

CSG JUSTICE CENTER-MASSACHUSETTS CRIMINAL JUSTICE REVIEW

Working Group Meeting 5 Interim Report, November 15, 2016

The Council of State Governments Justice Center

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National nonprofit, nonpartisan membership association of state government officials that engage members of **all three branches** of state government.



Justice Center provides **practical**, **nonpartisan advice** informed by the best available evidence.



A data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety

The Justice Reinvestment Initiative is supported by funding from the U.S. Department of Justice's **Bureau of Justice Assistance (BJA)** and **The Pew Charitable Trusts**

Remaining justice reinvestment timeline

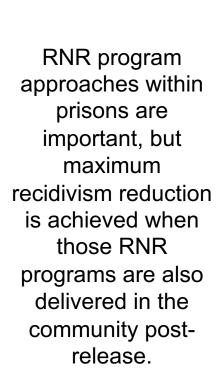
November	December	January
COMMUNITY SUPERVISION	ADDITIONAL ANALYSES ON RACE POLICY FRAMEWORK & IMPACT PROJECTIONS	2017 Session Begins FINAL REPORT RELEASED BILL INTRODUCED

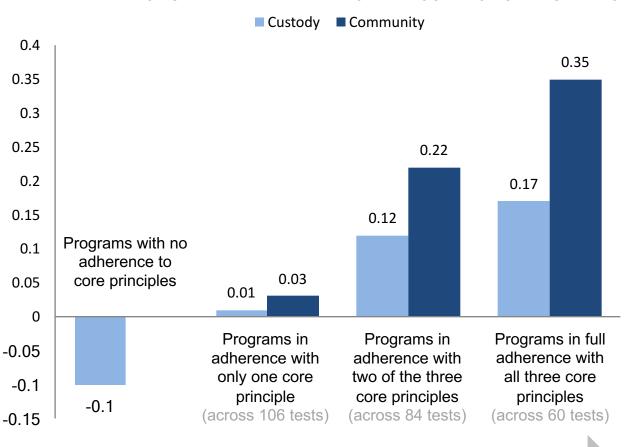
Overview



Strong adherence to core RNR principles increases the effectiveness of recidivism-reduction investments

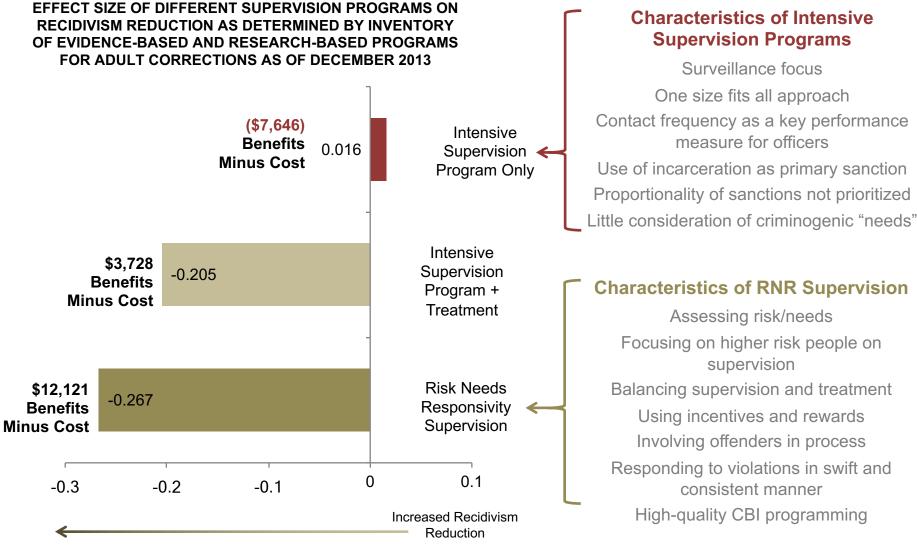
MEAN EFFECT SIZE BY RNR ADHERENCE AND CORRECTIONAL SETTING





INCREASED REDUCTIONS IN RECIDIVISM

Adherence to RNR principles is especially important to the effectiveness of community supervision as a recidivism-reduction strategy

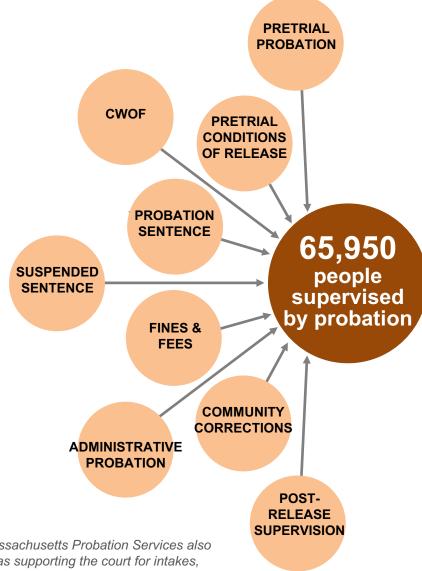


Overview



Probation departments service approximately 65,000 people at various junctures in the criminal justice system

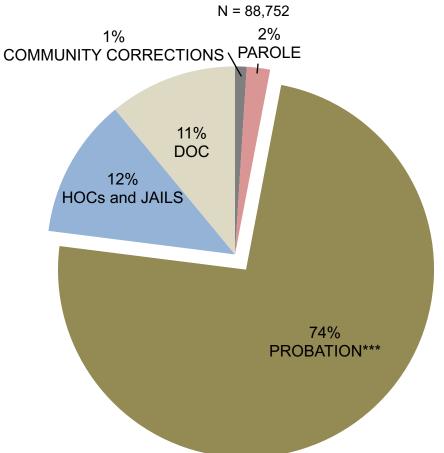
- Massachusetts Probation Services oversees people across the full spectrum of the criminal justice system, from pretrial through post-release supervision.*
- A person does not have to be convicted and sentenced to probation to fall under the jurisdiction of probation supervision—this includes being on pretrial release or a continuance without a finding (CWOF) with conditions monitored by the Massachusetts Probation Services.
- Statute allows for the use of probation as a response to a large number of offenses at the discretion of the judiciary.
- Massachusetts statute does not prescribe or limit the length of a term of probation.



^{*}In addition to overseeing the adult criminal justice probation population, the Massachusetts Probation Services also serves additional populations at juvenile and probate and family courts, as well as supporting the court for intakes, indigency verification, identify management, as well as maintenance of the criminal record.

A majority of people under correctional control are on some form of probation*





Probation cases can range in complexity from a first time OUI case to post-release for a person leaving a DOC facility.

Reducing failures on probation can make a meaningful impact in reducing recidivism.

^{*}Correctional control is defined as either under a form of supervision or incarcerated in a county jail, HOC, or DOC facility.

^{**}Includes populations as of July 2014 (beginning of FY2015), except parole which includes population at the end of calendar year 2014.

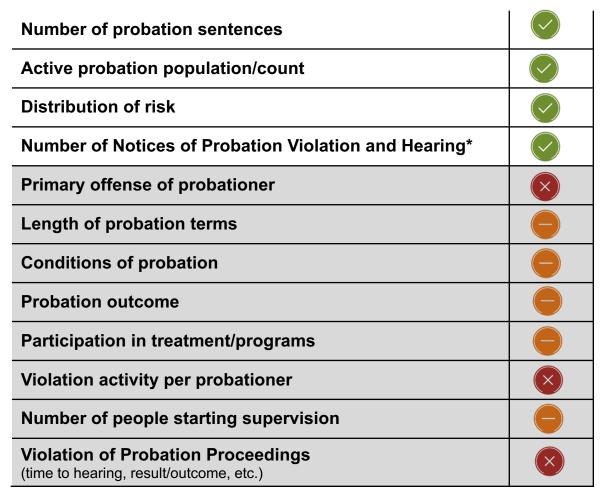
^{***}Probation includes people on administrative, pretrial, OUI and risk/needs probation caseloads. These figures include both CWOFs and convictions. 2014 MassCourts Probation data; Parole Board Annual Report, 2014; Department of Correction

A number of data points are necessary to analyze a supervision agency's effectiveness and impact on recidivism

KEY INFORMATION TO TRACK	HOW INFORMATION CAN BE USED	
Number of people starting supervision	✓ Recidivism tracking✓ Driver of supervision populations	
How people terminate supervision	✓ Performance measure✓ Supervision success rates	
Length of supervision	✓ Driver of supervision populations✓ Monitoring efficiency	
Violations of supervision	✓ Performance measure✓ Case management	
Revocations of supervision	✓ Performance measure✓ Driver of incarceration	

The probation data system is not customized for the needs of case management data collection or reporting

INFORMATION TRACKED AND AVAILABLE FOR ANALYSIS THROUGH CURRENT DATA SYSTEMS



^{*}Information is available through faxed documents and manual data entry CSG Justice Center analysis of MassCourts probation data and meetings with the Massachusetts Probation Services staff.



DATA AVAILABLE, BUT DUE TO LIMITATIONS**
IS NOT CONDUCIVE TO STATEWIDE ANALYSIS



**Limitations fall under three main categories:

- Data is collected in a consistent way within the probation officer's chronos, but it cannot be readily reported out by court department, court, or by probation officer.
- 2. Data is not collected in a consistent way, such as drop-down options or structured variables (e.g., free text).
- 3. Being a docket management system, the format and structure of MassCourts makes the interpretation of data difficult or unreliable.

The Parole Board reports that parole officers have reliable and accessible case management data.

Due to these data limitations, analysis for probation supervision will rely on qualitative data where quantitative data does not exist

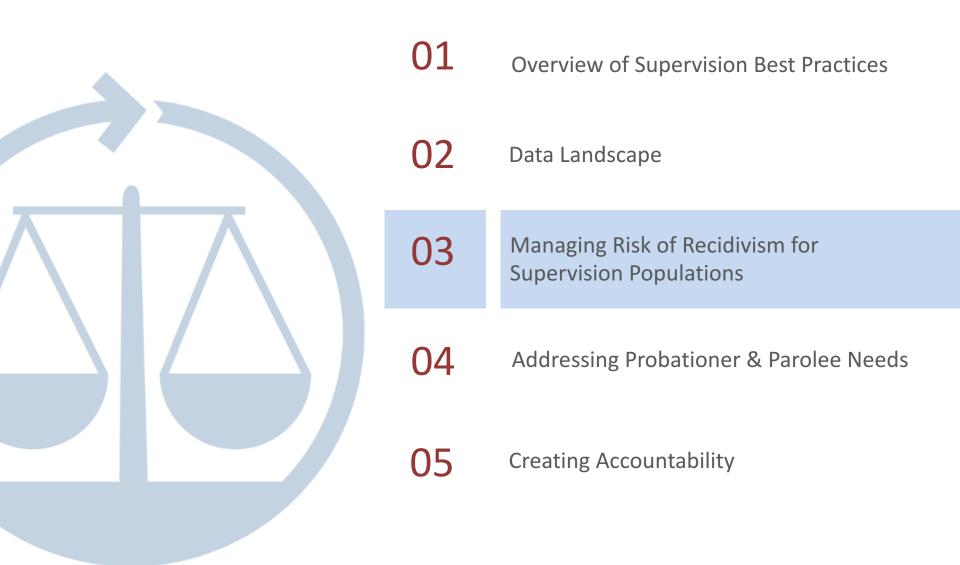
PROBATION

- When possible, data from MassCourts is used in this analysis
- Information from surveys of probation officers supplements this data
- Direct observation of probation officers also helped to inform this analysis

PAROLE

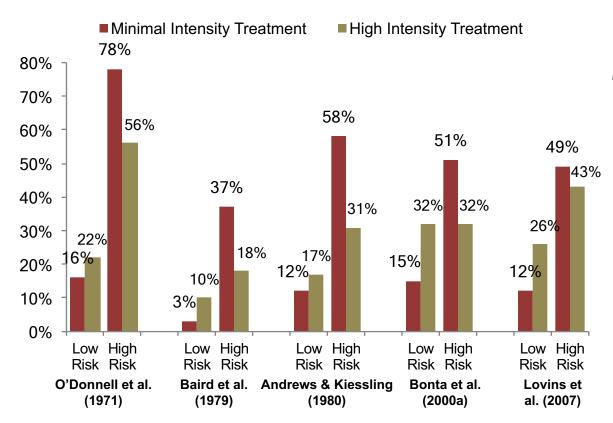
- Data from parole's SPIRIT database is used in this analysis
- Direct observation of parole officers also helped to inform this analysis

Overview



A number of studies have shown that targeting the intensity of supervision and supports by risk level is essential to reducing recidivism

IMPACT OF LEVELS OF TREATMENT ON RECIDIVISM FOR **DIFFERENT RISK GROUPS, STUDIES BETWEEN 1971 AND 2007**



A majority of studies have shown that high-intensity interventions can increase recidivism in low-risk people but significantly decrease recidivism in high-risk people.

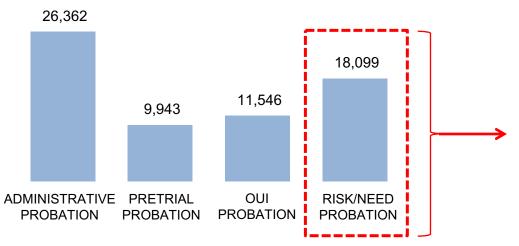


Failing to adhere to the risk principle can increase recidivism.

Risk assessment is performed on all parolees and some probationers

ACTIVE ADULT PROBATION POPULATION, JUNE 2015



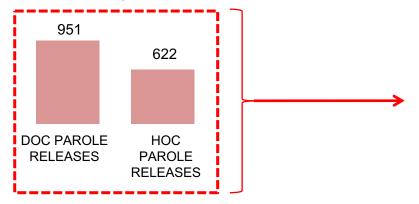


27%

of all people on probation supervision receive a risk assessment

ACTIVE DOC/HOC PAROLE POPULATION, JUNE 2015

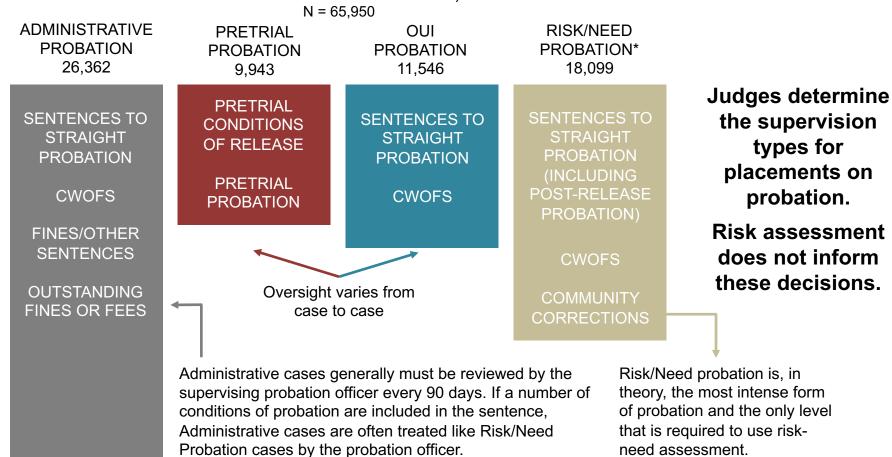
N = 1,573



100%

of all people released on parole supervision receive a risk assessment Only Risk/Need probationers are required to receive a risk assessment; supervision levels for other probation types are often determined by conditions attached to the probation order

ACTIVE ADULT PROBATION POPULATION, JUNE 2015



^{*}Risk/Need Probation is considered "supervised probation" by the court.

Common conditions of probation include: no contact with the victim, substance use treatment, mental health treatment, abstinence from drugs or alcohol, etc. MassCourts probation data from the Massachusetts Probation Services.

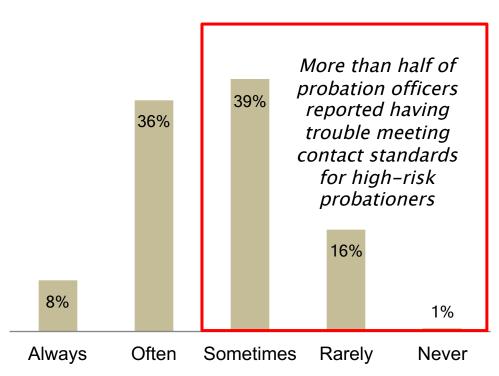
Probation policies require differing levels of contact for each risk level, but probation officers report challenges in meeting contact standards

Probation Contact Standards*

LOW RISK 1 contact every 3 months LOW TO MODERATE RISK 1 contact every month MODERATE RISK 2 contacts every month HIGH RISK 3 contacts every month

PERCENT OF PROBATION OFFICERS RESPONDING TO:

For your risk/needs cases, how often are you able to follow the contact standards for field contacts/office contacts?**



40% of responses mentioned courtroom duties as a barrier.

23% of responses mentioned administrative tasks as a barrier.

Parole uses risk assessment to inform supervision levels, and small caseloads allow for focus on higher-risk parolees

Parole Contact Standards*

REDUCED

VERY LOW OR LOW RISK 1 contact bimonthly

STANDARD

VERY LOW OR LOW TO MODERATE RISK

1 contact every month

MAXIMUM

VERY HIGH OR HIGH RISK 2 contacts every month Parole is able to spend more time in the community with people on their caseload compared to probation.

Parole officers reported more contacts than are required by policy, and these are typically in the field, and random rather than scheduled.**

A recent audit of parole practices showed that parole officers are not reassessing parolees within policy timeframe requirements to determine if they need to be assigned to a different supervision level.***

^{*} Massachusetts Parole Board also has an intensive supervision level for certain sex offenders. Massachusetts Parole Board Classification and Standards of Supervision, 2013 **CSG Justice Center meetings, observations and review of standards for parole supervision practices, March 2015 – September 2016

^{***}Massachusetts Parole Board Classification and Standards of Supervision, 2013; CSG Justice Center meetings, observations and review of standards for parole supervision practices, March 2015–September 2016 and Commonwealth of Massachusetts Office of the State Auditor Official Audit

MANAGING RISK OF RECIDIVISM FOR SUPERVISION POPULATIONS

Research finds the strongest public safety outcomes are achieved when resources are prioritized to risk, with high-risk people receiving higher-intensity interventions.

- Probation and parole agencies have policies requiring that supervision levels are stratified based on level of risk.
- Use of risk assessment for probationers varies by type of probation Risk/Need Probation, Administrative Probation, OUI Probation, or Pretrial – and placement within these categories is determined by a judge. Only individuals placed on Risk/Need Probation (27% of cases) later receive risk assessment.
- Probation officers report that administrative and courtroom duties prevent them from meeting agency policy contact standards, particularly for high-risk probationers.

Overview



Targeting of risk-reducing needs of probationers and parolees should be addressed through a combination of assessment, programs, and accountability

- 1 Assess the **criminogenic risk/needs** of the person.
- 2 Include additional clinical assessments, such as substance abuse/mental health as necessary.
- Develop an individualized, integrated case plan designed to address treatment needs and reduce risk.
- Prioritize resources based on risk and connect to appropriate programs and treatment.
- Engage probationers and parolees and support them in being accountable to their case plan.

Both supervision agencies have policies around case planning

CASE PLANNING AND IDENTIFICATION OF NEEDS BY AGENCY

PROBATION*

For Risk/Needs Probation, officers craft a **Probationer Individual Change Agreement (PICA)** with the probationer to prioritize how the needs of that moderate- and highrisk person will be addressed.

Agency policy determines when additional clinical screenings are used.

PAROLE**

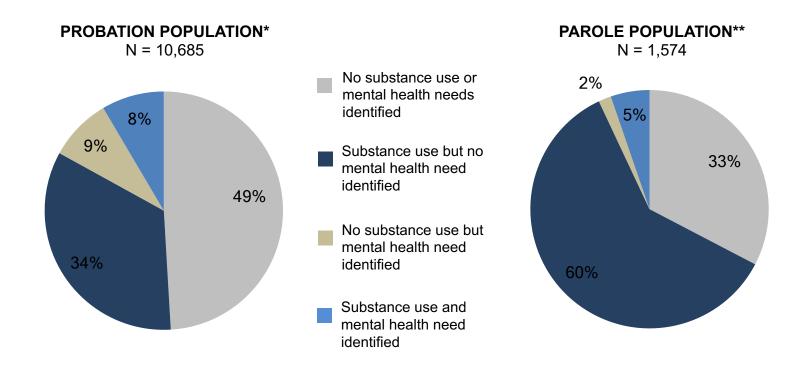
Each parole office has a **reentry navigator** who screens and refers for behavioral health needs.

Parole officers make referrals for services like job search support and education needs.

^{*}Massachusetts Standards for Supervision for Probation Offices of the Superior Court Department, District Court Department and Boston Municipal
Court Department and CSG Justice Center meetings, observations and review of standards for probation supervision practices, November 2015–August 2016

[&]quot;Massachusetts Parole Board Classification and Standards of Supervision, 2013 and CSG Justice Center meetings, observations and review of standards for parole supervision practices, March 2016—September 2016.

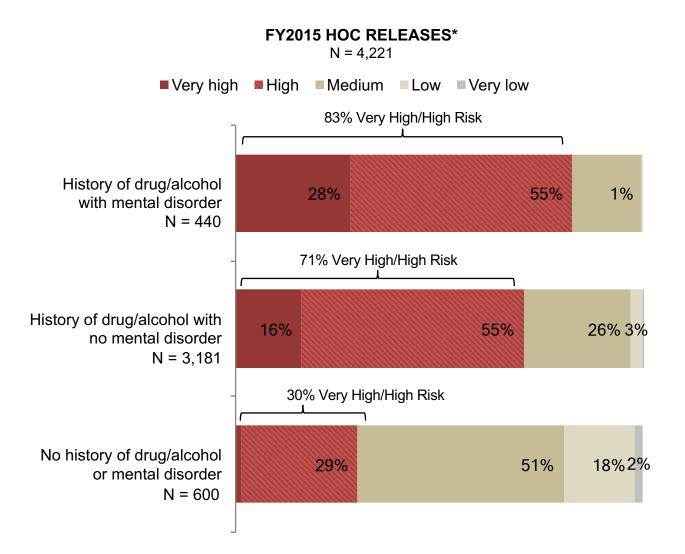
Assessment data of probation and parole populations show a high prevalence of substance use and/or mental health needs



^{*}Includes risk/need probation population in December 2015 and includes only individuals completing a full assessment, as this information is not provided through the initial screening. Substance use need is defined as scoring moderate or high in the ORAS substance abuse domain or having special conditions that include substance abuse screening, evaluation, and/or treatment. Mental health need is a flag for potential mental health issues as reported by the probation officer or other person completing the full assessment process.

^{**}Includes parole population as of June 2015 with a completed LS/CMI assessment. Substance abuse need is defined as having a "history of drug abuse" as reported by the parole officer. Mental health need is a flag for mental disorder as reported by the parole officer.

People with histories of substance use and mental disorders are more likely to be high or very high risk



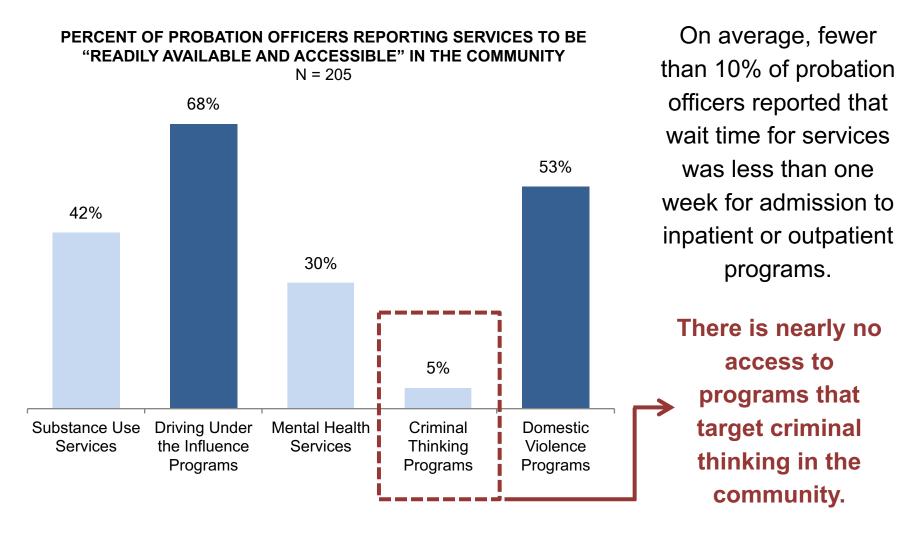
While mental illness isn't a risk factor for engaging in criminal activity, many of the people with chronic involvement in the criminal justice system struggle with addictions and mental illness.

^{*}Needs information associated with LSCMI assessment conducted by parole. Approximately half of HOC releases did not have needs information.

CSG Justice Center analysis of 2015 Parole Board SPIRIT data.

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Probation officers felt that specialty services like DV or OUI programs were more readily available in the community than substance use or mental health services



Probation and parole have different approaches to connecting supervision populations to services

CONNECTIONS TO SERVICES BY AGENCY

PROBATION*

Probation Field Services do not provide direct services. Probation officers use probation's **Community Resources Directory** and their knowledge of the local service providers to make referrals³

Probation is not able to report on how many people were connected to/participated in services.

PAROLE**

A common program is the Substance
Abuse Coordinator (SAC) Program,*
where in 2014, more than 60% of
parolees received substance use and/or
reentry services. The board also
operates the **Reentry Housing Program** (RHP).

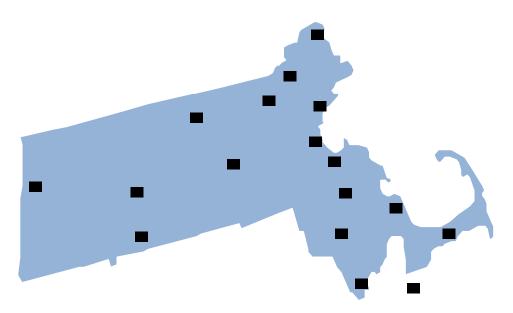
In 2014, 1,164 parolees received services or referrals through SAC, and 120 parolees were placed in RHP.

^{*}Massachusetts Standards for Supervision for Probation Offices of the Superior Court Department, District Court Department and Boston Municipal Court Department and CSG Justice Center meetings, observations and review of standards for probation supervision practices, November 2015–August 2016

[&]quot;The Substance Abuse Coordinator (SAC) Initiative, is a collaboration between DPH, BSAS and providers. Massachusetts Parole Board Annual Statistic Report, 2014 (Natick: Massachusetts Parole Board).

Most programs and services funded by the state are offered through Community Correction Centers, and services vary by location

MAP OF COMMUNITY CORRECTIONS CENTERS N = 17



There are some cognitive-behavioral intervention standards within OCC contracts, but there is currently no accountability measure in place to ensure evidence-based practices are delivered consistently across the various centers.

Services that are often provided at community corrections centers:

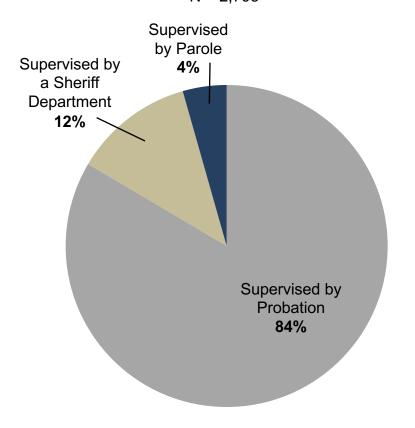
- ✓ HISet/ABE/ESL or comparable educational component
- ✓ Job readiness training and placement
- ✓ Criminal Thinking programs
- ✓ Life skills and education
- ✓ Referral to Department of Public Health, Department of Mental Health services and other community agencies.
- ✓ Substance use treatment
- ✓ Gender specific treatment services
- ✓ Communicable disease prevention education

There are multiple avenues to access the programs and services at Community Corrections Centers

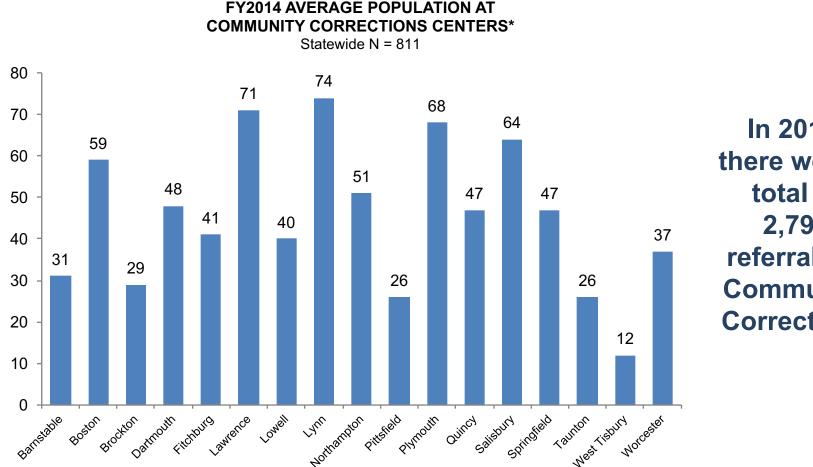
Community Corrections placements are most often used as a sanction or alternative to revocation:

- The parole board or a parole officer can sanction or otherwise place a parolee at Community Corrections for day reporting and enhanced services.
- Only a judge can sentence a probationer to Community Corrections for day reporting and enhanced services, though certain offenses are ineligible for placement.
- HOCs and DOC can also use Community
 Corrections as a step-down option to assist
 in transitioning a prisoner back to the
 community.

2014 COMMUNITY CORRECTIONS REFERRALS N = 2.795



Community Corrections Centers' average daily participation is less than 5 percent of the overall population on probation and/or parole



In 2014, there were a total of 2,795 referrals to **Community Corrections**

^{*}Average monthly population served over the year.

ADDRESSING PROBATIONER & PAROLEE NEEDS

Research finds that individualized, integrated case plans designed to address treatment needs are most effective in reducing risk of recidivism.

- Both parole and probation utilize needs assessments; however, for probation, only people on Risk/Needs caseloads receive those assessments.
- In line with national rates, large percentages of probationers and parolees have challenges with substance use and/or mental illness.
- Probation agents report that treatment and risk-reduction programming are not readily available much of the time.
- Community Corrections provide higher intensity services and supports but only serve a small portion of the supervised population.

Overview



Research finds positive reinforcements and incentives can help improve engagement and limit the need for more punitive and expensive sanctions

Effective supervision practices encompass a range of incentives and sanctions

Reduce supervision level

Reduce restrictiveness of conditions

Reduce travel restrictions

Verbal praise

> Verbal warning

Increase reporting requirements Short Jail stav

Problemsolving courts

Revocation to jail or prison

INCENTIVES: Responses to supervision compliance can reduce recidivism as much as or more than sanctions.

SANCTIONS: The most restrictive, punitive, and expensive sanctioning options should be reserved for situations where public safety is at the greatest risk.

Accountability for people on supervision is critical for public safety

Victims have notification rights when the custodial conditions or convicted person's location changes:

MASSACHUSETTS VICTIM BILL OF RIGHTS (M.G.L. C. 258B)

The Right to Receive Specific Information about the Criminal Case Involving You:

You have the right to be notified of the final disposition of the case, including an explanation of the type of sentence imposed and a copy of the conditions of probation, if any.

You have the right to be notified by the offender's supervising probation officer whenever that offender seeks to change a restitution order.

The Right to be Notified of an Offender's Release or Status While in Custody:

Upon request, you have the right to advance notification whenever the offender is moved to a less secure correction facility.

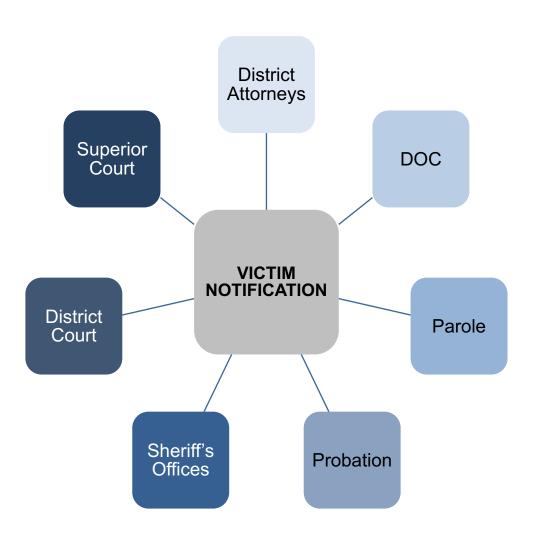
Upon request, you have the right to advance notification whenever the offender receives a temporary, provisional or final release from custody.

Upon request, you have the right to immediate notification whenever the offender escapes from custody.

You have the right to be informed by the parole board of the offender's parole eligibility.

If eligible, you have the right to obtain additional information about the offender, such as a criminal record or the offender's compliance with the terms of a sentence.

In Massachusetts, the notification system is spread across multiple agencies



Not all agencies have victim advocates on staff

Advocate positions within an agency go beyond notification. Advocates work directly with victims on safety planning, helping with social services and behavioral health referrals, as well as being a point of contact between the victim and a supervising agency.

Agencies that do not have dedicated and identified victim service workers do not have the benefit of a committed professional seeking to meet the needs of crime victims.

Each agency can also have a number of discrete points for victim contact

The parole board is required to notify victims concerning the convicted person's parole eligibility, parole hearing, parole release, parole revocation, and pardon and commutation proceedings

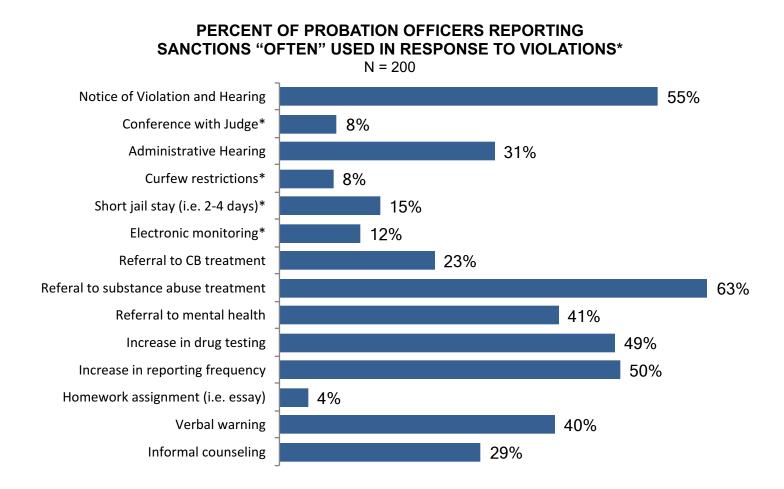
In 2014, the Parole Board issued **more than 20,000 notifications.**

Notification systems and formats vary across agencies. This stratification across agencies and notification types makes it difficult to assess if notifications are happening as intended.

Agencies that have victim advocates on staff, like the parole board, work directly with victims to help them understand what the notifications mean, as well as developing impact statements, addressing safety concerns, and collaborating with other agency advocates addressing transition of services, and providing referrals.

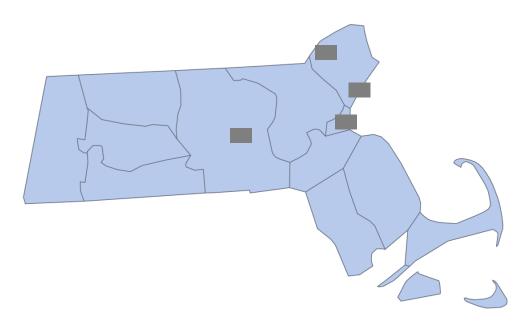
In 2014, the parole board **provided** victim assistance to more than 8,000 victims.

Probation does not track use of specific sanctions or incentives, but officers reported that referral to substance use treatment and issuing a notice of a violation hearing are most commonly used in response to violations



Probation is working to expand HOPE Swift and Certain pilot programs in the state, but there are barriers to employing sanctions according to the model

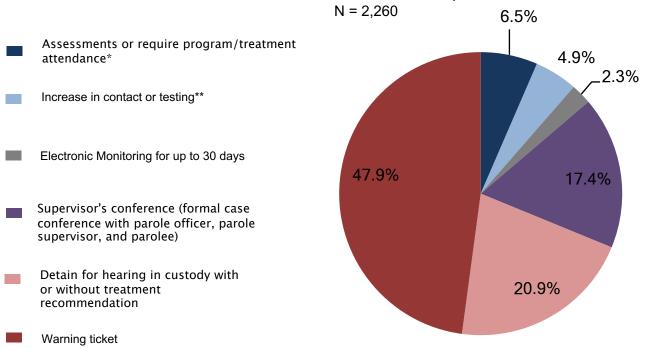
ACTIVE HOPE/MORR PILOT SITES



Probation officers have limited authority to impose sanctions without first going through a court process to establish a finding that a violation has occurred.

Parole tracks the use of specific sanctions, with data showing that warning tickets and detention for hearings in custody are the most commonly used



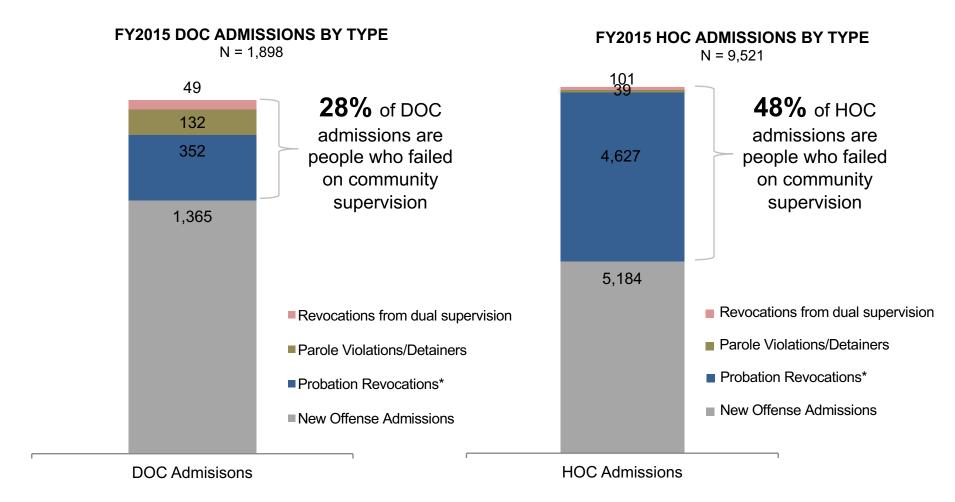


Up to three actions can be applied per violation. For example, a warning ticket may be accompanied with substance abuse treatment.

^{*}Assessments or require program/treatment attendance includes the following categories: assessment by substance abuse coordinator, attend AA/NA, attend employment counselor/employment services, attend OCC Level III (without electronic monitoring), attend other evaluation or counseling, attend out patient treatment, attend residential treatment

^{**}Increase in contact or testing includes the following categories: curfew up to 14 or 30 days, community service through OCC, Halfway Back Up to 90 days, Hampden HOPE program, hearing on the street, increase urine testing, increase visits/contacts for up to 30 days

Analysis across data sets shows that more than a quarter of DOC admissions and nearly half of HOC admissions are on supervision at the time of admission



Due to data limitations, the proportion of probationers ending in a revocation to incarceration is unknown.

^{*}Probation revocation is defined as being on active risk/need or administrative probation at the time of admission (i.e. probation start date more than 60 days prior to admission and projected end date later than or within 60 days of admission). CSG Justice Center analysis of DOC data, Parole Board SPIRIT HOC data, and MassCourts probation data.

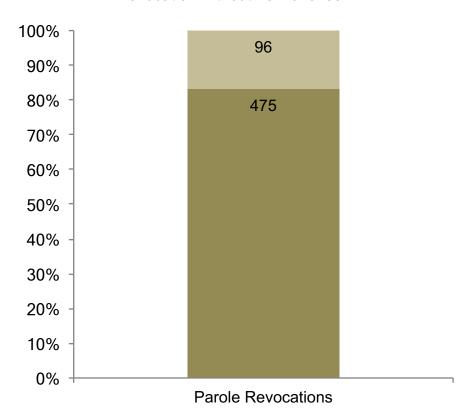
More than 80 percent of parole revocations are not associated with a new criminal offense



N = 571

Revocation with new criminal offense

Revocation without new offense



Data on graduated sanctions suggests that a number of sanctions were imposed prior to revocation.

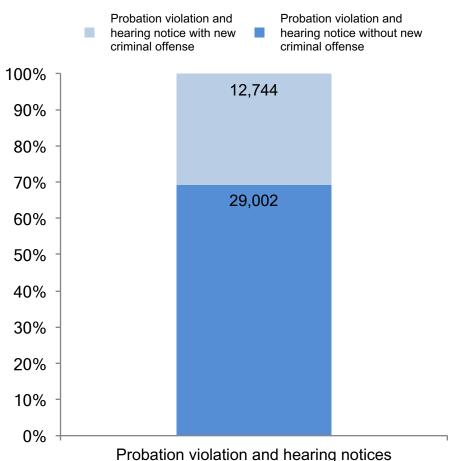
In 2014, 2,294 graduated sanctions were imposed in response to violations of parole conditions. Up to three actions can be taken per sanction.

Parole has a formal response grid for parole officers to refer to that has a range of interventions and sanctions. This does not include a range of incentives.

Probation data system limitations prevent probation from being able to report how revocations were associated with a new criminal charge







However, probation does have information on criminal charges related to violation and hearing notices.

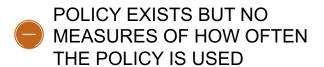
Nearly 70 percent of probation violation and hearing notices are not associated with a new criminal offense.

Probation does not have a formal response grid for probation officers to refer to when responding to probationer behavior.

Both probation and parole have barriers that prevent use of some of the most powerful incentives that encourage compliance with supervision conditions

RECOMMENDED BEST PRACTICE	PROBATION	PAROLE
Earned time while on community supervision	×	×
Formal step-down policy		
Credit for time served in community not lost after revocation process*	×	







^{*}For Straight and From and After Probation Sentences, if probation is revoked, the defendant is subject to any sentence permitted by the statute that governs the underlying offense. See Commonwealth v. Bruzzese, 437 Mass. 606, 617-618 (2002). For Suspended Probation and Split Sentences if probation is revoked due to a violation, and the defendant is to be sentenced, the court must impose the full suspended sentence. See Commonwealth v. Holmgren, 421 Mass. 224, 228 (1995).

CSG Justice Center analyses on probation and parole legal frameworks, and qualitative meetings and focus groups of probation and parole officers. November 2015-September 2016. Commonwealth of Massachusetts Office of the State Auditor Official Audit Report of Massachusetts Parole Board, (Boston: Commonwealth of Massachusetts Office of the State Auditor, October 19, 2016); Massachusetts Standards for Supervision for Probation Offices of the Superior Court Department, District Court Department and Boston Municipal Court Department; Massachusetts Parole Board Classification

CREATING ACCOUNTABILITY

Research finds that effective supervision practices encompass a range of incentives and sanctions that are applied consistently and fairly.

- Failures on supervision are significant contributors to admissions to both DOC and HOC.
- Probation does not have a formal response grid to respond to probationer behavior. Both probation and parole could formally incorporate incentives to encourage compliance on supervision.
- There is an opportunity to improve the services provided to victims, including notification.





Thank You

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