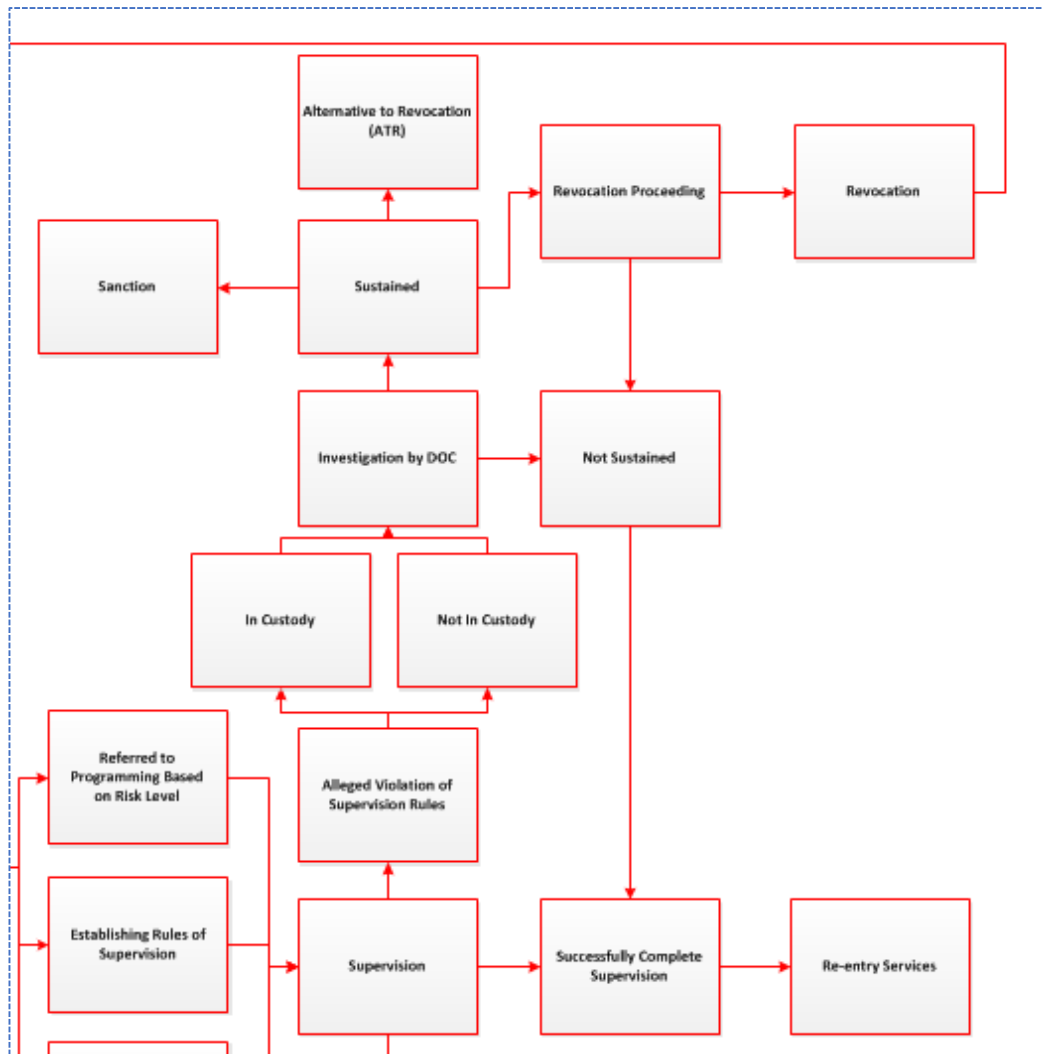


Decision Point #12: Violation Responses



Why is it important?

- Ensuring swift and appropriate responses to offender violations are crucial to protecting public safety while reducing harm and further victimization.
- This decision point offers an opportunity to provide thorough and timely responses to respect offender rights and ensure valuable resources are not being used unnecessarily.
- Probation and parole revocations account for 30% of the prison population. Improving community supervision outcomes will effectively reduce recidivism, community safety, and prison costs.



What currently happens?

- When an agent discovers evidence that an offender has violated their rules of supervision (e.g., substance use, driving violations, threatening or violent behaviors, drug possession or sale, theft, etc.) and/or has violated the law, the agent must investigate the allegations.
- If the alleged violation is assaultive or threatening in nature, the offender must be placed in custody per the mandatory detention policy.
- An agent's investigation should be thorough, objective, well documented and conducted in a timely manner.
- If the violations resulted in an offender being taken into custody, an Order to Detain (also known as a "hold") is placed on the offender, which triggers a tracking in the DOC system of the offender's time in custody. The custody and the progress of the investigation are followed by the agent's supervisor and by the regional office.
- The agent's hold lasts for 3 business days as they initiate the investigation. If the investigation is still ongoing, the supervisor can authorize another 3 business days for the hold. If the investigation is not complete once the supervisor's hold expires, the agent may request an extension from the Regional Office. Once staffed with the Regional Office, an additional 5 business days may be granted to allow the agent to complete the investigation. In extreme cases, Administrator approval is needed to allow for additional investigation time. The administrative hold time is not a set amount of days. The agent must justify the continued hold and request the number of days needed to complete the investigation.
- The offender's right to counsel can be fulfilled at this point through appointment by the public defender's office.
- The investigation includes documentation from multiple agencies (i.e. victim, witness, and offender statements (DOC); police reports, victim photos of injuries, or property damage photos (Law Enforcement); criminal complaints and discovery materials (District Attorney & Clerk of Courts office); abuse reports (Social Services), etc.). A thorough investigation is necessary to ensure an offender is not unjustifiably deprived of their rights or freedom. All of the evidence/documentation described above may be used moving forward if the Department pursues revocation.
- Offenders' statements cannot be used against them in criminal proceedings (i.e. new charges) and refusing to provide a statement is a violation of probation.
- While the investigation is underway, the offender usually remains in custody until the agent completes the investigation and an informed custody decision can be made.
- When considering a violation disposition, the agent engages in a process called "Functional Response to Violation." This means that responses should accomplish one or more of the following objectives: 1.) Control the offender (protect the public) 2.) Correct the behavior contributing to the violation (counseling, education, treatment) 3.) Hold the offender to account (not depreciate the seriousness of violation or pattern of violations).
- Once the investigation is complete, entry-level agents staff the case with the supervisor. For senior agents, only assaultive or more complex cases are staffed with the supervisor. Effective responses occur along a continuum of intensity and are dictated by individual case circumstances. The DOC pursues the least restrictive custody option that is likely to accomplish the desired objectives, listed above.
- Alternatives to Revocation (ATR's) are fully discussed and considered during the staffing. An ATR is considered to be a safe and appropriate alternative to revoking an offender's term of community supervision. ATR options include: Institution ATR, Halfway House (HWH) placement, short-term sanctions, amendment to Judgment of Conviction (JOC) to include conditional jail time, GPS monitoring, Electronic Monitoring (EMP), intensive out-patient treatment, increase in supervision level, etc.
- Revocation proceedings are initiated when there are no viable ATR's available to accomplish the objectives. The agent serves the offender with the Notice of Violations and Revocation, which lists allegations of the offender's violations discovered during the investigation and includes the DOC rule of supervision that was violated.
- An offender should be served with revocation within 10 business days of being taken into custody or administrative approval is required. The revocation packet, which includes the Revocation Summary, should be submitted within 10 business days of the date the offender was served with revocation.
- ATR's are fully considered up until the time that the revocation hearing occurs, and in certain cases the agent continues to discuss ATR options with the Defense Attorney and Supervisor.
- If the offender has been served with revocation and an ATR is deemed appropriate, the agent must serve the offender with a formal Alternative to Revocation Agreement. Resource availability is a crucial factor in the ability to offer ATR's. The offender is not to be held in custody awaiting an ATR (usually a secure ATR such as an institution ATR, HWH, Vivitrol Program acceptance, or in-patient placement option) longer than 60 days without Regional Approval.
- If the offender's violations are not severe enough to warrant revocation, they can be released with a warning or an ATR agreement and referred for the needed services.
- The agent must notify the victim(s) of any alleged violation(s) and their disposition. If the offender is in custody, the victim(s) must be notified before the offender is released.



What guides these decisions?

- Circumstances of the violation & the offender's attitude about the violation/motivation to change, and victim input
- COMPAS Risk/Needs Assessment, as well as University of Rhode Island Change Assessment (URICA) score if available
- DOC's risk tolerance
- Community risk tolerance
- Current offense, prior criminal history, and adjustment while on supervision
- Correctional objectives (i.e., control the offender; correct the behavior contributing to the violation; and hold the offender accountable)
- Program and resource availability, both in the community and in the institutions

What does the research suggest?

- A model that encompasses both rewards and sanctions is more highly predictive of successful program completion than a reward model or a sanction model alone. The probability of successful program completion is optimized when the reward-to-sanction ratio is 4:1. *Primary Citation:* Andrews & Bonta (2010)
- Stringent supervision conditions tend to produce more technical violations and more incarceration and do not reduce recidivism by themselves. *Primary Citation:* Petersilia & Turner (1993)
- Sanctions on their own do not change offender behavior or reduce recidivism. More severe sanctions may increase recidivism. *Primary Citations:* Smith, Goggin, & Gendreau (2002); Gendreau & Goggin (1996)
- Even graduated sanctions (i.e., incrementally escalating the severity of penalties for noncompliant behavior) can ultimately lead to noncompliance; specifically, individuals may become habituated to punishment such that future sanctions are rendered ineffective at suppressing unwanted behavior. *Primary Citation:* Wodahl (2007)
- Immediacy, fairness, consistency, and proportionality in responding to misbehavior are important to shaping behavior. *Primary Citation:* Taxman, Soule, & Gelb (1999)
- For responses to noncompliance (i.e., punishers) to be effective, they must be (1) swift (happen as quickly as possible), (2) certain (be applied each time the undesirable behavior occurs), (3) fair (be perceived as fair and consistent with similar situations), (4) responsive (take into consideration the unique characteristics of the individual), (5) proportional (be no more severe than the behavior warrants), and (6) parsimonious (employ as few interventions and resources as possible). *Primary Citation:* Carter (2015)
- Confinement is an ineffective sanction for technical violations, and actually can result in increased recidivism rates. *Primary Citation:* Drake & Aos (2012)
- Attention to staff characteristics and skills is necessary to enhance outcomes with offenders. *Primary Citation:* Dowden & Andrews (2004)



What should happen at this decision point?

1. Collaboration occurs between probation & parole, local law enforcement, the prosecutor, and public defender during an investigation process involving new criminal behavior.
2. Supervision holds are not unnecessarily extended so as to cause collateral consequences or damage to an individual's employment or housing status.
3. Responses to violations are swift, certain, evidence-based, and fair.
4. Probation and Parole agents have manageable caseloads to allow for thorough and timely investigations of violations.
5. Responses to violations are evidence-based and consistent statewide.
6. Alternatives to Revocation are fully available in a timely manner for all offenders deemed appropriate.
7. Victims' rights are prioritized in the investigation process, and victims are notified of outcomes.

Data Available

- Supervision Revocations: revocation only and new sentence
- Jail hold days by county
- Reincarceration and Recidivism data

Data Needed

- Alternatives to Revocation Outcomes
- Short term sanction outcomes
- Jail revocations data
- Data on behaviors resulting in violations/revocations
- Identification of revocations based solely on technical or rule violations (revocations can occur due to a new conviction, new conviction along with technical violations, and just technical violations)

What are the opportunities for improvement?

1. Explore opportunities to improve the timeliness of violation investigations and revocation proceedings through better coordination of law enforcement, defense counsel, and prosecutors and the implementation of a statewide, evidence-based violation response matrix to promote consistency in response to violations.
2. Provide more support for agents to appropriately conduct revocation hearings.
3. Facilitate better communication between external agencies and DOC, as well as internal DOC departments (such as the Monitoring Center).
4. Increase efforts to educate community members about factual information related to violation responses.
5. Evaluate current DOC policy regarding the requirement that offenders entering an institution-based Alternative to Revocation need to be in custody prior to admission.

Key:

- Black font: Identified by State Team
- Orange font: Identified by one or more local teams
- Purple font: Identified by both the State Team and one or more local teams

