbox"/> Other: _____	<input type="checkbox"/> Inpatient treatment <input type="checkbox"/> Diversion program <input type="checkbox"/> Electronic monitoring <input type="checkbox"/> Restart EM <input type="checkbox"/> Home confinement w/o EM <input type="checkbox"/> Home confinement with EM <input type="checkbox"/> Intensive supervision <input type="checkbox"/> Restart ISP <input type="checkbox"/> Intensive drug supervision <input type="checkbox"/> Referral to CCC <input type="checkbox"/> Day reporting center <input type="checkbox"/> Restart probation/parole <input type="checkbox"/> Jail time <input type="checkbox"/> Other: _____	<input type="checkbox"/> Commitment to jail <input type="checkbox"/> Commitment to prison
Do the recommended responses adequately address the offender's needs? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Adjusted Level: _____	Justification for Adjustment: _____ _____	
Additional Comments: _____ _____		
PROCESS		
<input type="checkbox"/> Informal Action		<input type="checkbox"/> Formal Court/Board Hearing
Agent Name (print): _____	Supervisor Signature: _____	Date: _____
Final Disposition: _____		

*continued*

## Sample Violation Response Worksheet (Back)

### VIOLATION RESPONSE WORKSHEET DEFINITIONS

<b>Offender Name:</b>	Name of offender as it appears on the face sheet.
<b>Offender Number:</b>	Assigned offender tracking number.
<b>Date:</b>	Date matrix is completed.
<b>Most Severe Current Violation:</b>	Specify violation for which matrix is being used. In the case of several violations, use the most serious according to agent opinion.
<b>Multiple Violations:</b>	Check box and list all violations in <i>Comments</i> section.
<b>Offender Status:</b>	Indicate if offender is on Probation, ISP Probation, Parole, or ISP Parole.
<b>Criminal History: Juvenile and Adult Arrests</b>	Includes offense(s) presently under supervision. Consider all previous arrests as a juvenile or adult, regardless of conviction. The behavior is an important factor. <b>1 Point:</b> If offender has any non-assaultive arrests which are not a felony. <b>2 Points:</b> If the offender has previous <i>non-assaultive</i> felony arrests. <b>3 Points:</b> If the offender has assaultive felony or misdemeanor arrests.
<b>NOTE: According to the UDC Risk/Needs Assessment: "An assaultive offense is one in which an offender is involved in the use of a weapon, physical force, which could or does result in bodily injury. An assaultive offense could include aggravated assault, incest, or sexual offenses involving aggression. Arson would also be included."</b>	
<b>Supervision History: Juvenile or Adult</b>	If the offender has been previously supervised, formally or informally, on probation or parole as a juvenile or adult, in any state or jurisdiction (including Federal): <b>0 Points:</b> Not <i>known</i> previous supervision. <b>2 Points:</b> Previous supervision on probation or parole. <b>3 Points:</b> Prior supervision revocation or has absconded supervision.
<b>Current Supervision:</b>	Consider the offender's attitude and compliance with the current period of supervision. <b>0 Points:</b> Offender has been compliant with no other <i>known</i> violations. <b>2 Points:</b> Agent intervention has been necessary. Alternatives have been utilized and offender's attitude has been somewhat compliant. Conditions may have been modified. <b>3 Points:</b> Offender has been non-compliant; displays negative attitude; and has shown little effort to do what is required.
<b>Relationship of Violation to Convicted Offense(s):</b>	Determine if a relationship exists between the present violation and the convicted offense(s) for which the offender is under supervision. <b>0 Points:</b> No relationship. <b>2 Points:</b> An indirect relationship exists between violation <i>behavior</i> and convicted offense(s). <b>3 Points:</b> A direct relationship exists between violation <i>behavior</i> and convicted offense(s).
<b>Severity of Violation:</b>	In the case of several violations, use the most severe for scoring the matrix. <b>1 Point:</b> Violation is a <i>non-criminal</i> violation of the conditions of supervision or <i>non-adjudicated</i> misdemeanor offense. <b>2 Points:</b> Violation is a <i>misdemeanor</i> criminal offense for which the UDC or an outside agency intends to pursue adjudication through a court or the BOPP. <b>13 Points:</b> Violation is a <i>felony</i> , an <i>assaultive</i> offense, or a <i>Federal</i> criminal offense for which the UDC or an outside agency intends to pursue adjudication through a court or the BOPP, and/or a warrant has been requested because the <i>offender has absconded supervision</i> .
<b>Recommended Responses:</b>	Based on the matrix score and resultant assigned level (minimum, medium, maximum), review <i>recommended</i> responses within each level. More than one response may be selected, but only check response(s) which will actually be used to address the violation. As the levels increase, all lower level responses may be included for consideration.
<b>Adjusted Level:</b>	If the recommended response(s) does not meet the needs of the offender, cannot be provided due to limits within the system, or <i>does not provide for adequate community protection</i> , the agent may elect to adjust the offender's level. A written justification must be provided on the matrix for any level adjustments.
<b>Process:</b>	Informal action includes a supervision review, a waiver, or any process less than formal action. Formal action is a hearing before Court/BOPP requiring a personal appearance by the offender.
<b>Agent Name:</b>	Agent completing matrix must print their name with the date matrix was completed.
<b>Supervisor Signature:</b>	Supervisor approving form must sign and date.
<b>Final Disposition:</b>	What the offender was actually required to do (including incarceration) as a result of the violation.

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**EXHIBIT 6-9.**

**Available Community Sanctions and Consideration Criteria  
(Examples)**

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**Counseling  
or  
Reprimand  
by Officer or  
Supervisor**

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

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**Increased  
Reporting  
Require-  
ments**

For the probationer who commits minor violations such as not keeping appointments or finding full-time employment, an effective strategy is to increase his or her reporting requirements to multiple times per week.

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**Loss of  
Travel or  
Other  
Privileges**

One condition of probation is that the probationer not leave the county or the State without the permission of the probation officer. Although not appropriate for all probationers, withholding this permission may be an effective consequence for those who have committed administrative violations and who enjoy frequent trips around the State. This could also include imposing a curfew for the probationer to restrict his or her freedom to move about within the community for a period of time. The court limits officers imposing a curfew to a total of 14 days, with no more than 7 days for each violation. Following a supervisory review and authorization, a curfew of up to 30 days may be imposed, with or without electronic monitoring.

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**Increased  
Drug/Alcohol  
Testing**

This is the most common response with a probationer who tests positive for drugs or alcohol. The officer can either increase the frequency of random drug tests or, for more regular violators, place the probationer on a twice-a-week testing schedule. This allows the officer to closely monitor the probationer.

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**Treatment  
and  
Education  
Referrals**

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

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**Restructuring  
Payments**

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

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**Extension  
of  
Probation**

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

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*continued*

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**EXHIBIT 6-9.***continued***Available Community Sanctions and Consideration Criteria  
(Examples)****Community Service**

Community Service (CS) is an appropriate sanction to use as punishment or as a means of holding a probationer accountable for an administrative violation of the conditions of the probation. CS can serve as a meaningful sanction for dealing with a broad range of violations such as not reporting as scheduled; failure to maintain employment; and failure to follow through with treatment, education referrals, or programs. One method for using CS as a sanction is to require a specified number of hours of CS for each missed appointment. The court limits officers imposing CS to a total of 24 hours, with no more than 8 hours for a single violation, and limits supervisors to authorize an additional 40 hours.

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**Electronic Monitoring**

A probationer who needs to be monitored closely because of a failure to comply with conditions should be considered for electronic monitoring (EM). The probationer would generally meet the criteria for Intensive Probation Supervision (IPS) as well as need enhanced surveillance to monitor and restrict his or her community activities. By using electronic monitoring, the probationer's risk to the community and likelihood of committing new violations will be reduced. A period of time between 30 and 90 days should be specified. The court has authorized the department to impose up to 30 days of EM for administrative violations. This requires the approval of a supervisor and a referral to the EM team. The department has a limited number of EM units; therefore, officers should call the EM team prior to making a referral.

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**Drug Treatment**

A probationer with a history of substance abuse problems and recent drug use should be referred to a designated program for screening only after the officer has made treatment referrals, increased urine testing, and used other intermediate sanctions without success. Curfews, frequent contacts, mandatory treatment, and regular drug testing all are part of the current drug treatment protocol.

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**Intensive Probation Supervision**

If a probationer has committed frequent or serious violations; is exhibiting significant problems controlling his or her life; and requires more frequent contacts, regular schedules, and closer monitoring to prevent violations, IPS may be an appropriate recommendation. The average length of time a probationer remains on IPS is approximately 13 months.

The probationer must have a place to live, and other adults living in the house must be interviewed and agree to reside with an IPS probationer. Although IPS might be appropriate for some probationers with chronic substance abuse problems, drug treatment may be a more appropriate referral for this population.

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**Jail Time**

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

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# Sample Waiver

## Agreement of Violation and Sanction

\_\_\_\_\_  
Name of defendant \_\_\_\_\_, you are hereby notified of the following alleged violation of the terms and conditions of your probation/deferment:

\_\_\_\_\_  
\_\_\_\_\_

Pursuant to the Probation Violation Guidelines, the following is the sanction recommended by the Adult Probation Department for this violation:

Recommended action: \_\_\_\_\_  
\_\_\_\_\_

The Adult Probation Department is recommending that this sanction be administered within the Adult Probation office by agreement between Adult Probation and me. If I accept this agreement, complete the recommended action and have no further violations within a six (6)-month period, no further action will be taken on this violation.

However, if I do not complete the recommended action or have further violations of the terms and conditions of probation in the six (6)-month period, a more severe action will be recommended.

I understand that I can accept this agreement and have this violation taken care of within Adult Probation without court action.

If I have not committed the violation or do not agree with and accept the recommended action, I understand that the necessary steps Adult Probation may take to address this alleged violation may include court intervention.

I understand that I may consult with my attorney before I decide to accept this agreement.

I admit to the violation and agree to perform the recommended action. My decision to handle the violation by agreement within Adult Probation without a court hearing is made voluntarily and of my own free will. No one is putting pressure on me to accept this agreement. I will complete the recommended action by \_\_\_\_date\_\_\_\_.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Date

Witnessed by:

\_\_\_\_\_

Defendant's comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Approved by the Court:

\_\_\_\_\_

Judge

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### ***Incentive list***

Many jurisdictions found that it is as—and possibly more—important to reward positive behavior as it is to respond to unwelcome behavior. This approach is affirmed in the “what works” literature. Some jurisdictions have developed lists of incentives that officers can use to reward offenders’ positive behavior. Often, the incentive list also includes the criteria the offender must meet to be eligible to receive an incentive as well as the incentive’s intended purpose. For example, a supervising agency may stipulate that after 3 months of reporting as scheduled, an offender who is otherwise in compliance with the terms and conditions of supervision is permitted to miss the next regularly scheduled appointment. Exhibit 6–11 lists the incentives used by one jurisdiction.

### **Other Innovations in Violation Management**

In addition to the instruments and tools previously discussed, agencies have developed other methods to ensure that their policies are carried out consistently and effectively.

### ***Case staffings***

Many agencies that participated in the NIC-sponsored projects determined that their violation processes were significantly lacking in oversight. Some jurisdictions did not require substantial review or oversight of offender case management, and in some instances, there was no significant oversight to violation responses or even revocation requests. To remedy these situations, jurisdictions have created formal methods to ensure communication and discussion between officers and supervisors. Case staffings provide the officer an opportunity to meet with his or her supervisor to discuss violation cases; they consider the offender’s history of violation behavior (i.e., the violations log), review the severity of the current situation (e.g., the violation response matrix), and determine the most effective response to the current behavior. Case staffings also offer the supervisor an opportunity to work through individual cases with officers and intervene when assistance is needed, either in terms of handling a specific situation or working with the officer in general regarding the direction they are taking in supervising the caseload as a whole. Exhibit 6–12 provides language from one jurisdiction’s policy and procedures regarding case staffings. Exhibit 6–13 is a sample case staffing worksheet.

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#### **EXHIBIT 6–11.**

#### **Incentive List (Weld County, Colorado)**

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1. Reduce supervision level
    - Early termination of supervision
    - Amend contact standards
  2. Waive fines
    - Reward treatment fees (treatment scholarship)
  3. Modify treatment/nontreatment conditions
    - Curfew time, useful public service hours, intensive home detention time
  4. Positive recognition
    - Affirmation postcards
    - Certificate of completion
    - Reference letters (employer, school, court)
  5. Summons in lieu of warrant
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**EXHIBIT 6-12. Violation Staffing: Sample Policy and Procedure Definition**

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A violation staffing is an assessment, by the agent or supervisor, of the facts of the offender's case to determine an appropriate course of action, which shall be consistent with the nature and seriousness of the violation(s) and the risk posed by the offender.

The purpose of the staffing is to decide the most appropriate response based on all available facts relevant to the violation and the offender's behavior while under supervision.

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**EXHIBIT 6-13. Sample Case Staffing Worksheet**

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Date \_\_\_\_\_  
Officer \_\_\_\_\_  
Supervisor \_\_\_\_\_  
  
Defendant's Name \_\_\_\_\_  
Case # \_\_\_\_\_  
Offense \_\_\_\_\_

In responding to a probationer's violation behavior in which a case conference is indicated, the officer and the supervisor shall discuss the nature of the violation and select a proportional response. The response will take into account the severity of the violation and the risk posed by the defendant. These factors are determined by the following issues:

- \_\_\_\_\_ Criminal record
- \_\_\_\_\_ Previous petitions to revoke
- \_\_\_\_\_ Circumstances of the present violation
- \_\_\_\_\_ Intermediate interventions previously employed
  - \_\_\_\_\_ verbal counseling
  - \_\_\_\_\_ increased reporting
  - \_\_\_\_\_ decreased reporting
  - \_\_\_\_\_ meeting with supervisor
  - \_\_\_\_\_ change in assigned probation officer
  - \_\_\_\_\_ memo to the court
  - \_\_\_\_\_ staffing with peers
  - \_\_\_\_\_ other: \_\_\_\_\_
- \_\_\_\_\_ Social history considerations
- \_\_\_\_\_ Substance abuse and treatment history

Other considerations: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Conference outcome/violation response: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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## **Staff forum**

Similarly, at least one jurisdiction developed a staff forum, which encourages officers to discuss extremely difficult cases and plan strategies with their peers. Different from case staffings, which are typically between a single officer and his or her supervisor, these larger meetings offer support to the officers from their peer group as well as other supervisors. This can enhance problem solving on specific cases as well as increase the standardization of both philosophy and violation responses among the staff.

## **Administrative and judicial hearings**

Administrative and judicial hearings, also known in some jurisdictions as violation review boards or misconduct review boards, divert serious cases that would otherwise result in court proceedings. A board of individuals, generally composed of senior-level staff and officers, review certain categories of violation cases. (Some jurisdictions have recruited individuals from outside the agency to serve on these boards.) Typically, the board reviews cases that are deemed by the officer to be high risk and makes a violation response decision. The types of cases referred to administrative or judicial hearings vary from jurisdiction to jurisdiction. Exhibit 6–14 describes the philosophy of and expectations about administrative hearings in one jurisdiction. Exhibit 6–15 describes another jurisdiction's process—a violation review board. Exhibit 6–16 is a sample "Notice to the Court," drawn from several jurisdictions. Exhibit 6–17 is a sample hearing notice to an offender.

## **Probationer or parolee handbook**

In addition to giving clarity to policymakers on the violation process, what constitutes a violation, and how violations will be responded to, it is also important to ensure that offenders are clear on these expectations. Many jurisdictions, therefore, have developed handbooks for offenders that detail this information. Some jurisdictions developed these so they can be individualized to include information on the offender's reporting schedule and special conditions. These handbooks contain the basic information the offender must know to successfully comply with the terms of supervision, and they are used in individual orientation sessions between the officer and the offender or in group orientation meetings.

## **Testing the Instruments**

This chapter has described many instruments and tools jurisdictions have designed to carry out their violation policies and the process teams should use to develop them. Their development, however, does not conclude the team's work. After they are developed, the policy team should conduct a pilot test of these instruments on actual cases. Although each jurisdiction must develop its own procedures, the following describes the process that was used by many of the jurisdictions involved in the NIC-sponsored violation projects.

### **Dry run**

Your team can begin testing its instruments by randomly choosing a number of actual case files (20 should be sufficient for the first test). The main goal is to ensure that the tool is effective and meets the desired goals before making it available to others. For example, if a team has decided that a violation response matrix is an appropriate tool for the jurisdiction, it should individualize and develop such a tool and apply it to its own cases to ensure that it does, in fact, assist officers in consistently choosing an appropriate response to violation behavior. Invariably, the team will need to revise the tool and test it again. The initial testing and revising of the tool may require several repetitions.

### **Pilot test**

The team should next conduct a full pilot test of the instruments by having officers use the tool(s) for a certain amount of time. The number of officers used will vary for each jurisdiction; a few officers, many officers, the whole agency, or only the committee members can be selected to test the instrument. A pilot test of 3 to 6 months can provide the team with sufficient feedback to determine how the tools should be refined to ensure maximum potential, although more time may be needed. During the pilot phase, the team periodically should check with the participating officers to offer assistance or answer questions as needed.

During this process, the team should be collecting and looking at the tools to assess how consistently they are being used and interpreted by the officers. The team also should track these cases to ensure that the desired results are being obtained. At the conclusion of the pilot, the

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**EXHIBIT 6-14. Sample Policy: Philosophy and Departmental Expectations**

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The department expects its personnel to act in ways that encourage or aid offenders in completing their supervision in the community. These actions by departmental personnel may occur over an array of circumstances and are collectively termed "selective interventions." The purpose of each intervention is to address issues or problems in the particular case. Ultimately, the department expects its personnel to engage in selective interventions that are calculated to reduce the likelihood of future serious criminal conduct. Sometimes, the issues in a case may be the violation of one or more of the conditions of supervision. In such cases, departmental personnel are expected to assess the severity of the violation and the individual risks posed by the offender and to respond or recommend a response to the violation. In fashioning a response, the department expects all community supervision options to be considered first, with incarceration reserved as a last option. Our administrative hearing process is intended to assist the department in accomplishing its broader purposes and reflects the department's belief that community supervision is the most appropriate criminal justice sanction for the vast majority of adult criminal offenders. Thus, it is the department's expectation that every effort will be taken to maintain offenders in the community, even when violations of their conditions may occur. This effort will include appropriate guidance from the supervising agent, referral to community resources and followup when specialized problems are apparent, and presentation of the offender before a departmental hearing officer with a recommendation for one of the available options in the continuum of sanctions.

Allowing an offender to remain in the community under supervision enables the offender to maintain family and social ties, continue to work or seek gainful employment, pay restitution to victims, aid his or her community through public service work, and have access to an array of social service agencies.

The department has developed a variety of "tools" to use as responses to various types of violations. It is our intention to match the particular offender with a response that is reasoned, necessary, and appropriate. Our administrative hearing process provides the agent with an objective, fair, and speedy route for dealing with offenders who have violated the conditions of supervision. Only when all appropriate options have been exhausted, absent severe violations of the conditions of supervision, will a recommendation for revocation be made.

Offenders encountering problems meeting the conditions of supervision will be formally notified by the agent as soon as possible following the violation. Responses by the agent will be commensurate with the nature of the violation. Any consideration of a change in the conditions of supervision should be formally staffed and documented with the agent's supervisor. Offenders should be maintained under the least restrictive supervision conditions required to address the individual offender's circumstances.

By addressing violations in these ways, we strengthen our ability to hold offenders accountable, appropriately respond to risks and needs, be proactive in the handling of our responsibilities, and help fulfill our broader supervision purposes.

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### **Departmental Goals and Expectations**

#### **Goals**

1. To promote appropriate and proportional responses as well as internal consistency in the handling of violations by setting forth broad departmental expectations.
  2. To establish a framework and guidelines within which agents, hearing officers, the board, and the courts can exercise their discretion in a meaningful way.
  3. To generate workable and innovative methods of responding to violations that benefit the offender without presenting undue risk to the community.
- 

#### **Departmental expectations**

1. Violations should be responded to in a manner that reflects the severity of the offense.
  2. The severity with which violations are responded to should be in a proportional manner.
  3. Individuals who demonstrate a general unwillingness to abide by supervision requirements or who pose undue risk to the community should be removed from the community.
  4. Not all violations require the issuance of citations or warrants or full revocation. Many violators can continue in the community.
  5. All violations that are detected should result in a punishment response that is proportional to the severity of the violation.
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*continued*

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**EXHIBIT 6-14. Sample Policy: Philosophy and Departmental Expectations**

*continued*

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6. All concerned personnel will be encouraged to use that response which best reflects the situation in light of the nature of the violation, the offender's circumstances, the general risk of the offender and the adjustment of the offender to the community, and the need to maintain the respect of the offender for adherence to the conditions of supervision.
  7. Agents will document justifications for responses to violations.
  8. Hearing officers will make findings of fact in support of recommendations and orders.
  9. The board and the court will make determinations of fact in support of revocation orders.
  10. The board and the court may impose special conditions in all appropriate circumstances.
  11. Hearing officers will be empowered with wide discretion to impose any special conditions permitted by law and policy as a means of reducing or better managing the risks posed by the offender while maintaining them in their community.
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**EXHIBIT 6-15. The Violation Review Board (Weld County, Colorado)**

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The Violation Review Board (VRB) provides a forum for the delegation of sanctions from the Court to the Probation Department. The purpose of VRB is to provide a rational and purposeful decisionmaking process that contributes to consistent and equitable responses to offender misconduct.

The probation officer will refer to the probation violation matrix to determine the severity of the violation and risk posed by the probationer. The officer then will use the case staffing form to determine if the case should be presented to VRB for more intensive sanctions. Upon the findings of VRB, the probationer must agree to the sanctions that VRB seeks to impose as an alternative to a revocation complaint being filed with the court. A "waiver form" will be signed by the VRB representative and the probationer and forwarded to the Court for review and approval.

team should survey the officers who participated to determine the tools' strengths and weaknesses, and elicit suggestions for improvement. Depending on the extent of the modifications, another pilot test may be necessary. After final revisions and discussions, the tool(s) should be ready for full implementation.

### **Evaluation**

During the pilot test of the tools, the team should begin to consider data collection for monitoring and evaluation, which are crucial components of a policy implementation strategy. A well-developed, consistently applied monitoring system will help ensure the long-term success or failure of the violation process. This topic is discussed more in depth in chapter 9.

### **Staff Training**

During the implementation of these instruments, jurisdictions generally noticed that supplemental materials and activities are required to fully institutionalize the tools and help them achieve their potential.

With the adoption of a new policy, your jurisdiction will need to conduct training on several issues for all staff. For example, one training will instruct supervision staff on how to use the new instruments. Another training will orient all staff to the new violation policy. Collective instruction will increase the degree of compliance with the new tools *and* the policy. Training manuals should be developed to ensure that each staff training session is conducted in a standardized manner. There may also need to be a "train

**EXHIBIT 6-16.**

**Sample Notice to the Court of a Violation and Imposition of an Intermediate Response**

State of \_\_\_\_\_, )  
Plaintiff, )  
vs. )  
(Defendant's name), )  
Defendant )

CR-00000

**NOTICE OF VIOLATION AND IMPOSITION OF INTERMEDIATE RESPONSE**

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

THE COURT IS HEREBY NOTIFIED OF THE FOLLOWING ADMINISTRATIVE VIOLATIONS:

- (1)
- (2)

In lieu of filing a Petition to Revoke Probation, the following intermediate response(s) was (were) imposed:

- (1)
- (2)

\_\_\_\_\_  
Unit Supervisor

\_\_\_\_\_  
Adult Probation Officer

**EXHIBIT 6-17.**

**Sample Hearing Notice**

Date \_\_\_\_\_

Offender \_\_\_\_\_

Department of Probation and Parole

-vs-

**Notice of Hearing**

You are notified that a hearing will be conducted by a neutral Hearing Officer on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ M. at \_\_\_\_\_

You may retain an attorney at your expense. The Department of Probation and Parole is not required to provide you with counsel in this matter. If you cannot afford to hire an attorney, you may, at your hearing, petition for an appointed attorney. An attorney will not be appointed except in the more extraordinary circumstances. You have the right to question any person making allegations against you at this hearing. It is your responsibility to make arrangements for any witnesses and your attorney, if you have one, to appear at your violation hearing.

I hereby acknowledge notification of the hearing in my case.

\_\_\_\_\_  
Supervising Agent

\_\_\_\_\_  
Probationer/Parolee

\_\_\_\_\_  
Date

Distribution: Hearing Section (Original)  
Probationer/Parolee  
Supervising Agent's Field File

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the trainer” event for those conducting the agency’s ongoing staff training.

Furthermore, while examining the tools and forms you currently use, you may find some that can still be used but will need to be revised for your new policy.

To prepare your team for the work outlined in this chapter, exercise 6–1 provides a framework to discuss the various tools and instruments you might need to implement your new violation policy.

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**EXERCISE 6-1.****Examining Implementation**

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The goal of this exercise is to provide your team with a structured way of thinking about the tools or instruments needed to implement your violation policy. This exercise is to be conducted after the policymaking is finalized.

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**Work  
Session  
Activities**

1. Before beginning this exercise, which will help the team begin thinking about policy implementation, ensure that your team’s new policy is outlined fully.
2. Many jurisdictions have found that their policies are best implemented through the use of the following tools or instruments: an agency mission statement, a statement of supervision philosophy, a statement of values and principles underlying supervision and violation practices, a list of specific procedures, a delineation of roles, operating principles, training curriculums that introduce staff to these policies and practices, and a set of tools, forms, and instruments. In the process of creating new violation policy, the team may have begun to define or redefine some of these pieces.
3. What other pieces do you want to define or redefine to implement your new violation policy? Discuss what tools are needed to aid in the implementation of your policy. Be sure to discuss:
  - The purpose of the tools and what they should contain.
  - How you will develop these tools.
  - Who will use them.
  - When they will be used.
4. Consider any other work that is needed to ensure the effective implementation of violation policy in your jurisdiction. Discuss:
  - The roles of various levels of management staff.
  - How to ensure that staff “buy into” the policy.
  - A training and implementation plan.
5. After this work is completed, revisit the issue in several meetings to determine whether or not there are any changes needed in the process itself (e.g., streamlining, eliminating steps or paperwork, resource sharing, changing who is involved at certain points) that will help you to more efficiently develop violation policy.

# Filling in the Gaps: Increasing the Available Range of Responses to Violations

Peggy Burke

Sentencing judges, parole boards, and probation agencies have become familiar with the use of intermediate sanctions as credible options at the sentencing stage. The use of intermediate sanctions as a response to violations is a natural progression from this experience. If criminal activity falls along a range of seriousness and risk warranting a range of sanctioning responses, technical violation behavior also falls along a similar continuum. Although many agencies' past and current practices have relied on revocation as the primary response to violations, that picture is changing.

Components of the Process
Establish/maintain policy team
Assess current practice
Agree on goals
Explore policy options
Assess impact of options
Implement new policies/practices
Monitor and assess new policies/practices (ongoing)

## Specifying a Range of Intermediate Sanctions

Earlier, this handbook discussed the importance of developing a common understanding of the "baseline" from which you are working, including a profile of the offender population moving through the violation process, the policy directives, and the options you currently have in place to respond to violations. This chapter will help you identify existing sanctions and begin thinking about those sanctions in new ways.

To begin developing an inventory of available sanctions, conduct brainstorming sessions among staff to identify every possible sanction available. Also survey staff and check resource directories to create an exhaustive list. This process will

also help identify community resources of which few may be aware or that have not been considered previously as a response to violation behavior.

Once the resources are identified, group them in logical ways. What services are similar to one another? How are they the same, and, more important, how are they different from one another? It may be prudent to talk to those who provide the services to determine the offender populations with whom they can and cannot effectively work. With this knowledge, along with input from staff, it may be possible to develop guidelines on the appropriate times to invoke one sanction over another.

This process is likely to identify gaps in services and sanctions. The research on intermediate sanctions indicates that, at most, 10 percent of probationers and parolees participate in such sanctions<sup>1</sup> and that, even with the continuous discussion and support of intermediate sanctions, they have been poorly funded for the most part. Many jurisdictions, therefore, will find themselves looking for resources to fill the gaps in their continuum of sanctions. The first solution that comes to mind—too often—is to create new programs. Fiscally, this may not be possible, but it also may not be necessary. Instead, once gaps and overlaps in the system of sanctions are identified, many jurisdictions successfully retool existing services to fill the gaps at little or no cost.

*Many jurisdictions will find themselves looking for resources to fill the gaps in their continuum of sanctions. The first solution that comes to mind—too often—is to create new programs. Fiscally, this may not be possible, but it also may not be necessary.*

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The following are some questions to consider about your current array of sanctions:

***Should you change how you use your existing options?***

First, you should reexamine your current options and again consider how you use them. Is your agency using them to their best effect? Are some overused or underused? Are the available responses being matched with appropriate offenders? Particularly for responses that are expensive and scarce, are you adequately targeting them to the higher risk, higher stakes offenders? The literature concludes that when interventions are targeted to higher risk offenders, the highest pay-off is received in terms of reduced recidivism. Therefore, you may want to redirect some options to those offenders. Changing how you use what you currently have may be the first place to look to increase your available sanctions.

***Should you consider redeploying resources to create different or additional options?***

At least one jurisdiction with which we worked redeployed resources from one type of drug treatment to another to allow for faster responses to offenders showing signs of relapse. Other jurisdictions invested more resources in cognitive behavioral programming and reduced expenditures in other areas.

***Should you consider adding incentive sanctions—at little or no cost?***

In discussing responses to violations, the focus is almost exclusively on responses to negative occurrences, such as violations, previolation behavior, and signs of relapse. If, for example, a goal is to encourage success, you might focus more on incentives. Early termination of supervision, lowering the level of supervision, and reducing work service hours are a few possible incentives that are cost free and potentially cost saving.

***Should you seek funding for additional sanctions or access further sanctions from other agencies?***

In addition to exhausting all the possibilities for retooling, redeploying, or using existing sanctions in different ways, you may need to explore the need for additional resources. Many States have created funding streams for community-based sanctions to control the use of State

resources for prison beds. Federal funding is another source, particularly in the drug treatment arena.

## **Arraying Services and Sanctions**

Once all available resources have been identified—and gaps are filled to the extent possible and reasonable—it is important to consider how the sanctions can logically be arrayed along a continuum of increasing punishment, control, and intensity of treatment. The notion is not only to generate a wide range of possible responses to violation behavior but to design a purposeful strategy to respond to violations through the use of specific options that achieve specific goals. Inevitably, sanctions that include loss of liberty (e.g., house arrest) or serious constraints on movement (e.g., electronic monitoring) are found toward the top of the continuum, while less onerous or controlling sanctions (e.g., increased reporting or screening for substance abuse) are found toward the middle or lower end. How sanctions are arrayed and used has everything to do with local practices and the availability of resources and differs significantly from one jurisdiction to the next. Diagram 7–1 provides an example of the range of responses to violations available in many jurisdictions, arrayed along a continuum of increasing levels of control, punitiveness, and intensity.

## **Developing Policy to Guide the Use of Resources**

After identifying resources and designing a framework within which resources can be viewed as a “continuum,” the next task is to develop guidance for staff on how to use them. The “glue” that holds these disparate elements in place is policy. Policy is the official language that identifies the factors to be considered, with what weight, and what action should typically be taken, given a particular configuration of these factors. For example, for an offender with a high-severity violation who himself is classified as high risk, the policy might indicate quick issuance of a warrant and recommendation for revocation. With a low-severity and low-risk violation, combined with a low-risk offender, the typical course of action might be an adjustment of the offender’s reporting schedule and a verbal reprimand. (See exhibit 1–1 in chapter 1 for an example of some typical language found in policy directives concerning these “new generation” responses to violations.)

## Conclusion

Understanding the array of sanctions and responses available to respond to offenders' violation behavior in your community is an important step in developing violation policy. Identifying the full range of responses, creating new responses when appropriate, and developing common agreements about when to use various responses will assist agency staff in thinking

more clearly about the selection of one response over another, ensuring that the full range of responses is considered, and more appropriately matching sanctions to the behaviors and needs of individual offenders.

### Note

1. Petersilia, Joan, 1999, "A Decade of Experimenting With Intermediate Sanctions: What Have We Learned," *Perspectives* (Winter): 41.

**DIAGRAM 7-1.**

## Illustrative Range of Intermediate Responses

Violation Response Chart		
Decisionmaking Level	Violation Severity and Risk Assessment	Response
Probation officer	Lower severity and risk	<ul style="list-style-type: none"> <li>• Curfew (up to 7 days)</li> <li>• Community service (up to 8 hours)</li> <li>• Loss of travel or other privileges</li> <li>• Counseling or treatment</li> <li>• Begin or increase drug/alcohol testing</li> <li>• Increased reporting</li> <li>• Counseling or reprimand by unit supervisor</li> <li>• Counseling or reprimand by probation officer</li> </ul>
Supervisor staffing	Moderate severity and risk	<ul style="list-style-type: none"> <li>• Direct program</li> <li>• Community service (20–40 hours)</li> <li>• Electronic monitoring release for work (up to 30 days)</li> <li>• Curfew (up to 30 days)</li> <li>• Increase supervision level</li> <li>• All listed above</li> </ul>
Court hearing	High severity and risk	<ul style="list-style-type: none"> <li>• Prison</li> <li>• Jail</li> <li>• Jail with work furlough</li> <li>• Residential treatment</li> <li>• Intensive probation supervision</li> <li>• Electronic monitoring house arrest (or more than 30 days' work furlough)</li> <li>• All listed above</li> </ul>

# Beyond the Continuum of Sanctions: A Menu of Outcome-Based Interventions

Peggy Burke

When agencies first begin looking at their handling of violations, they are concerned primarily about whether or not to revoke. Typically, the discussion is driven by resource concerns, public safety, or frustrations over chronic noncompliance. The discussion often poses the issue as an “either/or” choice, much like the basic sentencing question of “probation or prison.” However, agencies quickly realize that violations do not fall neatly into two categories—those for which revocation and incarceration are appropriate, and those for which continuation on probation is appropriate. In fact, violations represent a range of severity and risk concerns for which a range of responses is

Components of the Process
Establish/maintain policy team
Assess current practice
Agree on goals
Explore policy options
Assess impact of options
Implement new policies/practices
Monitor and assess new policies/practices (ongoing)

appropriate. A “continuum of sanctions” (see diagram 8-1) is a framework of the various options that are available.

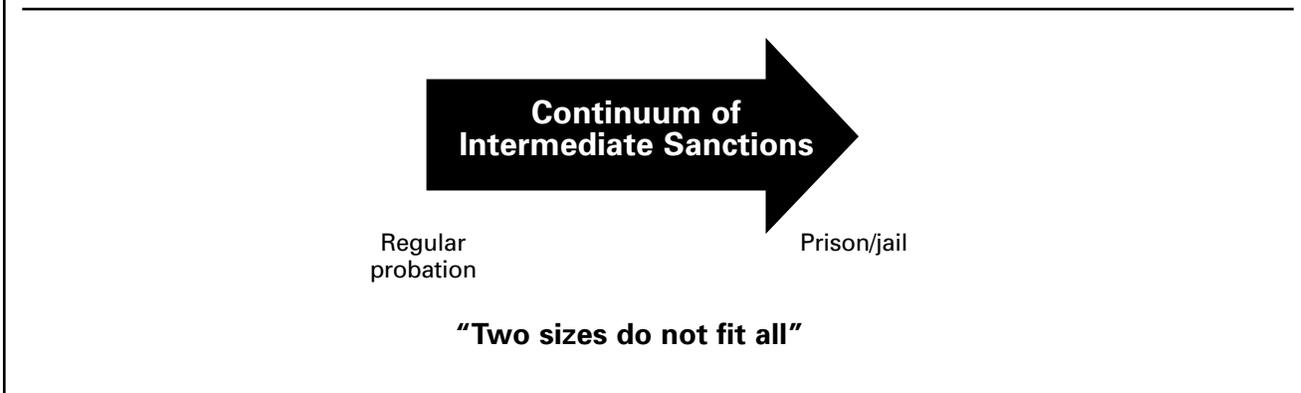
## The Limits of the Continuum

Given the contrast between probation at one extreme and prison at the other, there is a tendency to think of punishment and control as the organizing principles underlying the continuum. The previous chapter outlined a fairly common continuum of sanctions. This continuum included less restrictive options such as a verbal reprimand and increased reporting at the low end, with house arrest, electronic monitoring, and curfew at the high end. For purposes of punishment, incapacitation, or control, a continuum with these ordering principles is quite helpful.

The complexity lies in the fact that punishment and control are not the only interests we have in responding to offenders’ violation behavior. Indeed, if we look thoughtfully at the evaluation research on the impact of intermediate sanctions, we find the combination of surveillance and

DIAGRAM 8-1.

## Continuum of Sanctions



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treatment seems to have the power to affect future criminality. Joan Petersilia summarizes what has been learned from evaluations of the intermediate sanctions experience:

These results bring into question two basic premises of intermediate sanctions, i.e., that increased surveillance acts as a constraint on the offender and that the likelihood of detection acts as a deterrent to crime. The University of Maryland project, which summarized evaluations across the full range of intermediate sanctions, concluded: [E]xcept in a few instances, there is no evidence that these programs are

effective in reducing crime as measured by official record data. . . .

[A]n important and tantalizing finding—consistent across all the evaluations regardless of program design—points to the importance of combining surveillance and drug treatment program participation. In the RAND Intensive Supervision Program demonstration, offenders who had participated in treatment, community service, and employment programs—prosocial activities—had recidivism rates 10 to 20 percent below that of those who did not participate in such additional activities.

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### **EXHIBIT 8-1. Violation Policy (Sixth Judicial District, Iowa, Department of Correctional Services)**

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The primary purpose in responding to violation behavior is to determine the level of response needed to manage the risk and gain future compliance.

Violations of probation should be handled, to the extent possible and consistent with community safety, through the use of community sanctions. Those sanctions should encourage future compliance, provide resources to respond to offender needs that may be contributing factors to the violation behavior, and use only those resources required to achieve the objectives of supervision.

The purpose of responding to violation behavior is to manage the risk demonstrated by the underlying violation behavior through treatment/support and/or control. The nature of the response is determined by the willingness and ability of the offender to cooperate in treatment and support services. The higher the risk posed by the offender, the higher that offender will be moved on either the continuum of treatment/support, or the continuum of control. When the offender is unwilling or unable to cooperate in treatment or participate in support services, then risk will be managed through responses that increase the control exercised over the offender in proportion to the risk presented.

Organizing and using community resources effectively into “a continuum of responses” to probation violations has been undertaken from the theoretical premise that criminal behavior does not fall neatly into two categories—one deserving of incarceration and one deserving of probation. In recent literature, *Between Prison and Probation: Intermediate Punishments in a Rational Sentencing System*,\* Norval Morris and Michael Tonry contend that criminal behavior falls along a continuum of severity and even culpability that warrants a range of sanctions scaled roughly in punitiveness in proportion to the severity of the criminal offense. Hence, community corrections practitioners should think of various punishments arrayed along a scale of punitiveness and that these should be applied according to a national sentencing scheme. The same argument can be made for response to violation behavior—that violation behavior does not fall into two categories—one deserving of revocation and incarceration and one deserving of continued probation without modification. Rather, such behavior probably falls along a continuum of severity that warrants a range of responses scaled by punitiveness and applied according to a policy framework that guides the actions of probation officers and the courts.

However, sanctioning interests in proportionate punishment do not stand alone. A multiplicity of sanctioning goals are involved in developing “a continuum of responses” because there are clearly interests in incapacitating dangerous offenders and addressing offenders’ needs for rehabilitative services or the community’s need for restoration. A single continuum of sanctions arrayed along a scale of punitiveness suggests that as offenders have difficulties complying at lower levels, the response is to move them into increasingly higher levels of punishment/control. Simply arraying community sanctions along a two-dimensional continuum, moving from less punitive or intrusive to more punitive or intrusive, does not adequately address the problem, for example, of an offender who has relapsed into drug use despite sincere efforts at abstinence. Or what if an offender has failed to pay fees or restitution because of a lack of employment? Increasing the fee or amount of restitution as a response does not seem a sensible approach if the basic problem is the offender’s unwillingness, or even inability, to pay.

*continued*

Researchers have found similar results in Massachusetts, Oregon, and Ohio. . . . The empirical evidence regarding intermediate sanctions is decisive: Without a rehabilitation component, reductions in recidivism are elusive.<sup>1</sup>

Thus, if we are attempting to do more than simply punish or hold offenders accountable for noncompliance, and if we are also attempting a longer lasting impact on offenders' likelihood of committing future crimes, it seems important to move beyond the concept of a "continuum of graduated sanctions" to what we might call a "menu of outcome-based interventions."

Exhibit 8–1 is an example of policy language from one jurisdiction that sought to move beyond the notion of a single continuum.

## **A Menu of Outcome-Based Interventions, or a Multidimensional Continuum**

Diagram 8–2 illustrates a familiar representation of a continuum of sanctions. This is a staircase diagram applied to offender violation behavior, reflecting that along a continuum of control and accountability, a violation response is chosen

### **EXHIBIT 8-1. Violation Policy (Sixth Judicial District, Iowa, Department of Correctional Services)** *continued*

Another dimension of concern over the notion of a single continuum of sanction for violators is that the appropriateness and effectiveness of interventions will depend heavily on whether the offender is cooperative or not. If failure in drug or alcohol treatment, for example, is a relapse associated with the chronic nature of the disease or a result of placement in a modality inappropriate for the particular needs of the offender, a shift in therapeutic approach may be appropriate. However, if the offender simply will not attend treatment, an intervention that imposes more control may be appropriate.

Thinking in terms of the multiplicity of concerns represented by offenders' behavior, our responses may likewise be thought of as falling along continuums of punitiveness, control, and support. A response may take into account several considerations, in that it should be designed to be proportionate in its punitiveness to the seriousness of the offender's violation behavior, controlling in proportion to the risk presented by the offender, and supportive or rehabilitative in proportion to the needs of the offender. It is important to consider interactions among the dimensions depending on their relative importance. If, for example, risk is a primary concern, then a higher risk offender might expect a more intensive type of response for the same behavior than a lower risk offender might expect.

For example, a high-risk offender who does not report might warrant a more stringent response than a low-risk offender who does not report. However, it is important to create an upper level threshold above which minor technical violations do not warrant a response—regardless of the risk of the offender. Otherwise, we leave the door open to imposing serious responses—e.g., offender incarceration—for violation of technical conditions of probation for an original offense that did not warrant incarceration. It is also important to think of the risk as incorporating the likelihood of future criminal behavior with some sense of its severity as well. It may be that some low-level offenders (e.g., check writers), are risky because they are likely to reoffend. In the instance of check writers, the stakes involved may not be high enough to warrant the use of resources as a response. Sex offenders, however, represent a high-stakes risk indicating the need for more extreme use of resources.

A practical way to implement our multiplicity of concerns across dimensions is to think of the resources we have to deploy. First is officer time; second is control and punishment mechanisms (surveillance, electronic monitoring, etc.); third is treatment of different types; and fourth is intensity of treatment. In this vein, a continuum of responses consisting of the level of supervision, control/punishment, and treatment/support has been developed to guide decisionmaking. For individuals whose risk concerns predominate, higher levels of control are appropriate, coupled with appropriate treatment type and intensity. For individuals with lower risk concerns, lower levels of supervision/control are appropriate.

This philosophy is consistent with the mission and goals of community-based corrections, which are to (1) ensure public safety using the least restrictive control measure feasible; (2) assist adult offenders in becoming socially responsible and self-sufficient individuals; and (3) manage resources and provide accountability in the most efficient, effective, and practical manner attainable while being cognizant of and sensitive to victim rights.

\* Morris, Norval, and Michael Tonry, 1990, *Between Prison and Probation: Intermediate Punishments in a Rational Sentencing System*, New York: Oxford University Press.

that is proportional to the severity of the violation and the risk of the offender. Relatively less intrusive interventions are to the left, more intrusive ones to the right. However, this diagram is three dimensional rather than one dimensional. The multidimensional nature of the diagram allows for selection along a continuum of responses *for each step*. Thus, a violation may have at its root different issues that require different responses, not in severity, but in type. For example, if an offender is involved in violation behavior that is relatively minor—such as failure to report a change of address within the same neighborhood—and is a relatively low-risk offender, it may be appropriate to require more frequent reporting for a period of time. This would address the agency’s accountability concerns. However, if the offender’s move is the result of a job loss and an inability to pay rent, it may be more appropriate to intervene by imposing employment-related consequences, such as required attendance at a job-readiness program.

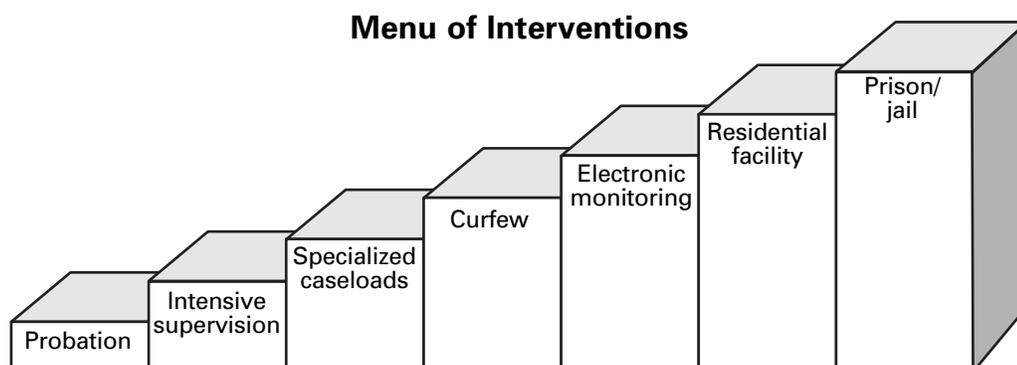
Creating depth for each step on the continuum adds another dimension to violation responses. At each step of the continuum, we might conceive of a menu of interventions that are appropriate to an individual offender’s unique circumstances. As the severity and risk concerns increase—and more intrusive sanctions are appropriate—the menu of interventions becomes more important. If a serious technical violation is associated with drug use, it seems important not only to think about accountability and incapacitation but also

to examine the menu of options to connect that offender with prosocial activities that will address the drug use in ways that a sanction used purely for punishment cannot.

### ***Applying a decision tree process to the use of the continuum***

Diagram 8–3 represents a decisionmaking process that illustrates how one might think about a “menu” of interventions related to specific concerns with an offender involved in technical violation behavior. On this decisionmaking tree, imminent risk and high-severity violations—however those are defined in a particular jurisdiction—result in quickly moving to the continuum of sanctions geared to increasing control. In lower level and midlevel risk and severity situations, however, the probation or parole officer might consider which menu of sanctions is appropriate to the offender and the situation at that level. A drug or alcohol abuse menu might include a range of treatment options geared to different learning styles, work schedules, or relapse cycles. Another menu of interventions might be directed specifically at garnering accountability for low-level, repetitive noncompliance. When thinking errors are involved, a menu of cognitive skills programming might be appropriate. Similarly, when noncompliance involves failure to pay fees or restitution, there might be a financial menu providing for rescheduling of payments, substitution of work for payments, or the like.

**DIAGRAM 8-2. A Three-Dimensional Continuum of Responses to Violations**



**The purpose: responses that increase the likelihood of compliance and success**

The purpose of the multidimensional continuum concept is to match interventions to the specific issues underlying offenders' noncompliance to enhance the likelihood of compliance in the future. For example, if an offender is having trouble paying fines and fees because he or she lost a job, increasing reporting requirements or the level of supervision falls short of addressing the real problem. The more logical solution is to intervene in a way that will secure the outcome being sought, in this instance, enabling the offender to make his or her required payment.

**Conclusion**

Jurisdictions involved in the NIC-sponsored projects discovered that thinking beyond the traditional continuum of sanctions allowed

them to focus on what it takes to make offenders successful. The objective of responding to offenders' violation behavior is not only to provide increasing levels of punishment for increasing levels of violations but also to provide interventions that prevent future violations—both technical and criminal.

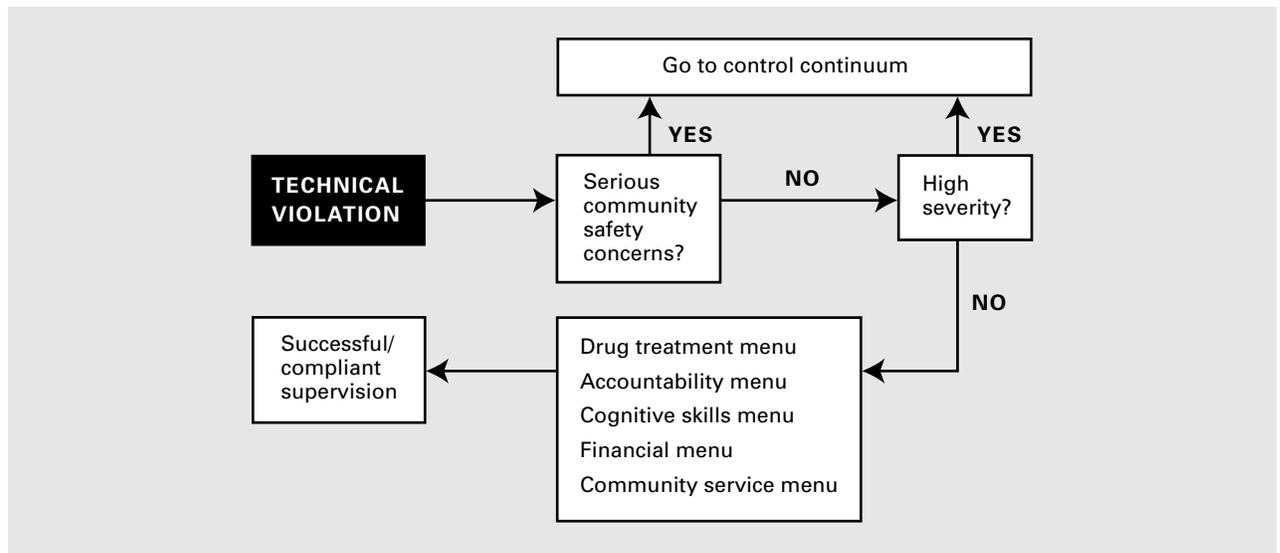
As you work to develop your policy-driven responses to violations of probation and parole, you need to go beyond the notion of a continuum of graduated sanctions. Identify and implement those menus of options that will address the problems your probationers and parolees face as they—and you—try to move toward successful completion of supervision.

**Note**

1. Petersilia, Joan, 1999, "A Decade of Experimenting With Intermediate Sanctions: What Have We Learned?" *Perspectives* (Winter): 42.

DIAGRAM 8-3.

**Menu of Violation Responses**



# Keeping It Alive: Monitoring the Impact of Violation Response Policy

Donna Reback

A jurisdiction that is defining new or refining existing probation and parole violation policies understands the significant investment of time and energy that underscores this effort. This chapter addresses the steps your jurisdiction should take to assess how well your violation policies are achieving your targeted goals. If you were diligent in gathering a clear picture of where your jurisdiction was when it *began* the process of developing new—or refining existing—violation policies, you should now be able to compare prepolicy and postpolicy conditions and more accurately draw conclusions about the relationship between your violation policy and changes in practice, culture, and outcomes. Monitoring the impact and progress made toward intended outcomes is a logical progression in your work.

Components of the Process
Establish/maintain policy team
Assess current practice
Agree on goals
Explore policy options
Assess impact of options
Implement new policies/practices
Monitor and assess new policies/practices (ongoing)

Activities suggested in this chapter are frequently cross-referenced with those described in chapter 4. That chapter focused on the necessity of gathering information at the outset of the process from many system sectors and through a wide range of activities to describe the following:

- Operationally, how violation responses were made prior to the new or refined policy (much of this is learned from mapping exercises).
- Qualitatively, what philosophies and goals drove decisionmaking and what degree of consistency typified violation decisionmaking

among the different players in the system (this information comes from interviews with individuals and groups responsible for implementing the various aspects of your violation policy).

- Quantitatively, what criminal justice resources were used, how cost effective they were, how violation decisions affected public safety, how many and what types of violations were commonly processed prior to the new or refined policy, and how violations were disposed (this information is derived from analyses of the offender population).

Thus, if your jurisdiction created a description of the baseline conditions related to violation decisionmaking, you are ready to focus on monitoring.

## What Does Monitoring Require?

From a practical standpoint, monitoring enables a jurisdiction to follow and chart its progress toward intended goals and outcomes through a set of ongoing, regularly scheduled activities. The capacity to monitor the impacts, outcomes, and effects of violation policies requires that the criminal justice system recognize information gathering as a critical activity and create an infrastructure with dedicated staff, information systems technology, and resources to undertake this task. Too often, new policies are implemented without the development of a mechanism for determining the extent of their impact. The presence of a monitoring capacity is a further demonstration that policymakers are committed to achieving the goals of their policy.

## What should you monitor?

At a minimum, a jurisdiction should assess how its violation policies affect:

- Changes in the use of criminal justice resources as a result of the policy.
- Changes in the culture around violation policies.
- Changes in offender responsiveness and accountability.
- Public safety.

Additionally, ongoing collection and examination of information should be designed to help policymakers recognize:

- The extent to which the policy has achieved its intended effects.
- What, if any, unintended consequences have resulted from the policy.
- Obstacles impeding implementation of the policy.
- Ways to strengthen the ability of the policy to meet the articulated goals of the jurisdiction.
- Areas of the policy that should be altered or abandoned.

### ***When should you monitor?***

Policies are not implemented in a day. On the contrary, policy change is accompanied by a period of learning, resistance, growth, and adaptation. Frequently, jurisdictions wait until a policy is fully implemented before monitoring its impacts. Although this may sound logical, it is our experience that full implementation of any policy often takes longer than expected. External and unexpected factors often intervene to slow down full implementation or change its course. If monitoring policy impacts is tied to full policy implementation, years could pass before a jurisdiction is able to assess how well the violation policy has attained its goals. And by not monitoring practices and impacts as they evolve, a jurisdiction may be unable to correct or save a policy that resulted in unintended outcomes.

Some monitoring activities should be conducted on an ongoing basis. Specifically, offender population data that describe offender characteristics, offense behavior, and sanctioning decisions should be collected routinely. Other activities, such as updating the violation process map and assessing how the goals, philosophies, and practices of individual decisionmakers have responded to policy, should take place at wider intervals.

The following discussion provides guidelines on how and when to monitor the impacts and outcomes of your violation policy.

Using your baseline information as a reference point, you are ready to update information to measure changes and compare preimplementation and postimplementation conditions. Following is a discussion of changes and outcomes, reasons, and methods to monitor.

### ***Monitoring changes in the use of criminal justice resources as a result of policy changes***

Many States and counties are interested in developing clear probation and parole violation policies that maintain public safety through decisions and actions that manage risk and build offender accountability without overusing incarceration. If, for example, one of your goals for implementing a probation or parole violation policy is to manage the use of criminal justice resources in the most effective and cost-efficient way, a jurisdiction will want to determine how that policy affects the use of expensive prison, jail, and community-based resources. Therefore, policymakers will want to determine what, if any, change resulted from implementation of a policy by answering the following questions:

- How does the violation policy affect the number of offenders revoked to some form of incarceration?
- How does the violation policy affect the number of offenders being maintained under community supervision?
- Is that supervision intensified? If so, how has the use of community-based resources been affected?
- What are the overall costs to the jurisdiction resulting from the policy?

### ***Strategies for monitoring***

**Collect offender data.** It is important to continue to collect data on new and existing cases as they enter and move through the system. This requires the maintenance of a data collection system, either manual or automated, that uses offender records as the place to record the aforementioned information. A means of collecting these data in an organized way is essential (see diagram 9–1 for suggestions).

This data collection approach provides jurisdictions with the ability to compile an aggregate description of specific factors through simple statistical methods. The capacity of some information systems may require working with outside resources, such as local universities or consultants, to help set up mechanisms for these valuable analyses.

Offender information should be collected on a day-by-day basis as part of ongoing casework. Compile and analyze aggregate information from all the individual offender data collection sources every 6 months, at least for the first year the policy is in place. If, at the end of this period, the data indicate that the violation policies are achieving the desired outcomes, it may be

possible to extend this process to an annual basis. Exhibit 9–1 provides a sample monitoring protocol developed by one of NIC’s project sites.

**Update your map.** Another valuable source of information about how violation decisionmaking takes place in and affects all parts of the criminal justice system is the system map. Refer to the mapping exercise described in chapter 4. Plan to revisit the map at 6-month intervals. If you were able to document the flow and volume of different types of cases through the system prior to adopting new violation policy, revisit the map with the same group to observe how the numbers and types of violations flowing through the system and decisionmaking patterns were affected. Reexamining the map also provides

**DIAGRAM 9-1.**

## Suggested Data Collection Approach

Create a form for supervision agency staff to complete. Whether this is a paper-and-pencil or computer-generated form will depend on your jurisdiction’s technological capacity. What is important is that the form include all the elements required to measure changes in:

- The rate of violations and revocations resulting in incarceration (with a new conviction and without a new conviction).
- The rate of violations resulting in a parole or probation “restart” (through either an internal or court decision to impose nonincarcerative or alternative additional sanctions).
- The rate of violations resulting in a parole or probation termination.

It is also important to track changes in the type and quantity of nonincarcerative responses used to manage violators in the community. Therefore, it is important to identify:

- The number of nonincarcerative responses used (and violations noted) before a revocation to incarceration.
- The number of nonincarcerative responses used before terminating a case without a revocation.
- The range of responses to violations created and used. (Have these changed? Are there new, more, or less sanctions and responses available for violation decisionmaking?)
- The length of time elapsed from the filing of a violation to decision or disposition.
- The length of time elapsed to complete supervision (from beginning to termination).

Individual offender records need to provide a place to record what sanction or outcome was imposed as a result of the violation. To be complete, the information needs to indicate much more about the offender. Record the following:

- Original offense.
- Criminal history.
- The nature of the violation (technical or new law).
- Supervision history (compliance history, length of time between supervision periods).
- Demographic information.
- Information related to criminogenic needs.
- Risk assessment scores (if risk assessment scales were used to assess the offender).

## Sample Monitoring Protocol

### Suggested Measurements

#### 1. Rate of revocation

*Rationale:* A goal of the new process is to reduce the rate of prison revocations for parole and probation violators.

*Definition:* Rate of revocation is the number of parole or probation revocations divided by the number of offenders on parole or probation, respectively. This rate should be compared before and after implementation of the new policy to show if the rate has been reduced.

*Additional measurements:*

- Rate of revocations resulting in a prison admission with a new conviction.
- Rate of revocations resulting in a prison admission without a new conviction.
- Rate of revocations resulting in a jail stay.
- Rate of revocations resulting in a parole or probation restart.
- Rate of revocations resulting in termination.

*Availability of data:* All data, including historical data that allow for before and after comparisons, are available on the automated database.

#### 2. Number of revocations for lower risk offenders

*Rationale:* The new violation policy is designed to help agents distinguish between offenders violating supervision under circumstances that pose a risk to the community and should result in revocation and those less serious circumstances that do not merit revocation.

*Definition:* The violation policy classifies the violation as minimum, medium, and maximum risk using specific assessment items. In this measure, the numbers of revocations for violations in the minimum-, medium-, and maximum-risk categories are reported.

*Additional measurements:* None.

*Availability of Data:* Data will become available as violation worksheets are entered in the automated database.

#### 3. Rate of convictions for new felonies for probationers and parolees

*Rationale:* The logic behind tight enforcement of the conditions of probation and parole is to stop offenders from committing new crimes. Any effort to reduce the revocation rate should be accompanied by an evaluation of the effect on new felony offenses. This requires a comparison of the rate of new convictions before and after implementation of the new policy.

*Definition:* The rate is measured by counting the number of new felony convictions received by offenders who are already on parole or probation divided by the number of offenders on parole or probation. This rate is compared before and after implementation of the new policy to evaluate the impact of the change in violation policy on this measure.

*Additional measurements:*

- Rate of felony convictions by type of offense.
- Rate of felony convictions by degree of offense.

*Availability of data:* All data, including historical data that allow for before and after comparisons, are available on the automated database.

*continued*

## **Sample Monitoring Protocol**

### **4. Use of graduated responses to revocation and the impact on conviction and revocation rates**

*Rationale:* Graduated responses are being used in place of revocations in a number of cases. In addition, it is important to find out if increased numbers of formally defined graduated responses are reducing revocation rates. It is possible that the criteria for revocation have not actually changed because of the use of graduated responses.

*Definition:* The rate of alternative responses is measured using the number of supervision reviews divided by the number of offenders on probation or parole. For each month, this rate is compared with the new felony conviction rate and the revocation rate (described previously). Comparisons of the relationships before and after implementation of the new policy is made.

*Additional measurements:* None.

*Availability of Data:* All data, including historical data that allow for before and after comparisons, are available on the automated database.

### **5. Rate of terminations for parole and probation by types of termination**

*Rationale:* One possible outcome of a revision of the violation policy is an increase in the rate of successful completions of parole or probation. Giving offenders more chances to succeed in the community might result in earlier or more successful terminations. The committee expressed interest in reviewing any changes in other types of terminations such as expirations or probation terminations for absconding.

*Definition:* This rate is measured by using the number of terminations of each type divided by the number of offenders on probation or parole. Comparisons are made of rates before and after implementation of the new policy.

*Additional measurements:* None.

*Availability of data:* All data, including historical data that can be used for before and after comparisons, are available on the automated database.

### **6. Time to termination of probation and parole**

*Rationale:* Another possible outcome of a revision of the violation policy is a change in the time required to complete parole or probation or a change in the time before a revocation.

*Definition:* This is measured by looking at the time between the beginning of supervision and the termination and whether the termination is a successful completion or a revocation. Length on supervision is calculated separately by type of termination. Comparisons are made between these times before and after implementation of the new policy.

*Additional measurements:* None.

*Availability of data:* All data, including historical data that can be used for before and after comparisons, are available on the automated database.

### **7. Pattern of alternative responses, violations, and revocations**

*Rationale:* The new data collection system describes patterns of violations and revocations such as the number of violations and alternative responses before a revocation.

*Definition:* The number of alternative responses and the number of violations are measured before a revocation. The number of alternative events and violations are measured before a termination without a revocation.

*Additional measurements:* None.

*Availability of data:* Data will become available as violation worksheets are entered in the automated database. No data currently are available.

## **Sample Monitoring Protocol**

### **8. Appropriate use of alternative responses**

*Rationale:* A goal of the new violation process is to encourage more appropriate use of alternative responses. Measure the range of responses to violations reported on the automated database. In addition, ask private contract providers for information on utilization.

*Definition:* The number of different types of responses is measured by month. Details on how use of private providers is measured have to be worked out with the contractors.

*Additional measurements:* None.

*Availability of data:* Data will become available on the range of responses as violation worksheets are entered in the automated database. No data currently are available. The availability of private provider data will be determined with the providers.

### **9. Standardization and consistency of responses to violations**

*Rationale:* A goal of the new violation process is to increase standardization and consistency of agent responses to violations. Standardization means that agents across the State and across regions determine similar responses to similar violations within the guidelines of policy. Standardization can be measured by looking at override rates and reasons given for overrides or the rate with which recommended responses for a violation category were actually used.

*Definition:* The override rate is measured using the number of overrides divided by the number of violations recorded for probationers and parolees. These rates are compared across the State, across regions, and among agents. Reasons for overrides have been classified into a small number of categories on the automated database. The number of each type of override is measured. The number of responses given to the violation that matches the violation category is measured. In addition, responses to violations are compared across offender groups by legal status and classification.

*Additional measurements:* None.

*Availability of data:* Data will be available on these topics as violation worksheets are entered in the automated database. No data currently are available.

### **10. Offender accountability**

*Rationale:* A goal of the new violation process is to increase offender accountability. Suggested measurements include time on supervision (previously discussed), payment of financial obligations, completion of conditions of supervision, and successful terminations (previously discussed).

*Definition:* Payment of obligations is measured by looking at the percentage of ordered fines and restitution paid per month of supervision. Completion of conditions can be measured only at termination of supervision by looking at the percentage of conditions completed at termination.

*Additional measurements:* None.

*Availability of data:* Data will become available as use of the automated database increases.

### **11. Agents' attitude toward themselves as risk managers**

*Rationale:* An emphasis of the new process is on the agent as a manager of offender risk in the community. The best way to measure this is through an attitude survey given to agents and supervisors.

*Definition:* This currently is undefined.

*Additional measurements:* None.

## Sample Monitoring Protocol

*Availability of data:* None. This is a time-consuming process that requires designing a questionnaire to measure this attitude, delivering the questionnaire, and analyzing the results.

### **12. Use of the classification system**

*Rationale:* A possible outcome of the new violation process is that offenders are making more progress through the classification system. For example, if parolees are not returned to prison as often, a greater percentage of them might make it to medium- or minimum-classification categories. This could help offset the increase in caseload sizes resulting from the new violation policy by cutting supervision requirements for some offenders by reducing their classification.

*Definition:* Use of the system is measured by looking at changes over time in the percentage of parolees and probationers in each of the three classification categories. Month to month tracking of these percentages can start as early as 1990.

*Additional measurements:* None.

*Availability of data:* Data currently are available on the automated database; however, any impact on the classification system will take many months, perhaps years, to demonstrate.

### **13. Acceptance of the policy by the board, courts, and prosecutors**

*Rationale:* A possible outcome of the new policy is increased credibility with the board and the courts. The committee would like to find out how the new policy is viewed by these groups now that it is in place. The committee suggests that informal interviews with judges and board members can provide this information.

*Definition:* Informal.

*Additional measurements:* None.

*Availability of data:* None. If preliminary conversations are held with judges and board members, areas warranting further investigation will become obvious, and further refinements of this item are possible.

another opportunity to identify what intended and unintended changes emerged as a result of the policy.

### **Monitoring changes in culture around violation policies**

Policy changes reflect a shift in, or clear articulation of, the philosophy and vision of an agency or jurisdiction. It is essential that the *culture* of that agency or jurisdiction supports the policy to ensure its proper implementation. This requires engaging those who have a stake in the outcome of the policy.

How probation and parole staff at all levels execute the policy is critical to the policy's inherent ability to achieve its intended outcomes. Therefore, it is important to develop concrete ways to assess changes in:

- The extent to which supervisory and line staff support and use policies.
- The level of consistency exercised in violation responses to like kinds of circumstances.
- The number of overrides used in violation decisionmaking.
- The degree of training and supervision provided to support the application of policies.

Beyond probation and parole officials exists a range of stakeholders from the broader criminal justice system and the community at large whose philosophies, practices, concerns, and perceptions must be assessed. The views and attitudes of judges, prosecutors, and defense attorneys are critical to policy development and implementation. Equally important in ensuring that policies are relevant and well supported are the views

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and concerns of victims and members of the community. Finally, it is important to identify what resources the jurisdiction has dedicated to carrying out the policy.

### ***How to monitor***

In chapter 4, methods and examples of interviewing key stakeholders in individual and group settings were described. These methods are intended to help jurisdictions develop a qualitative understanding of the degree of consensus or disagreement on goals underlying violation decisionmaking.

It is recommended that acquiring this type of information be undertaken at 6-month intervals during the first year of policy implementation. In returning to those who were interviewed at the beginning of this process, attempt to determine:

- What people like and dislike about the policy.
- What is understood and misunderstood about it.
- How the policy has changed the attitudes and practices of decisionmakers.
- What additional information, education, and training is required for successful implementation of the policy.
- How the criminal justice system has modified its support for carrying out the policy.
- How the policy has changed the community's perception of the accountability and effectiveness of the criminal justice system.

If these interviews and conversations reveal a high level of support for the policy over that period, waiting another 12 months before revisiting these interviewees is possible. However, if these conversations reveal ongoing confusion with, misunderstanding of, or opposition to the policy, it will be necessary to take additional steps to build the needed skills, resource capacity, technical capacity, and support for the policy's implementation.

Remember, surveying decisionmakers and stakeholders in face-to-face meetings of any type provides critical opportunities to build relationships as well as to gather information. Taking the time and devoting the resources to communicating directly with them can provide a powerful mechanism for building a supportive environment in which new policy can thrive.

### ***Monitoring changes in offender responsiveness and accountability***

New or refined violation policy focuses on changing offenders' behaviors by bringing them into compliance with the conditions of their sentences; the goal is to increase public safety through the prevention of reoffenses. When the circumstances of a violation indicate that the offender can continue to be managed in the community, albeit with additional sanctions and requirements, it is important to determine how the policy affected the offender's accountability to the criminal justice system, the victim, and the community at large. Therefore, it is useful to monitor the following dimensions of an offender's legal obligations and supervision status:

- The extent to which offenders pay financial obligations that are conditions of the sentence.
- The extent to which offenders fulfill other conditions, such as participating in treatment, attending anger management classes, refraining from contact with individuals, and pursuing job training and education.
- How the policy affects the amount of time offenders spend on supervision.
- How the policy affects offenders' movement through the classification system (on a continuum from higher to lower status) as indicated by changes over time in the percentage of offenders in different case management classification levels.
- The percentage of successful terminations.

### ***How to monitor***

If the jurisdiction has committed to collecting information on each offender (as described in the section "Monitoring changes in the use of criminal justice resources as a result of policy changes"), it will have information related to offender compliance with the conditions and sanctions resulting from violations. Again, at least every 6 months, compile an aggregate description of the previously mentioned factors and compare it with the same conditions at the starting point of your project. At 6-month intervals, chart the changes (if any) and use that information to determine what modifications are required to achieve the intended policy goals. For example, additional employment training and education resources are required, the assessment tools used to determine supervision levels

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and sanctions need to be revised, or the available treatment resources are not meeting the needs of the current offender population. One's ability to identify where and how conditions have changed in relation to the implementation of a new policy is directly tied to the success or failure of that policy initiative.

### ***Monitoring impacts on public safety***

Because different offenders pose different risks to the public, a jurisdiction should, at a minimum, track changes in both the frequency and type of new arrests and convictions within the population of probation or parole violators prior to and after the violation policy is implemented.

#### ***How to monitor***

**Build consensus around what public safety means and how it will be measured.** Policymakers should identify indicators they believe are associated with the safety of the community. Although recidivism rates are often used, the ways they are measured vary from place to place. For some states and counties, measuring public safety means examining rates of re-arrest. In other locations, public safety is measured by rates of reconviction. Still others think about more complex factors such as whether reoccurrence of criminal behavior is demonstrating trends of more or less serious activity, or how much time has elapsed between incidents, or how overall patterns of compliance with conditions are emerging.

**Collect and analyze data.** Once definitions of public safety measures are agreed on, collect data from a combination of sources, including offender records citing criminal history and data from law enforcement reporting agencies. It is important to link these analyses to all other efforts. It is, therefore, recommended that these data be analyzed at least twice a year.

**Validate or refine the assessment instrument or matrix.** There is an assumption that probation

and parole responses will be better equipped to enhance public safety when they include assessments of factors related to risk. Therefore, many violation policies create matrices or assessment scales to guide decisionmaking along multiple dimensions, including:

- The risk the offender poses to the public.
- The severity of the violation.
- The probability of the offender complying with the conditions of probation or parole.

It is critically important to evaluate regularly any form of risk assessment that influences supervision decisions and imposition of sanctions on probation and parole violators. If the desired public safety outcomes are not being realized, the process of assessment should be reevaluated.

## **Conclusion**

Monitoring the progress of policies is integral to the successful implementation of the goals of policies.

The process of monitoring requires that:

- Data related to the goals and articulated outcomes sought by your violation policy are collected on an ongoing basis.
- Data are analyzed in aggregate periodically to measure progress toward goals.
- The violation flowchart is updated periodically.
- Regular meetings and interviews with key stakeholders and decisionmakers are conducted.

The willingness and capacity to monitor the impact of the violation response policy ensure that a dynamic process of change is alive, well, and dedicated—and thereby ensure that desired outcomes are achieved.

# Results: What Are the Tangible Outcomes?

Madeline M. Carter

Probation and parole agencies play a key role in protecting public safety through the effective management of offenders under their supervision. The manner in which agencies respond to violation behavior is a critical piece of an agency's overall supervision strategy. Nonetheless, in many jurisdictions, this issue has not received the level of attention and concern its seriousness demands.

## Process Versus Product

This handbook, therefore, describes a process jurisdictions can follow to better understand their current violation practices and develop policy to guide decisionmaking when offenders violate the terms of their supervision. What this handbook has not provided is a “model” of violation policy to replicate and implement. There are two primary reasons for this: First, the effectiveness of model replication is dependent on the similarity of one jurisdiction to another. Models do not take into consideration the variation in philosophies, values, the volume of cases in the system, or resources. The vast differences among jurisdictions diminish the effectiveness of any model. Second, to offer a model would be to suggest that its underpinnings are well grounded in research. Unfortunately, little research to date has focused on this aspect of offender supervision. For these reasons, this handbook is concerned with how to develop violation policy (i.e., the process), rather than what that policy

Components of the Process
Establish/maintain policy team
Assess current practice
Agree on goals
Explore policy options
Assess impact of options
Implement new policies/practices
Monitor and assess new policies/practices (ongoing)

should look like. There is a clear need, however, for additional research in this area to better understand how agencies can be most effective in their efforts to respond to violation behavior.

The process highlighted throughout this handbook has emerged from our work with the 29 jurisdictions that participated in six rounds of NIC-sponsored training and technical assistance projects during the past 12 years (1988–2000). The process described was born from our observations of what was—and what was not—successful across jurisdictions. In summary, that process includes:

- Establishing a collaborative body—an internal committee from the supervision agency, an external group representing key stakeholders, or, preferably, both.
- Developing a shared understanding of current practice in the violation response area among the members of the collaborative team, including:
  - An evaluation, using a system map, of how violations are currently being handled.
  - The examination of existing policies and practices, both formal and informal.
  - Identification of the resources that can be tapped to respond effectively to offenders' violation behavior.
  - An examination of empirical data to ensure a clear understanding of the impact of current practice.
- Developing clearly articulated goals for supervision and the violations process.
- Creating explicit policy that reflects these goals.

- Developing methods to ensure that this policy is carried out effectively, through both staff training and the development of tools or instruments that operationalize the policy statements.
- Establishing activities to monitor the effectiveness and impact of these changes.

This process has enabled most of the jurisdictions that participated in the NIC-sponsored projects to develop methods to tailor effective responses to violation behavior based on the severity and risk posed by offenders. Jurisdictions have accomplished this in a variety of ways; many have implemented protocols to manage these cases and decision trees that reflect clearly defined criteria to guide officer decisionmaking. These are illustrated in exhibits 10–1 and 10–2. Other approaches have been highlighted throughout this handbook.

## Lessons From the 29 Project Sites

Although no two approaches are the same in the projects' 29 sites, similarities have emerged in both the conceptual and the hands-on approach to violation response policy work. Several key lessons have emerged as well.

There are no simple solutions to this issue and no shortcuts through the process. Jurisdictions

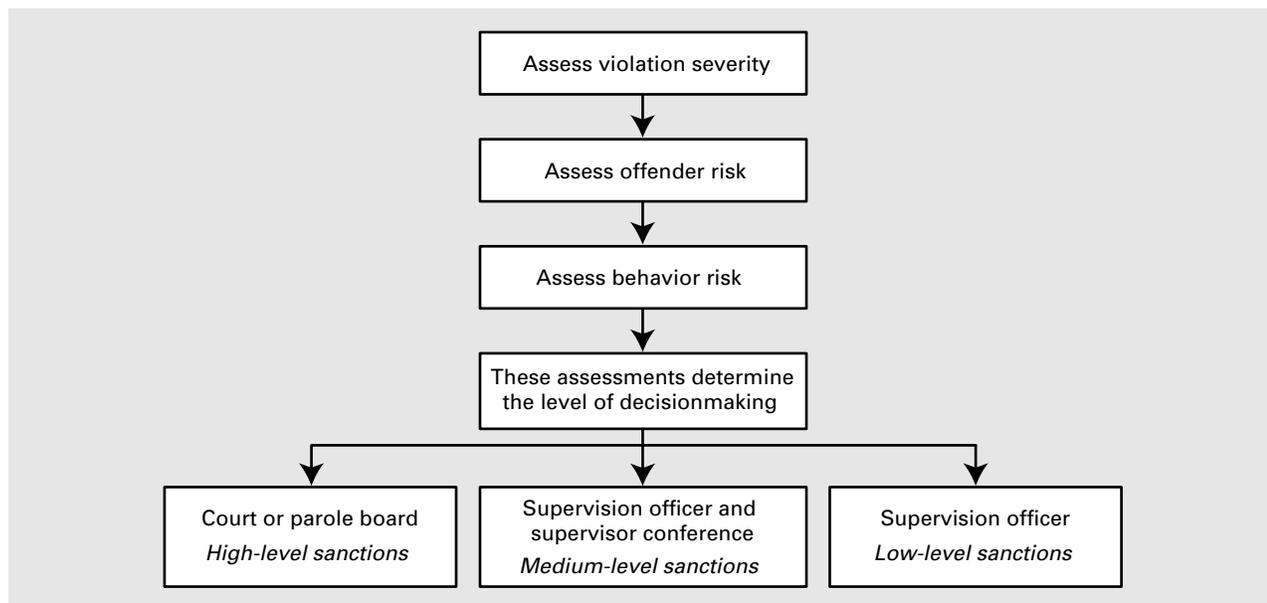
face varying levels of complexity—in the number of supervision agents, the number of offenders under supervision, the extent of the resources available, and the extent to which there is interest in this issue across the system.

Most supervising officers and many judges indicate that the management of violation cases is the most frustrating part of their jobs. The average violation process in most jurisdictions takes months—sometimes up to 1 year—to complete, from the time of filing to final disposition. Although most supervision agents are extremely frustrated by these cases, most fear losing discretion over their caseloads and therefore initially resist the notion of policy-driven decisionmaking. Many jurisdictions offer little training, or even guidance, for their supervision agents about how to react when an offender violates the terms of his or her conditions. Generally, officers develop their own philosophies that dictate how they respond in these cases.

Violations also consume extraordinary human resources. Officers spend countless hours preparing paperwork on these cases and sitting in hearings. These hearings consume the equally valuable time of judges, prosecutors, defenders, and court staff. In a large percentage of the cases that proceed to court or to the parole board, offenders are returned directly to supervision with few or no changes to the conditions of their supervision.

**EXHIBIT 10-1.**

## Violation Response: Sample Decision Tree



Many jurisdictions have little understanding of how their violation process works. It is rare to find an individual who can explain the entire process, and even rarer to find someone who knows the extent of violations within their jurisdiction, the number of jail beds used on technical violators, the rate of use of summonses versus warrants, or how long a technical violator will sit in the county jail waiting for his or her case to be heard.

Many jurisdictions lack formal policy regarding violations. Often, the only policy that exists simply addresses *how* to file a revocation rather than the ways to respond and the circumstances under which it is appropriate to respond. Agencies that undertake the policy development process described in this handbook have discovered new ways to view their work and manage their agencies. Staff have been rejuvenated, offenders' behavior has improved, and the concurrence rates between the supervision agency and the court or parole board have soared. Jurisdictions that have developed policy to guide violation decisionmaking have witnessed increases in

offender compliance and decreases in violation behavior and rearrests. Public safety has been enhanced through their efforts.

## The Tangible Outcomes

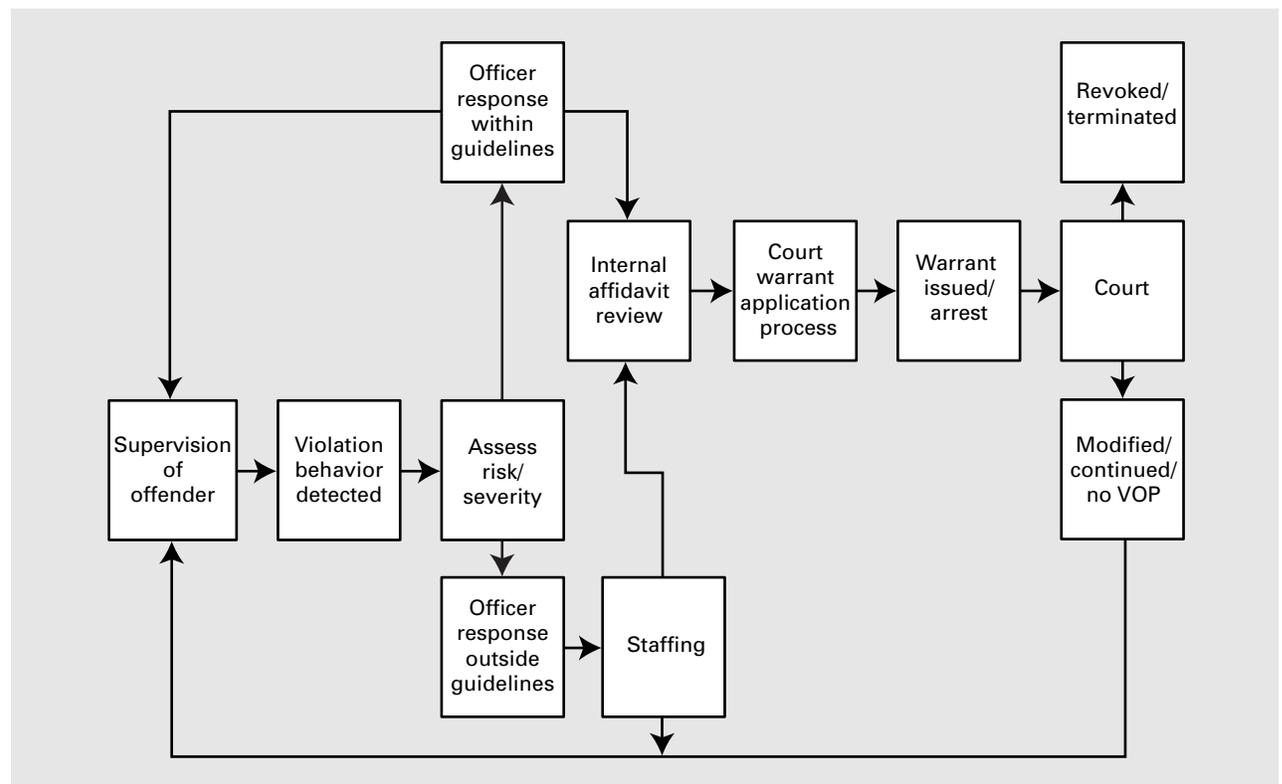
### *Interagency and intraagency impacts*

Jurisdictions have reported that their work in connection with the NIC-sponsored projects has resulted in positive changes both within their agencies and across agencies. These impacts are highlighted in exhibits 10-3 and 10-4 and are described in the following section:

### *Clarity of purpose*

Many supervision agencies have told us that the single most important outcome of the projects has been the clarity of purpose the work has brought to their agencies. They report that prior to beginning this work, their supervision goals were unclear or shared by only a few members of the agency, and there was much conflict and disagreement on how to respond to violation

**EXHIBIT 10-2. Violation of Probation Protocol (New Haven, Connecticut)**



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behavior. Examining the violation process, however, proved to be a catalyst for open discussions about these issues and resulted in clearly articulated language about goals and outcomes that was adopted by the full agency staff.

### ***Consistency***

As a result of achieving this clarity in purpose, these same agencies experienced more consistency across agency staff in how violations are monitored and managed. Greater consistency at the line and management levels has created more cohesive environments and promoted offender management practices that are more equitable.

### ***Heightened understanding***

The process of examining violations also has resulted in a heightened awareness among agen-

cies and actors within the system about one another, offender supervision, and the violation process. Many jurisdictions report they have enhanced their appreciation of one another and each other's challenges and responsibilities. This has resulted in increased information sharing and collaboration—in the violation response area as well as other initiatives under way in the jurisdiction—and has brought new attention to the importance of decisively responding to violations.

### ***Decreased revocations and increased concurrence rates***

In addition, some jurisdictions reported that following the implementation of their new policies, the rate of filings for revocation have decreased while the concurrence rate between the supervision agency and the court or parole board has increased. These agencies indicate that more time

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## **EXHIBIT 10-3.**

## **Tangible Outcomes: A View From the Bench**

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I joined the Weld County Probation Department in a multidisciplinary collaboration aimed at considering how our community could better respond to probation violations. Our work together has brought about some dramatic changes.

Previously, I would have 30 defendants on any given day who had complaints against them for not successfully completing probation. Every complaint looked the same, had similar language, and gave the same general information alleging failure to perform a condition of probation. I could not distinguish the incorrigible from the contrite, the failures from those that just needed a push in the right direction. It was the most frustrating part of my job.

Once I worked with the probation department and the other members of our collaboration team, two dramatic changes took place. First, I developed a better grasp of the roles and responsibilities of probation. Second, I helped them to create tools to assist them to do their own work more effectively. Working with probation, we defined the goal of probation supervision, what a violation is, and what types of responses would be used to encourage compliance. Probation improved communication with the court by developing a violation review log that is attached to the complaint. Now, I can turn immediately to the violation review log and quickly see whether the probationer just did not show up, has had ups and downs while on supervision, or simply had downs. I know immediately the types of violation behavior the probationer has exhibited in the past and exactly what the probation officer has done about it. This information helps me to determine what type of bond is appropriate for warrants, whether there were successes on probation that can be reestablished, or whether the only time the defendant is interested in probation is for the 5 minutes he or she is standing at the podium. I have faith that probation is systematically responding to violations while working at bringing the person back into compliance—before filing a complaint. I inform the defendant that the probation department will respond to each violation, already has my permission to use certain intermediate sanctions, and always has the power to ask that probation be revoked and a different sentence be imposed.

The number of complaints to revoke probation has decreased, the information available to me to make a good decision on resentencing has increased, and the increased trust and communication between probation and the courts is the surprise byproduct and perhaps the greatest outcome of all.

Judge Carol M. Haller  
19th Judicial District  
Weld County, Colorado

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is spent effectively managing cases and less time is wasted preparing paperwork and sitting in hearing rooms.

### **System impacts**

In addition to the significant interagency and intraagency benefits, two significant system outcomes have emerged, although these out-

comes are byproducts of the work rather than objectives of the work.

### ***Lower rates of revocation and new crimes; decreased use of jail and prison beds***

Time and again jurisdictions developed an appreciation for the extraordinary resource pressure

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## **EXHIBIT 10-4. Tangible Outcomes: A View From the Supervision Agency**

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What can your community corrections program achieve by creating a policy-driven approach to offender violations? This is what our department asked as we undertook the task of reengineering our own violation policy in hopes of achieving the many outcomes expected of us in a world of limited resources.

We knew going into this project that it would not be sufficient to simply find a good model that worked well somewhere else, incorporate it into our local policy, and then sit back and expect it to alter significantly our outcomes. We knew this would not work because how we do our jobs is born mostly out of individual and agency core beliefs and values, and for that reason we could not just pick up and implement another jurisdiction's work. Our instincts about this were soon reinforced. We quickly discovered the importance of seeking common ground among our stakeholders, both within and outside of our organization. Their participation in the process was essential to developing consensus on the principles that later shaped our new policy.

Through our work together, we experienced many positive outcomes that we did not originally envision. Some of these are listed below.

- We developed a guide on responses to violations that assists officers to carry out more effectively the mission of the department.
- We have increased the consistency among staff in their responses to offender violations.
- Supervisors and officers now use a decisionmaking tool that aids them in responding to offender violations, whether the offender exhibits high-risk behavior or chronic, low-risk, noncompliant behavior.
- We now have a common language to discuss violations.
- A comprehensive regional resource guide was developed. Officers now have at their fingertips a single source that describes all the resources available to respond to an offender's violation behavior.
- Priorities have been established on the use of available resources, enabling us to better allocate our limited departmental resources.
- A handbook was created for offenders that promotes improved understanding of court and community expectations during the term of supervision.
- Officers now have greater credibility when bringing cases before the court for proceedings.
- The safety of victims and community members is now clearly guiding our decisionmaking.
- We now base decisions on what we know from the data we have and continue to collect.
- We have experienced a reduction in the number of overall probation revocations due to the fact that supervision staff are dealing with low-risk violations swiftly and carefully, with measured interventions, rather than seeking formal proceedings with these cases.

We also discovered that the creation of our policy was not a panacea for all problems or the end of our journey. However, the increased level of collaboration among stakeholders has prompted further systemic activities with the aim of improving public safety and promoting effective justice practices within our local community.

1st District Probation Department  
Jefferson County, Colorado  
Response to Violations Committee

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violation cases were placing on the system. In no other place was that more easily quantifiable than in the use of jail and prison beds. Numerous State and national studies have documented the extraordinary admission rates of violators—largely on technical violations—to jail and prison. These data were affirmed in many of the projects' sites. However, these rates were significantly affected by the implementation of new policy. For example, between 1988 and 1995, caseload size in Missouri doubled while the number of returns to prison for revocation of probation and parole remained virtually constant. In Wayne County, Michigan, a comparative analysis across years reflected a 21.9-percent reduction in probation violation warrants issued, a 16.2-percent reduction in probation violation sentences, and a 12.4-percent reduction in the number of probation violators sentenced to prison. In Macomb County, Michigan, during a study from 1991 to 1994, commitments to the county jail for revocation of probation dropped from 28 percent to 18 percent. The Department of Corrections estimated that for 1994 only, the savings in bed space alone saved the county and the State more than \$580,000.

The reductions previously cited have far greater impact than cost savings in bed spaces, however. In addition to conserving resources, the changes brought about by this policy development work also seem to affect offender behavior. None of these jurisdictions have reported increases in new crime rates among those under supervision. In fact, during 1990–92 in South Carolina, studies indicated that although parole caseloads grew by more than 42 percent, technical violations decreased by 10 percent, and new crimes committed by those under supervision decreased by nearly 19 percent. Similarly, during the same study period, probation caseloads grew nearly 21 percent while technical violations and new

offense violations increased at a much slower pace, by 9 percent and 2 percent, respectively.

## Conclusion

To date, relatively little quantitative research has been conducted on the impact of violation policy on supervision and other criminal justice agencies, the use of jail and prison bed space, and most important, the performance of offenders under supervision. However, the experience of jurisdictions participating in NIC's projects clearly indicates that work in this area offers great promise.

The violations process outlined in this handbook was developed to encourage more effective management of the offenders who fail to comply with the terms and conditions of supervision, with the ultimate aim of enhancing public safety. We suggest that supervision agencies think of the violations process as a means to determine which offenders are likely to pose the greatest risk to public safety and to respond swiftly in those cases. We also recommend that supervision agencies view the violation process as a means to assist those offenders who do not present a public safety risk to successfully complete supervision rather than viewing it only as a mechanism to revoke noncompliant offenders. Experience across numerous jurisdictions indicates that effective management of violation behavior can result in decreased use of jail and prison bed space as well as higher levels of compliance among those under supervision.

In addition to these tangible outcomes, work in this area can lead to more effective supervision practices in general, greater degrees of collaboration across the criminal justice system, and clearer policies regarding the management of noncompliant offenders.

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# Appendix A. Resource List

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## Contacts

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Fax: 803-896-1766

## Recommended Reading

Burke, Peggy. Center for Effective Public Policy. 1997. *Policy-Driven Responses to Probation and Parole Violations*. Washington, D.C.: U.S. Department of Justice, National Institute of Corrections.

McGarry, Peggy A., and Carter, Madeline M. 1993. *The Intermediate Sanctions Handbook: Experiences and Tools for Policymakers*. Washington, D.C.: U.S. Department of Justice, National Institute of Corrections, and Alexandria, Virginia: State Justice Institute.

## National Institute of Corrections (NIC) Contact Information

### NIC Information Center

1860 Industrial Circle, Suite A  
Longmont, CO 80501  
Toll free: 800-877-1461  
Phone: 303-682-0213  
Fax: 303-682-0558  
E-mail: asknic@nicic.org  
Web site: www.nicic.org

*To request technical assistance specifically related to **prisons** or **community corrections**, contact the Prisons Division or the Community Corrections Division at:*

### National Institute of Corrections

320 First Street N.W.  
Washington, DC 20534  
Phone: 800-995-6423  
Fax: 202-307-3361  
Prisons Division e-mail: krendelson@bop.gov  
Community Corrections Division e-mail:  
kcarpenter@bop.gov

*For technical assistance specifically related to **jails** or **training activities**, contact the Jails Division or the Academy Division at:*

### National Institute of Corrections

1960 Industrial Circle  
Longmont, CO 80501  
Phone: 800-995-6429  
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Jails Division e-mail: jberthold@bop.gov  
Academy Division e-mail: nshomaker@bop.gov

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## *Appendix B. User Feedback Form*

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Please complete and return this form to assist the National Institute of Corrections in assessing the value and utility of its publications. Detach from the document and mail to:

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Excellent    Good    Average    Poor    Useless

2. To what extent do you see the document as being useful in terms of:

	Useful	Of some use	Not useful
Providing new or important information			
Developing or implementing new programs			
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Providing appropriate liaisons			

3. Do you believe that more should be done in this subject area? If so, please specify the types of assistance needed. \_\_\_\_\_

4. In what ways could this document be improved? \_\_\_\_\_

5. How did this document come to your attention? \_\_\_\_\_

6. How are you planning to use the information contained in this document? \_\_\_\_\_

7. Please check one item that best describes your affiliation with corrections or criminal justice.

If a governmental program, please also indicate the level of government.

- |  |   |
|--|---|
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| <input type="checkbox"/> College/university                  | <input type="checkbox"/> Parole                       |
| <input type="checkbox"/> Community corrections               | <input type="checkbox"/> Police                       |
| <input type="checkbox"/> Court                               | <input type="checkbox"/> Probation                    |
| <input type="checkbox"/> Department of corrections or prison | <input type="checkbox"/> Professional organization    |
| <input type="checkbox"/> Jail                                | <input type="checkbox"/> Other government agency      |
| <input type="checkbox"/> Juvenile justice                    | <input type="checkbox"/> Other (please specify) _____ |

8. Optional:

Name: \_\_\_\_\_

Agency: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

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