

Virtual Town Hall

Violation Response + Revocation

NOVEMBER 18, 2020 | 9:30–11:00 AM



Welcome!

This virtual town hall meeting will open dialogue between key stakeholders around one of DOC's key strategic initiatives—our agency's ongoing work in **Violation Response and Revocation.**



Introduction



Kevin A. Carr, Secretary
Wisconsin Department of Corrections

Our Mission

- Protect the public, our staff and the persons in our care.
- Provide services to those in our care that allow them to return to the community with the skills necessary to be successful.

Strategic Priorities

- Operational Excellence
- Transparency and Public Accountability
- Workforce Investments
- Corrections Reform

Violation Response + Revocation

Workgroup
initiated

Policy changes
drafted

Staff advised of
proposed changes

Stakeholder
feedback

Panelist Introductions

Division of Community Corrections (DCC)

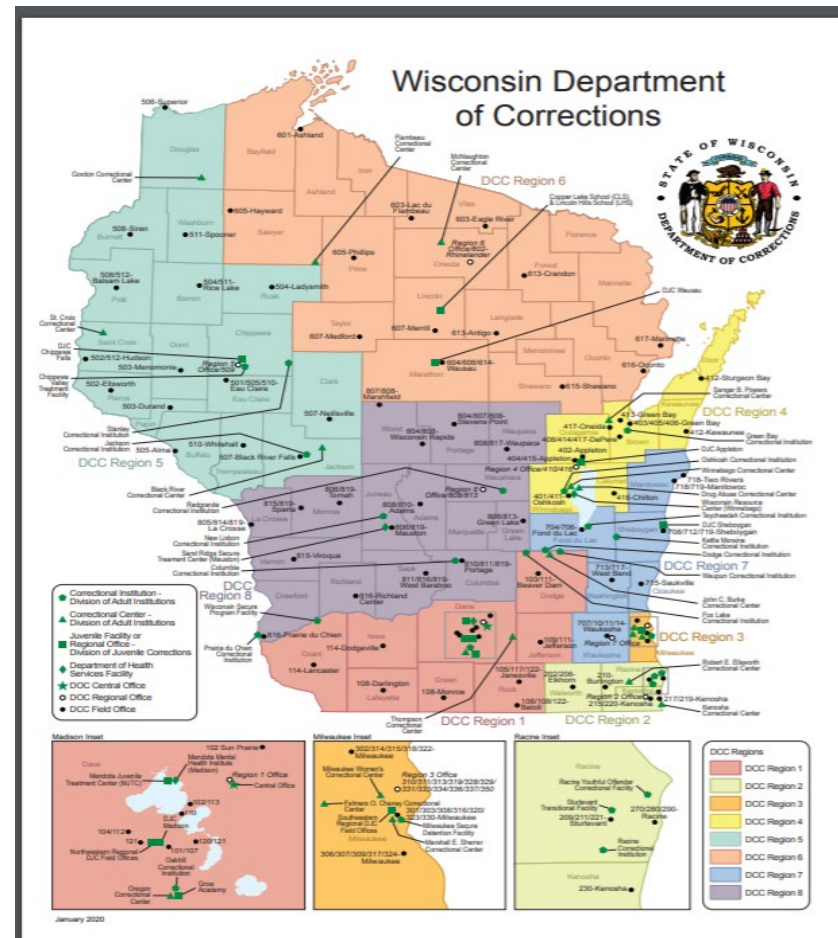
- Lance Wiersma, DCC Administrator
- Autumn Lacy, DCC Assistant Administrator

Subject Matter Experts

- Gena Jarr, Regional Chief (Region 5)
- Lisa Yeates, Regional Chief (Region 2)
- Bobbi Christopherson, Assistant Regional Chief (Region 4)

Division of Community Corrections Overview

- Supervision of Adult persons on Probation, Parole or Extended Supervision
- 8 Regions
- 1900 staff members
- 1200 Agents
- 66,000+ persons on supervision
- Electronic Monitoring Center
- Sex Offender Registry



Violation Response Overview

Responding to violations in an effective manner is crucial to the overall success of an individual on supervision and can have a significant impact on reducing the risk of re-offense. The ultimate purpose of responding to violations is to increase public safety by appropriately equipping clients to be successful in the community.

- Violations to rules of supervision will result in the agent completing a violation investigation
- Upon learning of a violation, an agent may issue an apprehension request and may place a person in custody
- Agents have a variety of response options, up to and including recommending revocation
- Revocation decisions are reviewed and approved by a Supervisor and Regional Chief

Violation Response Overview

Due Process Rights during Revocation:

- To a final revocation hearing, before an Administrative Law Judge
- To waive the hearing
- To present witnesses
- To question witnesses
- To deny the allegations
- To present documentary evidence
- To an Attorney
- To appeal the decision to the Administrator of the Division of Hearings and Appeals

Evidence-Based Response to Violations

Elements of an Evidence-Based Response to Violations:

- Utilizing a violation decision making guideline (violation response matrix) that takes into account the risk of the offender and the severity of the violation behavior.
- Utilizing accountability responses and intervention services when responding to violations.
- Sanctions should be swift, certain, and proportionate for all violations.
- For clients assessed at low risk, violation responses need to be minimally intrusive, so as not to disrupt the protective factors they already possess that make them low risk.
- Research suggests programs that are able to incorporate sanctions combined with the use of rewards to reinforce conforming behavior will be more effective than those that rely on sanctions alone.

EBRV Matrix/ Deviated Risk

| | | Risk Level | | | |
|-----------------------|-----------|-----------------|--------------------|--------------------|--------------------|
| | | LOW | MEDIUM | HIGH | VERY HIGH |
| Severity of Violation | LOW | Low Response | Low Response | Medium Response | High Response |
| | MEDIUM | Low Response | Medium Response | High Response | High Response |
| | HIGH | Medium Response | High Response | High Response | Very High Response |
| | VERY HIGH | High Response | Very High Response | Very High Response | Very High Response |

Violation Response Project Summary

In 2019, DCC was tasked with **addressing inefficiencies and ineffective practices in violation and revocation approaches** and **incorporating criminal justice reform in current practices**.

Action Steps taken:

- ✓ Reviewed violation response and revocation process
- ✓ Reviewed applicable data and practices
- ✓ Identified areas in need of improvement
- ✓ Created workgroups in each of the areas to make recommendations for improvements
- ✓ Policy revisions approved by Secretary's and Governor's offices

Project Objectives

Overall Goals

- **REDUCE** Revocations
- **REDUCE** Number of Prison Admissions related to Revocations
- **REDUCE** the total number of persons in jail on a hold
- **INCREASE** Community Based Alternative to Revocations
- **UTILIZE** Data to Drive Decisions and Allocate Resources

Data Highlights

Prison Admissions Due to Revocation Only Data

EBRV Revocations Data evaluated from January 1, 2017 to June 30, 2019.

7,222 revocations were evaluated:

- 5,260 (72.8%) were revoked for criminal behavior
- 1,962 (27.2%) were revoked for non-criminal behavior; the top reasons were Fail Formal ATR and Absconding > 6 months
- Of the total revoked, 89.3% of the primary violations prompting revocation were considered Very High severity per DCC's Evidence-Based Response to Violations

Data Highlights

General 2018 Revocation Data from ASR Database

11,347 total Revocations in 2018:

- Average total DCC population of 65,920 individuals on supervision in 2018. Approximately 17% of the DCC population
- 10,411 (92%) were due to Criminal Behavior and 936 (8%) were due to Non-Criminal Behavior
- 5625 (49.6%) had a prison outcome; 4853 (42.8%) had a County Jail/HOC outcome; 63 (.6%) were pending sentencing; and 806 (7.1%) had an Other outcome (fined, time served, or revoked by Court)

Data Highlights

After-Hours Holds Data

Data from Summer 2018 to Spring 2019:

- 26,972 total after-hours calls
- 13,747 (51%) were held. 3221 for Felony level behavior; 4111 for Misdemeanor level behavior; 1629 for Special Rules; 3266 for No New Charges
- 3640 (13%) had an Apprehension Request issued. 52% of these were for Ordinance/Municipal Violation or No New Charges

Focus Areas

1. Short-Term Sanctions
2. Rules of Supervision/After-Hours Holds
3. Evidence-Based Response to Violations (EBRV)
4. Alternatives to Revocation (ATR)/Programming/Treatment Courts
5. Revocation Process

HIGHLIGHTS OF CHANGE

Focus Area #1

Short-Term Sanctions



Draft Policy Updates

Short-Term Sanctions:

- Meaningful interventions, if possible, during Sanction
- Required use of Short-Term Sanctions for reincarceration recommendations of less than 1 year, rather than revocation
- EBRV Accountability Response for Sanctions:
 - Medium: up to 20 calendar days
 - High: 21 to 44 calendar days
 - Very High: 45 to 90 calendar days

HIGHLIGHTS OF CHANGE

Focus Area #2

Rules of Supervision/After Hours Holds



Draft Policy Updates

After Hour Holds:

- Created new process of utilizing Cautionary Information in COMPAS to inform the monitoring center of the special rules which warrant a hold.
- Eliminated automatic custody for certain curfew violations.

Draft Policy Updates

Rules of Supervision:

Standards Rules

- 18 standard rules that apply to all clients on supervision.

Special Rules

- Special rules are added to the standards rules in specific circumstances that they are necessary for the rehabilitation of the client and/or to protect the public.

Rules of Supervision

- Reviewed standard rules and recommend combining and targeting standard rules to reduce those that don't apply to "all". Request submitted to review and make recommendations to the administrative code.
- Identified standard special rules created by crime typology (Domestic Violence, OWI, Substance Use, Gang/HR/Violent, Property/Financial, Monitoring). Helped to eliminate special rules that did not apply to specific individuals.
- Policy created which requires the review of special rules every 6 months, re-signing the rules with the client each year. Further, policy will state rules are to be reviewed by the sending agent prior to transferring the case, and reviewed and re-signed with the receiving agent and the client.

HIGHLIGHTS OF CHANGE

Focus Area #3

Evidence-Based Response to Violations



Draft Policy Updates

Violations, Severity Levels + Code Updates:

- **Typology Violations Created**
- **Remove “Very High” risk level from the EBRV Matrix, not supported by research or statistics**
- **Adjusted Severity Levels of various violations**
 - Most criminal violations/Risk to public safety violations are High or Very High
 - Other non-criminal/Non-risk to public safety violations are now MED or LOW
 - Many LOW level violations now require pattern to be established
- **Added/Removed certain violations**
 - Removed Failed ATR as a violation; now is an Aggravating Factor
 - Added Threats to Probation/Parole Agent
 - Removed Failure to Report; Pattern established

Draft Policy Updates

Accountability Response:

Jail should only be used if necessary. Risk to Public Safety is critical consideration – investigations can be completed with client out of custody

- Custody Decision Tree guideline created
- Amount of time spent in custody during investigation should not supersede maximum time allowed per the EBRV actual accountability response level determined, unless approved for unique circumstance

Revocation clarification

- Cannot be pursued as a response if the only violation is alcohol or substance use. This behavior is a treatment issue and other responses should be utilized.
- Exception: If all appropriate treatment options have been exhausted, revocation may be considered, only if it was part of the person's underlying conviction or specified as a condition of supervision on the Judgment of Conviction.

Draft Policy Updates

Agent Intervention Response:

- One-time, brief response focused on underlying issue prompting the violation behavior
- Ongoing case planning and actions to address issues will continue to occur
- Identify the type of response; Cognitive Based Intervention or Skill Based Intervention (same 2 options for each response level) and document specific action in comments

HIGHLIGHTS OF CHANGE

Focus Area #4

Alternatives to Revocation



Draft Policy Updates

- Violations must be appropriate for revocation to initiate an ATR
- Transition from Institution ATR programs/Shift Focus to Community Based ATR, with program or intervention focus
- Statewide Residential Services Program (halfway house) referral process
- Clients will be placed at Medium supervision status if in custody pending placement

ATR Resources

DCC continues to actively work on ways to increase community resources and create ways of providing resources more efficiently, including:

- Increased the use of telehealth
- Created statewide programs (telehealth) to provide resources in areas that have treatment gaps
- Developed an ATR model to allow for housing options paired with out patient treatment resources
- Statewide residential treatment referral process

HIGHLIGHTS OF CHANGE

Focus Area #5

Revocation Process



Draft Policy Updates

Extended Supervision and Parole Revocations

- **Forfeiture amount calculations of less than year will result in a sanction as maximum accountability response.**
- **Pending charges are not required for the Department to initiate revocation**
- **Pending charges will be utilized to determine violation severity level.**

Draft Policy Updates

| Up to 15% of time available | Up to 35% of time available | Up to 70% of time available |
|---|---|--|
| CATEGORY I | CATEGORY II* | CATEGORY III* |
| Rules Violations, including SO | Misdemeanor Theft | Assaultive Felonies |
| EMP Violations | OWI | OWI-Cause Injury |
| Drug Possession or Use | Assaultive Misdemeanors | Homicide, Manslaughter |
| Program/Treatment Termination | Felon in Possession of a Firearm | Homicide by Intoxicated Use of Motor Vehicle |
| Non-Criminal Threats | Possession with Intent to Deliver | Sexual Assault |
| Resisting/Obstructing | Possession of Drug Paraphernalia | Arson |
| Bail Jumping | Failure to Register as a Sex Offender | Possession of Child Pornography |
| Retail Theft | GPS Tamper/Removal | |
| Other: Criminal Behaviors that have not resulted in charges filed | Felony Behavior not otherwise listed Absconding (charges not required) | |

Live Q+A Session

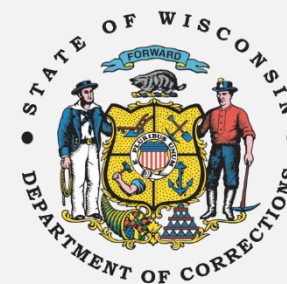
- We want your questions and feedback!
- Submit any last-minute questions using the Q&A feature (near the bottom of your screen)
- For questions we don't get to today, we will be posting an FAQ document on the Town Halls web page containing the answers to all questions asked

Closing Remarks

- Find more information about past and upcoming town halls:
Visit our website at **doc.wi.gov/TownHalls**
- To provide further input and town hall feedback:
Watch your inbox for a survey
- For access to recordings, transcripts, FAQs and more:
Check our website after the event has concluded

Thank You!

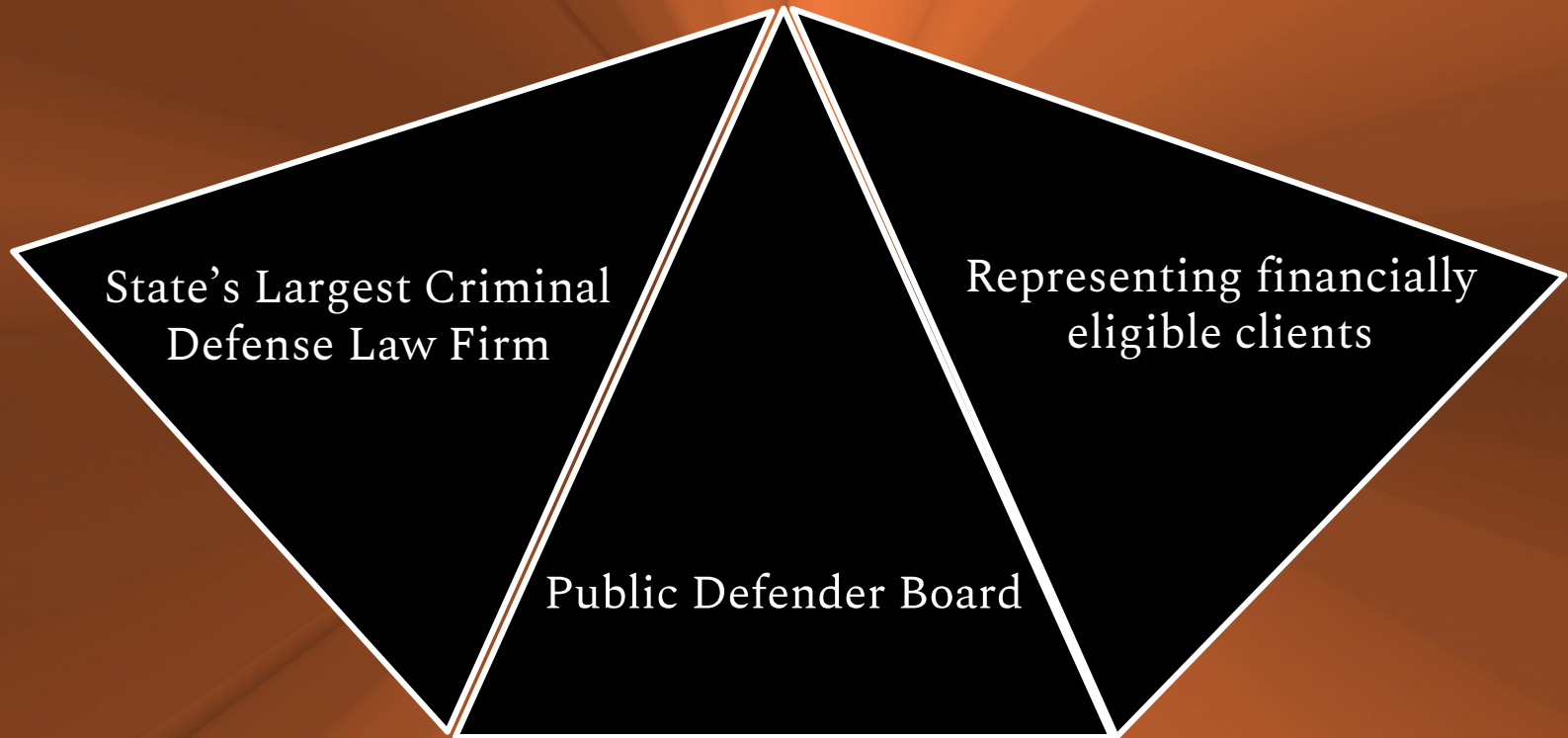
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Presented by
Deputy State Public Defender Jon Padgham
Legislative Liaison Adam Plotkin

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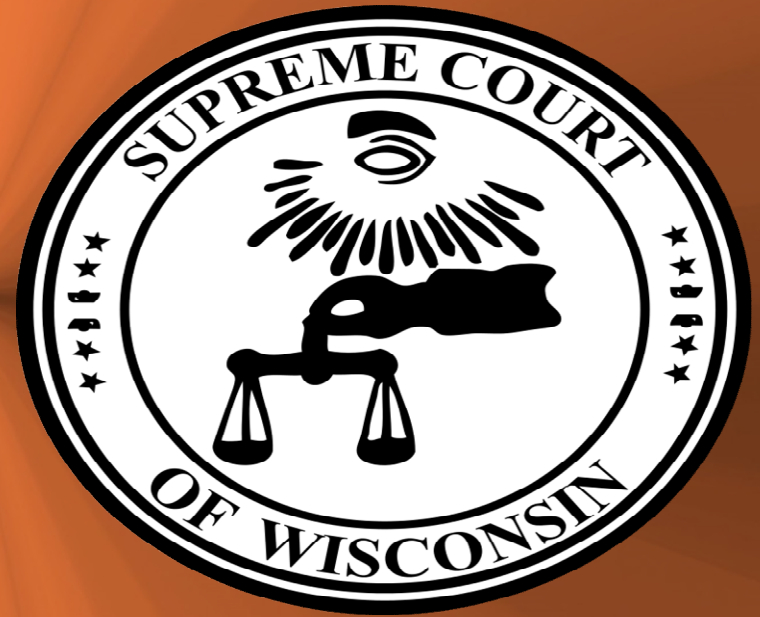
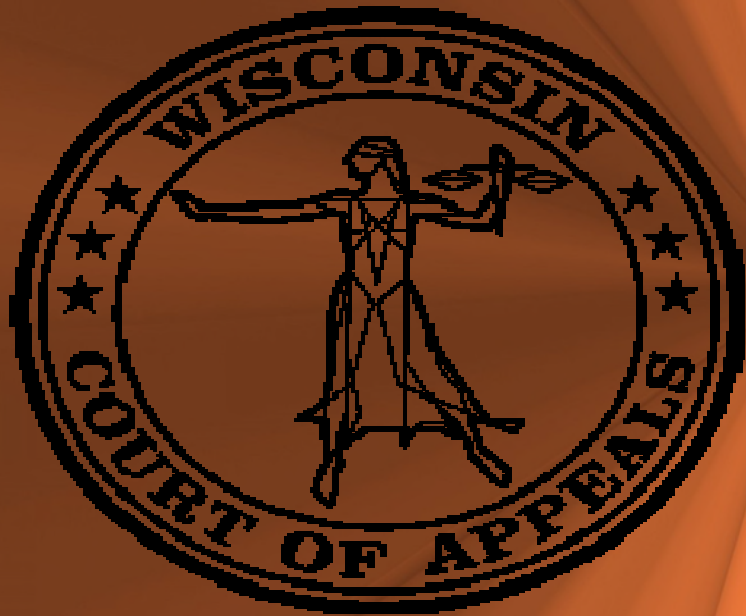
SPD's Mission Statement

The mission of the Wisconsin State Public Defender is to zealously represent clients, protect constitutional rights, and advocate for an effective and fair criminal justice system. Our commitment is to treat our clients with dignity and compassion.

SPD Trial Division



SPD Appellate Division



SPD - Assigned Counsel



Coordinates certification and bill payments

SPD - Training



Internationally renowned for enhancing skills of staff,
private attorneys and investigators.

SPD - Administrative Services



Our small but mighty team has shined, adapting to working remotely in a world of COVID-19.

SPD - Collaborating with Others in Justice System



SPD - Policy Initiatives

- Operational needs
- Due process impact to clients