

DOC Perspective on Community Supervision

Sentencing Guidelines Commission Charge Statement: Sec. 129 (20)(b)(iv) Review community supervision and community custody programs under RCW 9.94A.701 through 9.94A.723 and other related provisions, including, but not limited to: Reviewing and revising eligibility criteria for community custody under RCW 9.94A.701 and 9.94A.702; reviewing the length and manner of supervision for various offenses; reviewing earned time toward termination of supervision; and reviewing the consequences for violations of conditions;

Background: Since the establishment of the SRA, there has been a substantial amount of research on how to achieve improved results in terms of reduced recidivism and increased successful reentry for supervised populations. The State and DOC have implemented a significant number of changes to who receives a term of supervision and how that supervision is applied. The DOC implemented the Offender Accountability Act in July 2000, which brought most individuals who violated their conditions of supervision under the jurisdiction of DOC, through an administrative process, rather than brought back before the Court. The DOC also implemented a legislative mandate in 2012 to align with a swift and certain (SAC) response to violations. This change capped violations processes to no more than 30 days of confinement and established consistent responses to violations based on alleged behavior and the number of prior violation processes.

DOC Perspective:

➤ Simplification

- **Determination of supervision eligibility is extremely complex.** Eligibility is based on a combination of factors – risk of the individual, offense of conviction, criminal history, and type of sentence imposed. Yearly changes in statute adds further complexity.
- **The timing of supervision eligibility lacks transparency for all participants.** If determination of supervision was made at the time of sentencing, transparency and a shared understanding would be brought to all stakeholders, to include defendants, Courts and victims. *Note: this suggestion does result in simplification, however, consideration should also be given to reduction of risk when individuals address areas of need.*
- **Consecutive terms of supervision add complexity.** Current statutes lack clarity on the relationship between a current and prior, unfinished term(s) as to whether multiple terms of supervision should be served concurrently or consecutively. The lack of clarity results in added complexity for DOC staff and can result in sentences being carried differently than the court intends.

➤ **Public Safety**

- **Consecutive terms of supervision make case management difficult.** Consecutive supervision can impact community safety when conditions of supervision cannot be imposed and enforced until a consecutive cause becomes active.
- **Effective supervision is more than just surveillance.** Research indicates that community supervision, coupled with treatment and Risk-Needs-Responsivity (RNR) principals, have a positive impact on community safety.
- **The Department is committed to public safety.** DOC is a key stakeholder in increasing public safety through transition planning, case management, programming, and victim notification services.

➤ **Rehabilitative**

- **Supervision should be based on reliable assessments to identify risk and need factors and results should be linked to individualized case management.** Principles of RNR should direct which conditions of supervision are imposed and the length of the supervision term. Conditions should be tailored to the risks and needs of each individual, addressing those most likely to result in new criminal behavior.
- **Positive incentives can influence behavior change.** Research indicates that incentives, positive reinforcement to support behavior change, and rewards are effective strategies for enhancing participation in supervision requirements. Incentives that support positive behavior change, such as allowing earned time for supervision terms, can reduce recidivism.
- **There are opportunities to improve upon the Swift and Certain sanctioning model currently utilized by DOC.** Recommendations made in DOC's 2018 Swift and Certain report to the legislature included a recommendation that aligns with RNR and fairness principles, and suggested a shift from violation process numbers, to behavior driven responses to violations. This, along with non-confinement options, would allow individuals to maintain stability and protective factors should low level violations occur.

➤ **Efficient Use of Resources**

- **Focusing resources on individuals assessed as high risk is an efficient use of limited resources.** Research has shown that focusing resources on higher risk individuals will result in better outcomes, both for the supervised individual and the community.
- **Establish the ability to use of non-confinement options to address certain violation behavior.** The ability to address violations of supervision conditions should include the use of non-confinement options.
- **Elimination of mandatory lifetime supervision should be considered.** See ISRB handout.
- **Frontload supervision resources.** The period immediately following release from prison or jail is particularly high risk. Concentrating resources in the early periods of supervision may produce benefits that allow later offsets by reductions to intensity or length of supervision terms.

➤ **Data & Policy Informed Decisions**

- **Increased use of data and research regarding sentencing policies will enhance impacts on public safety.** When changes to the sentencing statutes are being considered, input should be sought from independent experts, such as universities, the Sentencing Guidelines Commission, and the Washington Institute for Public Policy.
- **Presentence information should be provided to the courts to help inform and assist with sentencing decision.** Given limited resources in the community and within the criminal justice system, information about individuals should be gathered prior to sentencing and should be used as a tool to inform courts, assisting with determination of length of incarceration and supervision requirements, similar to a presentence investigation.
- **Establish a process to measure shorter term impacts of sentencing changes.** Develop alternatives to the traditional 3-year recidivism rate in order to evaluate policy changes more timely.
- **Changes to tort liability in Washington States should be considered.** Because there are no tort limits in Washington, DOC Community Corrections staff often make case management decisions from a liability perspective, rather than based on case management principles. Limiting tort liability may be in the best interest of supervised individuals towards maintaining stability in the community.

➤ **Consistency**

- **Eliminate inconsistency between statutes that currently exists.** Depending on the sentence and offense type, community supervision and the processes to address violations differ greatly. Examples include “Underlying 21” and Failure to Obey All Laws (FTOAL) violations.