

Mandatory Minimum Confinement for Community Custody Violators

A Report by the Sentencing Guidelines Commission

December 2010

PURPOSE

In the 2010 Legislative Session, the Legislature requested the Sentencing Guidelines Commission (SGC) to:

"... survey the practices of other states relating to offenders who violate any conditions of their community custody. In conducting the survey, the sentencing guidelines commission shall perform a review of the research studies to determine if a mandatory minimum confinement policy is an evidence-based practice, investigate the implementation of such a policy in other states and estimate the fiscal impacts of implementing such a policy in Washington State."¹

The Sentencing Guidelines Commission respectfully submits the following report in response to the above directive.

VIOLATORS IN WASHINGTON

Community custody violators have been a growing issue for many states and Washington is no exception. According to the Department of Correction's (DOC) facility report, a community custody violator is an offender who does not comply with the terms of a community sentence and receives a violation which may result in a confinement sanction. There are two types of violations, technical violations and non-technical violations. Technical violations are violations of supervision conditions that are not reflective of new criminal behavior, such as failing to report, non-participation in treatment or using a controlled substance. Non-technical violations are acts or offenses committed by the offender that are representative of new crimes. In FY10, the most frequent technical violations were for failing to report, using a controlled substance and not abiding by alcohol/controlled substance monitoring. While about 65 percent of offenders on community custody come from jail, nearly 60 percent of violation hearings in FY10 were for offenders who entered community custody from prison.

When an offender violates a condition of supervision, the non-compliant behavior can be addressed through a violation hearing. Hearings can occur while the offender is in confinement or outside of a confinement setting. Violation hearings occur in confinement as a result of the offender being detained on reasonable suspicion, or arrested as a result of issuance of a Secretary's Warrant. If the offender is under the jurisdiction of the court or the Indeterminate Sentence Review Board, a warrant is requested from the appropriate authority. If the offender is detained or arrested via the Secretary's Warrant, DOC shall hold the violation hearing in confinement within 5 working days, but no less than 24 hours, after service of the

¹ ESSB 6444.SL Section 225(3)

notice of allegations, hearing and rights, and waiver form². If the offender is detained without a warrant, a probable cause determination will be made within three working days after the initial detention, adding more time between the initial detention and a hearing date. Offenders generally spend that pre-hearing detainment in jail where DOC contracts with the counties for confinement space. Contracted utilization rate and cost is negotiated periodically. Post-hearing confinement sanctions may be spent in county or state facilities. If the offender is not detained or arrested, then DOC shall hold the non-confinement violation hearing within 15 working days, but no less than 24 hours, after service of the notice of allegations, hearing and rights, and waiver form.

Data from DOC shows that since 2004, community custody violators admitted to confinement in jails or DOC facilities have contributed to over half of all prison admissions. As of 2007, they have remained steady around 71 percent. Over the past four years, an average of 30 percent of total violation hearings resulted in credit for time served pre-hearing. The number of days of credit for time served averaged 14, while the post-hearing sanction days averaged 29. Therefore, offenders who received a confinement sanction averaged a total of 43 days.

DOC spent \$38.6 million in FY10 for violator beds. They have allocated \$39.2 million for FY11, or approximately 4.4 percent of their total budget for that year³.

SURVEY OF THE STATES

A survey was submitted to probation and parole agency executives of each state. The survey inquired about the process for violation notification, the use of graduated sanctions and violation confinement grid, issues the state may have experienced that were both barriers/contributions to swift violation adjudication and whether mandatory minimum sanctions were applied. A total of 11 states responded. Their individual responses are included in the appendix.

Of the 11 respondents, 10 had a policy for graduated sanctions but all 11 utilized graduated sanctions. Only 3 had a policy for and utilized a violation confinement grid. Formal violation notification was required by 9 states and the time frame for notification ranged from 0 to 50 days. When asked what their state's actual time line for notification was, the answers ranged from as soon as possible to 3 days.

Two of the states reported issuing mandatory minimum confinement terms for guilty violation findings, however, neither were mandatory. These two states also reported that their use of minimum confinement had not been researched. The mandatory minimum terms ranged from 30 days to 12 months and were applied to revocation cases only.

The respondents were asked if their agency had an alternative policy/process for dealing with felony violators. Eight of the 11 responded that they did. The alternatives mentioned are commonly known violator alternative practices: graduated or intermediate sanctions, prison sentencing alternatives and violator centers.

² Per WAC 137-104-050

³ Susan Lucas (personal communication, December 1, 2010). The FY11 allocation amount may change due to budget constraints.

Barriers to swift adjudication most frequently mentioned were scheduling issues (courts, attorneys, hearing officers) and limited resources to deal with the volume of violation reports. Contributions to swift adjudication were more varied. Participation from the jails, allowing more responses to be available at the community corrections officer level and enforcing time limits were mentioned more than once. Other contributions included the offender being able to waive the violation hearing and admit guilt and the court giving priority to violation hearings.

LITERATURE REVIEW

A search of violator literature resulted in zero studies on mandatory minimums. Contacts to the Vera Institute of Justice, The Pew Charitable Trusts and the Washington State Institute for Public Policy (WSIPP) also resulted in no known studies. Jake Horowitz of The Pew Charitable Trusts responded that “. . . we see states moving, in general terms, away from mandatory minimum technical violator sanctions. More common are ceilings (rather than floors). The innovative programs that do use incarcerative sanctions generally impose very short jail stays, rather than lengthy prison terms”⁴. Elizabeth Drake from WSIPP was also not familiar with any such studies but offered a study that showed that of the three elements of deterrence (severity, certainty and swiftness), certainty of a sanction plays a bigger role in deterrence than severity of a sanction⁵.

The literature did reveal a few programs that have indicated success with violations, although it must be noted that they are still being researched and replicated. The first is the Hawaii’s Opportunity Probation with Enforcement (HOPE) program. In general, the program randomly tests participants for drug use. Every missed appointment or positive drug test results in an immediate jail sanction. The sanction starts small, around 2 days, and increases with each subsequent violation. When the sanction is over, the offender rejoins the program. A study on HOPE showed a decline in positive drug tests and missed appointments⁶. The rate of positive drug tests fell 93 percent for HOPE participants six months after starting the program while the comparison group only fell by 14 percent. Likewise, the rate of missed appointments dropped by 93 percent for HOPE participants six months after starting the program while the comparison group showed no significant improvement.

Another program that has exhibited success with violators is the 24/7 Sobriety Project in South Dakota. This program targets people who are repeat DUI offenders and requires them to test for alcohol/drug twice per day; once in the morning and once in the evening. The 24/7 Sobriety Project is not meant as a treatment alternative but as a way to reduce the number of people driving intoxicated. If participants test positive, they are taken to jail immediately for 24 hours; missed appointments result in an arrest warrant. South Dakota’s Attorney General’s

⁴ Jake Horowitz (personal communication, November 17, 2010).

⁵ Durlauf, S.N. and Nagin, D.S. (2010). *The deterrent effect of imprisonment*. [On-line]. Available: http://economics.uchicago.edu/pdf/durlauf_060710.pdf.

⁶ Hawken, A. and Kleiman, M. (2009). *Managing drug involved probationers with swift and certain sanctions: evaluating Hawaii’s HOPE*. Sponsored by National Institute of Justice, US Dept of Justice. Doc No. NCJ 229023. [On-line]. Available: <http://www.ncjrs.gov/App/Publications/abstract.aspx?ID=251050>

webpage indicates that of those testing twice per day, upwards of 99.3 percent of the tests were successfully passed⁷.

Oregon experienced success with their Drug Reduction of Probationers (DROP) program. Each positive urinalysis resulted in an immediate jail sanction for program participants. Comparisons were made as one county used graduated sanction days while another county used a constant number of sanction days. Both counties showed similar positive results despite the difference in penalty length. Revocations for technical violations decreased by approximately 30 percent for both probation and parole participants⁸ in the first 12 months of the program. Oregon officials believe that swift and certain responses were much more effective than severity in reducing drug use in probationers.

All three of these programs have similar elements that are believed to have contributed to their success; immediacy of action to the violation (swiftness), certainty of an action to a violation and short sanction confinement lengths. The meta-analysis on deterrence by Durlauf and Nagin (2010) concluded that there is less evidence to support use of severity but substantial evidence to support use of certainty.

In the field of psychology, it is well known that positive and negative reinforcements (*i.e.* rewards) have a greater impact on changing behavior than punishment does; punishment shows us what not to do while rewards show us what is acceptable to do. The HOPE program doesn't consider rewards as an element of the program, but because the frequency of testing for offenders who have been compliant is reduced, rewards are being utilized. In a 2003 report submitted by Missouri's Probation and Parole Violation Process Examination Team, with initial guidance from the National Institute of Criminology, included "reward offender success" as one of the tasks that would assist in achieving the goals for their violation process⁹. The Pew Charitable Trusts also reported positive reinforcements as one of the elements of a strategic approach in dealing with violators¹⁰.

IMPLEMENTATION

During the 2010 Legislative Session, House Bill 2626 proposed adding a mandatory 48-hours confinement for each violation. Since in-custody violators already average 14 days of confinement pre-hearing, the mandatory confinement would likely impact violations that have been addressed via stipulated agreements, negotiated sanctions and verbal agreements¹¹. The fiscal note resulted in a cost of several million dollars the first year.

Studies indicate that certainty of sanctions for every violation and swift adjudication of those sanctions have greater impact. Accordingly, mandatory minimum sanctions without certainty and swiftness will likely have little impact. Programs containing, at minimum, these two elements have shown potential reductions in violating behaviors. The programs discussed

⁷ As reported on South Dakota Attorney General's website: <http://apps.sd.gov/atg/dui247/247stats.htm>

⁸ Taylor, S. and Martin, G. (2006). *State and local agencies partner to manage violations of supervision in oregon*. OR Dept of Corrections: Salem, OR. [Online]. Available: <http://nicic.gov/Downloads/PDF/Library/period305.pdf>.

⁹ Tom Hodges (personal communication, September 10, 2010).

¹⁰ The Pew Center on the States. (2007, November). *When offenders break the rules: smart responses to parole and probation violations* (Public Safety Policy Brief No. 3). Washington, DC: Author.

¹¹ House Bill 2626 fiscal note dated January 21, 2010. [Online]. Available: <http://apps.leg.wa.gov/billinfo/summary.aspx?bill=2626&year=2010>.

in this report, DROP, HOPE and 24/7, dealt with offenders who repeatedly violated the law or their community custody conditions.

To employ certainty and swiftness to Washington's violation process, many procedures would need to be changed and partnerships created. For example, DOC would need to immediately confine violators, either by expediting violation hearings or by gaining the authority to sanction an offender to short terms of confinement without a hearing. The HOPE project dealt with concerns about the change in due process by holding a warning hearing where the program process is explained to incoming participants¹². Partnerships with local agencies would be needed to apply the swiftness portion to offenders who have bench warrants against them. All three of the programs discussed here have working state/local partnerships.

This Fall, the City of Seattle offered to collaborate with DOC in a pilot project similar to that of HOPE project¹³. They estimate that the pilot can be implemented with little additional costs to the City of Seattle or to DOC.

While no evidence was found that showed mandatory minimum confinement was evidence-based, research has shed light on to other promising elements such as certainty and swiftness. Use of mandatory minimums without these elements would likely foster little impact, other than to cost the state millions of dollars. As recommended by those who studied the HOPE project, starting out small may be the key to growing a successful program. The collaboration between the City of Seattle and DOC appears to be a good place to start.

¹² Kiyabu, R., Steinberg, J. and Yoshida, M. (2010). *Hawaii's opportunity probation with enforcement (HOPE): an implementation analysis*. Manoa, HI: University of Hawaii, Public Administration Program.

¹³ Mayor Michael McGinn, Chief John Diaz and Councilmember Tim Burgess (personal communication, September 15, 2010).

APPENDIX

Survey Responses

Survey Questions Related to Other States' Practices Relating to Community Violators

Name: Mark Smith
Title: Lieutenant

Agency: DPS/Parole and Probation
State: Nevada

1. My agency is responsible for: Felony Probation Parole **Both**
2. Sanction authority over felony probation violators belongs to:
State **Courts** Other
3. Sanction authority over parole violators belongs to:
State Courts **Parole Board** Other
4. My state has a policy to utilize the following for felony violators:
 - a. Graduated sanctions **Yes** No
 - b. A violation confinement grid Yes **No**
5. My state utilizes the following for felony violators:
 - a. Graduated sanctions **Yes** No
 - b. A violation confinement grid Yes **No**
6. Formal notification of the violation to the offender required **Yes** No
 - a. The time frame for required notification of the violation is:
Report written within 3 days, Served to offender within 10 days, to court within 2 days of service or preliminary hearing
7. My state's timeline for notifying felony offenders of a violation hearing is: (if there is no set timeline, please respond with 'NA')
They have 5 days to prepare for a preliminary hearing before appearing in court, must have that hearing within 15 days of arrest. Court notified of custody status 2 days after that
8. The timeline for notifying felony offenders of a violation hearing is set by:
Agency Policy **State Statute** Parole Board Court
Local Statute Other There is no timeline
9. The average length of time from the occurrence of the violation to adjudication of the violation is:
2-4 weeks depending on jurisdiction across the state
10. Items experienced by my state that were barriers to swift adjudication of the violation are:
Reports delayed for corrections. Reports not routed correctly. Attorneys not available for hearings.

11. Items experienced by my state that contributed to swift adjudication of the violation are:
Jails actively involved in process to get offenders to court, tracking process set up in offices to follow offenders in process.

12. When a felony offender is found guilty of a violation, a minimum term of confinement is issued. ☒ Yes ☐ No

a. The length of the minimum confinement term is:

Based on original sentence if probation revoked. If jail time is made a condition of probation in lieu of revocation, then average is 30 days.

b. The minimum confinement term is mandatory: ☐ Yes ☒ No

c. Who is eligible to receive the minimum confinement term?

Any offender may receive a sanction of jail time in lieu of revocation.

d. Has a validation study been conducted on the impact of your agency's minimum confinement term process/policy? ☐ Yes ☒ No

13. Felony offenders held in confinement prior to the violation hearing are given credit toward their sanction for time served. ☒ Yes ☐ No Offenders are not confined prior to violation hearing

14. Does your agency have an alternative process/policy for dealing with felony violators? (This may include pilot projects or small-scale programs for specific offender/offense types.)
☒ Yes ☐ No

15. Please provide any comments you may have in regard to your state's experience in dealing with felony violation populations:

We have moved to a graduated sanction policy to address offenders negative behavior. Only the courts though can impose a sanction of incarceration resulting from a violation. Graduated sanctions work as the Division is able to exhaust all possible sanctions and opportunities before taking an offender back to court for violation. Thus, when an offender finally reaches court for violation, they usually are revoked and thus expend limited court time with repeated trips to the judge.

Survey Questions Related to Other States' Practices Relating to Community Violators

Name: Pam Bunke
Title: Administrator

Agency: Dept of Corrections
State: Montana

1. My agency is responsible for: Felony Probation Parole **Both**
2. Sanction authority over felony probation violators belongs to:
State **Courts** Other
3. Sanction authority over parole violators belongs to:
State Courts **Parole Board** Other
4. My state has a policy to utilize the following for felony violators:
 - a. Graduated sanctions **Yes** No
 - b. A violation confinement grid Yes **No**
5. My state utilizes the following for felony violators:
 - a. Graduated sanctions **Yes** No
 - b. A violation confinement grid Yes **No**
6. Formal notification of the violation to the offender required **Yes** No
 - a. The time frame for required notification of the violation is: **72 hours**
7. My state's timeline for notifying felony offenders of a violation hearing is: (if there is no set timeline, please respond with 'NA')? **48 hours**
8. The timeline for notifying felony offenders of a violation hearing is set by:
Agency Policy State Statute Parole Board Court
Local Statute Other There is no timeline (NA)
9. The average length of time from the occurrence of the violation to adjudication of the violation is: **1 week**
10. Items experienced by my state that were barriers to swift adjudication of the violation are:
Scheduling problems, too many hearings and not enough hearing officers.
11. Items experienced by my state that contributed to swift adjudication of the violation are: **NA**

12. When a felony offender is found guilty of a violation, a minimum term of confinement is issued. Yes ☒ No
- a. The length of the minimum confinement term is:
- b. The minimum confinement term is mandatory: Yes No
- c. Who is eligible to receive the minimum confinement term?
- d. Has a validation study been conducted on the impact of your agency's minimum confinement term process/policy? Yes No
13. Felony offenders held in confinement prior to the violation hearing are they given credit for time served toward their sanction. ☒ Yes No Offenders are not confined prior to violation hearing
14. Does your agency have an alternative process/policy for dealing with felony violators? (This may include pilot projects or small-scale programs for specific offender/offense types.) ☒ Yes No
15. Please provide any comments you may have in regard to your state's experience in dealing with felony violation populations:
- We have a variety of alternatives and allow the hearing officer to use their discretion in determining the most appropriate sanction.

Survey Questions Related to Other States' Practices Relating to Community Violators

Name: Leslie (Barney) Tomanek
Title: Director

Agency: North Dakota Parole & Probation
State: North Dakota

1. My agency is responsible for: Felony Probation Parole **Both**
2. Sanction authority over felony probation violators belongs to:
State **Courts** Other
3. Sanction authority over parole violators belongs to:
State Courts **Parole Board** Other
4. My state has a policy to utilize the following for felony violators:
 - a. Graduated sanctions Yes **No**
 - b. A violation confinement grid Yes **No**
5. My state utilizes the following for felony violators:
 - a. Graduated sanctions **Yes** No
 - b. A violation confinement grid Yes **No**
6. Formal notification of the violation to the offender required **Yes** No
 - a. The time frame for required notification of the violation is:
Prior to the filing of any legal action and revocation proceeding
7. My state's timeline for notifying felony offenders of a violation hearing is: (if there is no set timeline, please respond with 'NA')? **NA**
8. The timeline for notifying felony offenders of a violation hearing is set by:
Agency Policy State Statute **Parole Board** Court
Local Statute Other **There is no timeline (NA)**
9. The average length of time from the occurrence of the violation to adjudication of the violation is: **45 days**
10. Items experienced by my state that were barriers to swift adjudication of the violation are:
Busy court schedules
11. Items experienced by my state that contributed to swift adjudication of the violation are:
Cost of housing offenders in jail pending hearing

12. When a felony offender is found guilty of a violation, a minimum term of confinement is issued. Yes ☒ No
- a. The length of the minimum confinement term is:
- b. The minimum confinement term is mandatory: Yes No
- c. Who is eligible to receive the minimum confinement term?
- d. Has a validation study been conducted on the impact of your agency's minimum confinement term process/policy? Yes No
13. Felony offenders held in confinement prior to the violation hearing are they given credit for time served toward their sanction. ☒ Yes No Offenders are not confined prior to violation hearing
14. Does your agency have an alternative process/policy for dealing with felony violators? (This may include pilot projects or small-scale programs for specific offender/offense types.) ☒ Yes No
15. Please provide any comments you may have in regard to your state's experience in dealing with felony violation populations:
- We have a manual that deals with Managing Non-Compliant Behavior. It is a guideline, and not a policy document. We make every effort to screen violators and attempt community sanctions when possible. When staff are wanting to file Petitions to Revoke they must be screened and approved by their supervisor.

Survey Questions Related to Other States' Practices Relating to Community Violators

Name: Shari Britton

Agency: Dept of Corrections

Title: Bureau Chief

State: Florida

Probation and Parole Field Services

1. My agency is responsible for: Felony Probation Parole **Both**
2. Sanction authority over felony probation violators belongs to:
State **Courts** Other
3. Sanction authority over parole violators belongs to:
State Courts **Parole Board** Other
4. My state has a policy to utilize the following for felony violators:
 - a. Graduated sanctions **Yes** No
 - b. A violation confinement grid Yes **No**
5. My state utilizes the following for felony violators:
 - a. Graduated sanctions **Yes** No
 - b. A violation confinement grid Yes **No**
6. Formal notification of the violation to the offender required Yes **No**
 - a. The time frame for required notification of the violation is: **NA**
7. My state's timeline for notifying felony offenders of a violation hearing is: (if there is no set timeline, please respond with 'NA')? **NA**
8. The timeline for notifying felony offenders of a violation hearing is set by:
Agency Policy State Statute Parole Board Court
Local Statute Other **There is no timeline (NA)**
9. The average length of time from the occurrence of the violation to adjudication of the violation is:
Varies - Courts with "Rocket Dockets" where VOP's are placed a special docket are heard within a week or two of the violation - others may be passed for months, especially if there is a new charge and the VOP is held up pending disposition on the new charge
10. Items experienced by my state that were barriers to swift adjudication of the violation are:
Extremely busy dockets; reductions in staffing with state attorney or public defender's offices resulting in limited resources to handle the hearings in a timely, efficient manner

11. Items experienced by my state that contributed to swift adjudication of the violation are:
 Section 948.06, Florida Statute authorizes the court to allow probation officers to utilize "Technical Violation Notification" letters to report certain specified technical violations in lieu of requesting a warrant and hearing. Another method authorized by statute is the use of "Notice to Appear" hearings in lieu of requesting warrants. These are scheduled by the probation officer with the clerk for VOP hearings when the offender can be relied upon to show up for court for disposition of a violation. Depending on the area in the state, these can sometimes be scheduled within the month to resolve violations quickly.
12. When a felony offender is found guilty of a violation, a minimum term of confinement is issued. Yes ☒ No ☐
- a. The length of the minimum confinement term is:
- b. The minimum confinement term is mandatory: Yes ☐ No ☐
- c. Who is eligible to receive the minimum confinement term?
- d. Has a validation study been conducted on the impact of your agency's minimum confinement term process/policy? Yes ☐ No ☐
13. Felony offenders held in confinement prior to the violation hearing are they given credit for time served toward their sanction. ☒ Yes ☐ No ☐ Offenders are not confined prior to violation hearing
14. Does your agency have an alternative process/policy for dealing with felony violators? (This may include pilot projects or small-scale programs for specific offender/offense types.)
☒ Yes ☐ No
15. Please provide any comments you may have in regard to your state's experience in dealing with felony violation populations:
 In the past few years, Florida has passed legislation to address violations and prison diversions. I've already discussed s. 948.06, F.S. regarding hearing notices and technical violation notification letters. In addition, in 2009, a law was passed creating prison diversion programs (s. 921.00241, F.S) which authorizes a court to divert certain offenders meeting specified criteria from a prison sentence to a non-state prison sanction, including a term of supervision with mandatory participation in a prison diversion program if such a program is funded in that county of sentence. The program may require residential or non-residential treatment, day reporting requirements, employment, community service, etc. Also in 2009, another sentencing alternative was created in s. 397.334, F.S. for non-violent felony offenders who have violated probation for a positive urinalysis. This program, called Post Adjudicatory Treatment Based Drug Court Program, is being piloted in a few counties. Operationally, in the past couple of years, violation procedure policies and training have emphasized recommending graduated sanctions as alternative sentences to prison when public safety is not at risk.

Survey Questions Related to Other States' Practices Relating to Community Violators

Name: Cynthia S. Dillard
Title: Executive Director

Agency: Alabama Board of Pardons and Paroles
State: Alabama

1. My agency is responsible for: Felony Probation Parole **Both**
2. Sanction authority over felony probation violators belongs to:
State **Courts** Other
3. Sanction authority over parole violators belongs to:
State Courts **Parole Board** Other
4. My state has a policy to utilize the following for felony violators:
 - a. Graduated sanctions **Yes** No
 - b. A violation confinement grid Yes **No**
5. My state utilizes the following for felony violators:
 - a. Graduated sanctions **Yes** No
 - b. A violation confinement grid Yes **No**
6. Formal notification of the violation to the offender required **Yes** No
 - a. The time frame for required notification of the violation is:
For parolees it is 48 hours. There is none for probationers.
7. My state's timeline for notifying felony offenders of a violation hearing is: (if there is no set timeline, please respond with 'NA')? **48 hours**
8. The timeline for notifying felony offenders of a violation hearing is set by:
Agency Policy **State Statute** Parole Board Court
Local Statute Other There is no timeline (NA)
9. The average length of time from the occurrence of the violation to adjudication of the violation is: **45 days**
10. Items experienced by my state that were barriers to swift adjudication of the violation are:
Absconders that are arrested out of state & inmates that are transferred to the state penitentiary before they have a parole court hearing.
11. Items experienced by my state that contributed to swift adjudication of the violation are:
Offender's waiver of hearing and admission of guilt.

12. When a felony offender is found guilty of a violation, a minimum term of confinement is issued. Yes ☒ No
- a. The length of the minimum confinement term is:
- b. The minimum confinement term is mandatory: Yes No
- c. Who is eligible to receive the minimum confinement term?
- d. Has a validation study been conducted on the impact of your agency's minimum confinement term process/policy? Yes No
13. Felony offenders held in confinement prior to the violation hearing are they given credit for time served toward their sanction. ☒ Yes No Offenders are not confined prior to violation hearing
14. Does your agency have an alternative process/policy for dealing with felony violators? (This may include pilot projects or small-scale programs for specific offender/offense types.) ☒ Yes No
15. Please provide any comments you may have in regard to your state's experience in dealing with felony violation populations:
- Our agency operates a Transition Center where technical and misdemeanor offenders can be set for a 6 month program. If successful, they will be reinstated. The DOC and Parole Board have worked together to institute a "Restart Program" wherein a parole technical violator can complete a 60 day program in DOC custody, with reinstatement after successful completion.

Survey Questions Related to Other States' Practices Relating to Community Violators

Name: Tim Carman
Title: Director

Agency: Kentucky Probation and Parole
State: Kentucky

1. My agency is responsible for: Felony Probation Parole **Both**
2. Sanction authority over felony probation violators belongs to:
State **Courts** Other
3. Sanction authority over parole violators belongs to:
State Courts Parole Board Other
4. My state has a policy to utilize the following for felony violators:
 - a. Graduated sanctions **Yes** No
 - b. A violation confinement grid Yes **No**
5. My state utilizes the following for felony violators:
 - a. Graduated sanctions **Yes** No
 - b. A violation confinement grid Yes **No**
6. Formal notification of the violation to the offender required **Yes** No
 - a. The time frame for required notification of the violation is: **72 hours**
7. My state's timeline for notifying felony offenders of a violation hearing is: (if there is no set timeline, please respond with 'NA')? **72 hours**
8. The timeline for notifying felony offenders of a violation hearing is set by:
Agency Policy State Statute Parole Board Court
Local Statute Other There is no timeline (NA)
9. The average length of time from the occurrence of the violation to adjudication of the violation is: **10 days**
10. Items experienced by my state that were barriers to swift adjudication of the violation are:
Logistics - Admin Law Judge Schedule
11. Items experienced by my state that contributed to swift adjudication of the violation are:
Moving from snail mail to scanning capabilities.

12. When a felony offender is found guilty of a violation, a minimum term of confinement is issued. Yes ☒ No
- a. The length of the minimum confinement term is:
- b. The minimum confinement term is mandatory: Yes No
- c. Who is eligible to receive the minimum confinement term?
- d. Has a validation study been conducted on the impact of your agency's minimum confinement term process/policy? Yes No
13. Felony offenders held in confinement prior to the violation hearing are they given credit for time served toward their sanction. ☒ Yes No Offenders are not confined prior to violation hearing
14. Does your agency have an alternative process/policy for dealing with felony violators? (This may include pilot projects or small-scale programs for specific offender/offense types.) Yes ☒ No
15. Please provide any comments you may have in regard to your state's experience in dealing with felony violation populations:
- Felony probationers are completely under the auspices of the local courts. The Courts sometimes utilize sanctions and alternatives such as Drug Courts. The Parole population is completely under the executive branch - parole board. Intermediate sanctions are considered - to include warnings, increased levels of supervision, home incarcerations, brief periods of jail terms, half-way back programs and treatment options - before we move to revocation.

Survey Questions Related to Other States' Practices Relating to Community Violators

Name: Tom Hodges

Agency: Missouri Board of Probation and Parole

Title: Chief State Supervisor

State: Missouri

1. My agency is responsible for: Felony Probation Parole **Both**

2. Sanction authority over felony probation violators belongs to:

State

Courts

Other - The agency (State) has authority to impose some sanctions in addition to what the Court can assign.

3. Sanction authority over parole violators belongs to:

State

Courts

Parole Board

Other - The agency (State) has authority to impose some sanctions in addition to what the Board can assign.

4. My state has a policy to utilize the following for felony violators:

a. Graduated sanctions

Yes

No

b. A violation confinement grid

Yes

No

5. My state utilizes the following for felony violators:

a. Graduated sanctions

Yes

No

b. A violation confinement grid

Yes

No

6. Formal notification of the violation to the offender required **Yes** No

a. The time frame for required notification of the violation is:

Less than 10 days for major violations and up to 30 days for lower tier violations.

7. My state's timeline for notifying felony offenders of a violation hearing is: (if there is no set timeline, please respond with 'NA')? **As soon as possible after the hearing is set.**

8. The timeline for notifying felony offenders of a violation hearing is set by:

Agency Policy

State Statute

Parole Board

Court

Local Statute

Other

There is no timeline (NA)

9. The average length of time from the occurrence of the violation to adjudication of the violation is: **7 to 90 days**

10. Items experienced by my state that were barriers to swift adjudication of the violation are:

Availability of the Court when a Violation hearing is required.

11. Items experienced by my state that contributed to swift adjudication of the violation are:
The movement of more responses to the officer level.
12. When a felony offender is found guilty of a violation, a minimum term of confinement is issued. Yes ☒ No
- a. The length of the minimum confinement term is:
- b. The minimum confinement term is mandatory: Yes No
- c. Who is eligible to receive the minimum confinement term?
- d. Has a validation study been conducted on the impact of your agency's minimum confinement term process/policy? Yes No
13. Felony offenders held in confinement prior to the violation hearing are they given credit for time served toward their sanction. ☒ Yes No Offenders are not confined prior to violation hearing
14. Does your agency have an alternative process/policy for dealing with felony violators? (This may include pilot projects or small-scale programs for specific offender/offense types.)
☒ Yes No
15. Please provide any comments you may have in regard to your state's experience in dealing with felony violation populations:
We try to focus on a timely response to each violation. For lower tier violations, this response and related sanctions occur at the officer level based on a violator matrix.

Survey Questions Related to Other States' Practices Relating to Community Violators

Name: Denise Symdon
Title: DCC Administrator

Agency: Dept of Corrections
State: Wisconsin

1. My agency is responsible for: Felony Probation Parole **Both**
2. Sanction authority over felony probation violators belongs to:

State
Courts
Other
3. Sanction authority over parole violators belongs to:

State
Courts
Parole Board
Other
4. My state has a policy to utilize the following for felony violators:
 - a. Graduated sanctions **Yes** No
 - b. A violation confinement grid **Yes** No
5. My state utilizes the following for felony violators:
 - a. Graduated sanctions **Yes** No
 - b. A violation confinement grid **Yes** No
6. Formal notification of the violation to the offender required **Yes** No
 - a. The time frame for required notification of the violation is:
If intending to revoke the offender's supervision, 50 days from the date the offender is placed in custody.
7. My state's timeline for notifying felony offenders of a violation hearing is: (if there is no set timeline, please respond with 'NA')?
Offender must be served with notice of revocation within 2 working days of the decision to revoke.
8. The timeline for notifying felony offenders of a violation hearing is set by:

Agency Policy
State Statute
Parole Board
Court

Local Statute
Other
There is no timeline (NA)
9. The average length of time from the occurrence of the violation to adjudication of the violation is:
About 70 days (but this is an estimate) the final hearing must be held within 50 days of the date of custody.

10. Items experienced by my state that were barriers to swift adjudication of the violation are:

- 1) pending charges, where the defense attorneys request delays to have the charges resolved, prior to a revocation taking place.
- 2) delay in getting hearings scheduled at times due to shortages by the Administrative Law Judges.

11. Items experienced by my state that contributed to swift adjudication of the violation are:.

- 1) setting established timelines and holding staff accountable for those dates.
- 2) attorneys will file a writ of habeas corpus if DOC is responsible for lengthy delays.
- 3) having jail liaisons, who are assigned to the jail to take offender statements, serve offenders with notice of revocation, answer questions of the offenders, etc. It really saves time for the agent of record having to get into jails.

12. When a felony offender is found guilty of a violation, a minimum term of confinement is issued. ☒ Yes ☐ No

a. The length of the minimum confinement term is:

Our operation's manual says 6 months; but we are moving to 12 months and utilizing a jail term as an intermediate sanction on certain cases.

b. The minimum confinement term is mandatory: ☐ Yes ☒ No

c. Who is eligible to receive the minimum confinement term?

All offenders who are revoked going back to prison.

d. Has a validation study been conducted on the impact of your agency's minimum confinement term process/policy? ☐ Yes ☒ No

13. Felony offenders held in confinement prior to the violation hearing are they given credit for time served toward their sanction. ☒ Yes ☐ No Offenders are not confined prior to violation hearing

14. Does your agency have an alternative process/policy for dealing with felony violators? (This may include pilot projects or small-scale programs for specific offender/offense types.)

☒ Yes ☐ No

15. Please provide any comments you may have in regard to your state's experience in dealing with felony violation populations:

Our numbers of felony revocation is high - about 50% of the admissions to our prison are violators, without a new sentence at the time of admission. We continue to explore ways to divert felony rule violators from returning to prison on a revocation and are utilizing jail contract beds as a cheaper alternative. I have our Operations manual guidelines that I could email you if that would be helpful.

Survey Questions Related to Other States' Practices Relating to Community Violators

Name: Gary Tullock

Agency: Board of Probation and Parole

Title: Director of Field Services

State: Tennessee

1. My agency is responsible for: Felony Probation Parole **Both**

2. Sanction authority over felony probation violators belongs to:

State Courts

Other - Courts revoke, however, statutorily Probation Officers have authority to use sanctions based on a valid risk/needs assessment. Judges can opt out of the officer sanctions and 25% have done so.

3. Sanction authority over parole violators belongs to:

State Courts Parole Board

Other - The Board revokes, however, statutorily Probation Officers have authority to use sanctions based on a valid risk/needs assessment.

4. My state has a policy to utilize the following for felony violators:

a. Graduated sanctions **Yes** No

b. A violation confinement grid **Yes** No

5. My state utilizes the following for felony violators:

a. Graduated sanctions **Yes** No

b. A violation confinement grid **Yes** No

6. Formal notification of the violation to the offender required Yes **No**

a. The time frame for required notification of the violation is: **NA**

7. My state's timeline for notifying felony offenders of a violation hearing is: (if there is no set timeline, please respond with 'NA')? **3 work days**

8. The timeline for notifying felony offenders of a violation hearing is set by:

Agency Policy State Statute **Parole Board** Court

Local Statute Other There is no timeline (NA)

9. The average length of time from the occurrence of the violation to adjudication of the violation is:

Unknown. Probation cases really skews this data as some are continues for months. For parole it is about 45-60 days.

10. Items experienced by my state that were barriers to swift adjudication of the violation are:
Courts allowing continuances with offenders on bond, movement of offenders within the prison system causing hearings to be reset.
11. Items experienced by my state that contributed to swift adjudication of the violation are:..
Policy guidelines on time limits between discovery of a violation and action by the officer.
12. When a felony offender is found guilty of a violation, a minimum term of confinement is issued. Yes ☒ No ☐
- a. The length of the minimum confinement term is:
- b. The minimum confinement term is mandatory: Yes ☐ No ☐
- c. Who is eligible to receive the minimum confinement term?
- d. Has a validation study been conducted on the impact of your agency's minimum confinement term process/policy? Yes ☐ No ☐
13. Felony offenders held in confinement prior to the violation hearing are they given credit for time served toward their sanction. ☒ Yes ☐ No ☐ Offenders are not confined prior to violation hearing
14. Does your agency have an alternative process/policy for dealing with felony violators? (This may include pilot projects or small-scale programs for specific offender/offense types.)
☒ Yes ☐ No
15. Please provide any comments you may have in regard to your state's experience in dealing with felony violation populations:
Assuming no new crime, we use a sanction grid calling for
1) officer intervention that may include sanctions
2) supervisor intervention that may include sanctions
3) an administrative case conference with the offender that may include sanctions
4) a violation report.

Survey Questions Related to Other States' Practices Relating to Community Violators

Name: Brent Butcher
Title: Director

Agency: AP&P
State: Utah

1. My agency is responsible for: Felony Probation Parole **Both**
2. Sanction authority over felony probation violators belongs to:
State **Courts** Other
3. Sanction authority over parole violators belongs to:
State Courts **Parole Board** Other
4. My state has a policy to utilize the following for felony violators:
 - a. Graduated sanctions **Yes** No
 - b. A violation confinement grid Yes **No**
5. My state utilizes the following for felony violators:
 - a. Graduated sanctions **Yes** No
 - b. A violation confinement grid Yes No
6. Formal notification of the violation to the offender required **Yes** No
 - a. The time frame for required notification of the violation is: **72 hours**
7. My state's timeline for notifying felony offenders of a violation hearing is: (if there is no set timeline, please respond with 'NA')?
8. The timeline for notifying felony offenders of a violation hearing is set by:
Agency Policy State Statute Parole Board Court
Local Statute Other There is no timeline (NA)
9. The average length of time from the occurrence of the violation to adjudication of the violation is:
10. Items experienced by my state that were barriers to swift adjudication of the violation are:
11. Items experienced by my state that contributed to swift adjudication of the violation are:.

12. When a felony offender is found guilty of a violation, a minimum term of confinement is issued. Yes No
- a. The length of the minimum confinement term is:
 - b. The minimum confinement term is mandatory: Yes No
 - c. Who is eligible to receive the minimum confinement term?
 - d. Has a validation study been conducted on the impact of your agency's minimum confinement term process/policy? Yes No
13. Felony offenders held in confinement prior to the violation hearing are they given credit for time served toward their sanction. Yes No Offenders are not confined prior to violation hearing
14. Does your agency have an alternative process/policy for dealing with felony violators? (This may include pilot projects or small-scale programs for specific offender/offense types.)
Yes No
15. Please provide any comments you may have in regard to your state's experience in dealing with felony violation populations:

Survey Questions Related to Other States' Practices Relating to Community Violators

Name: Alan Grinstead
Title: Deputy Bureau Chief

Agency: Delaware Probation and Parole
State: Delaware

1. My agency is responsible for: Felony Probation Parole **Both**
2. Sanction authority over felony probation violators belongs to:
State **Courts** Other
3. Sanction authority over parole violators belongs to:
State Courts **Parole Board** Other
4. My state has a policy to utilize the following for felony violators:
 - a. Graduated sanctions **Yes** No
 - b. A violation confinement grid **Yes** No
5. My state utilizes the following for felony violators:
 - a. Graduated sanctions **Yes** No
 - b. A violation confinement grid **Yes** No
6. Formal notification of the violation to the offender required **Yes** No
 - a. The time frame for required notification of the violation is:
7. My state's timeline for notifying felony offenders of a violation hearing is: (if there is no set timeline, please respond with 'NA')? **NA**
8. The timeline for notifying felony offenders of a violation hearing is set by:
Agency Policy State Statute Parole Board **Court**
Local Statute Other There is no timeline (NA)
9. The average length of time from the occurrence of the violation to adjudication of the violation is: **2 weeks from submission of the violation report.**
10. Items experienced by my state that were barriers to swift adjudication of the violation are:
Court workload and volume of violation reports submitted to the Court.
11. Items experienced by my state that contributed to swift adjudication of the violation are:.
Priority given to violations, the Court schedules the hearings as soon as possible.

12. When a felony offender is found guilty of a violation, a minimum term of confinement is issued. Yes ☒ No
- a. The length of the minimum confinement term is:
- b. The minimum confinement term is mandatory: Yes No
- c. Who is eligible to receive the minimum confinement term?
- d. Has a validation study been conducted on the impact of your agency's minimum confinement term process/policy? Yes No
13. Felony offenders held in confinement prior to the violation hearing are they given credit for time served toward their sanction. ☒ Yes ☐ No Offenders are not confined prior to violation hearing
14. Does your agency have an alternative process/policy for dealing with felony violators? (This may include pilot projects or small-scale programs for specific offender/offense types.)
- Yes ☒ No
15. Please provide any comments you may have in regard to your state's experience in dealing with felony violation populations:
- Delaware supervises both felony and misdemeanor cases so the answers provided are applicable to all types of cases.