

DECEMBER 2016

EXCESSIVE REVOCATIONS IN WISCONSIN

THE
HEALTH
IMPACTS OF LOCKING
PEOPLE UP WITHOUT A
NEW CONVICTION

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Excessive Revocations: The Health Impacts of Locking People Up Without a New Conviction in Wisconsin

Full Project Report
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December 2016

By Human Impact Partners

With the partnership of:
WISDOM
EX-Prisoners Organizing



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EXCESSIVE REVOCATIONS IN WISCONSIN

EXECUTIVE SUMMARY

THE HEALTH IMPACTS OF
LOCKING PEOPLE UP
WITHOUT A
NEW CONVICTION



"I was suicidal. I was depressed—and I got revoked on an accusation. I had no hope because I lost my opportunity to go to school and with three decades of a felony record, education was my only opportunity to get a job that's decent. It affected me mentally... I ended up diabetic and I was affected with this last incarceration a lot." - Kenosha focus group participant



The Department of Corrections suggests that some of the 3,000 people may have broken the law. However, no charges were brought against them, and Department data on this is incomplete. Until clear data is available, people should not be assumed to have committed a crime unless charged and convicted.

Revocation—being incarcerated for breaking the rules of a supervision arrangement (like parole, probation, or extended supervision)—**feeds the mass incarceration cycle in the United States.** Estimates suggest that across the U.S., half of the people in jails and more than one-third of the people entering prison are locked up for a revocation.

A large number of people are incarcerated for breaking the rules of supervision, but do not commit a new crime. In Wisconsin, the Department of Corrections (DOC) put about 3,000 people in prison in 2015 alone for what DOC calls a "revocation without a new offense," meaning there was not a new criminal conviction. These people will serve an average of 1.5 years in prison without being convicted of a new crime—and cost Wisconsin \$147.5 million dollars in the process.

The increase in incarceration over time is a significant public health issue. This report reviews the revocations process in Wisconsin, describes related consequences to health and the factors that drive it, and recommends changes in managing people on supervision.

FINDINGS INDICATE

Two out of every five people put in prison for a revocation without a new criminal conviction in 2015 identified as Black (40%)—yet only 6.6% of the Wisconsin population identifies as Black. Similarly, nearly half of people put in prison for a revocation without a new criminal conviction have a mental health condition (44%)—when Wisconsin has an 18% prevalence of mental health conditions. In a state with too few rehabilitative program as alternatives to incarceration, these inequities contribute to significant barriers for people to reach their full health and human potential.

Revocation affects employment and housing. Employment and housing are particularly important for people's successful re-entry after release from incarceration. For people on supervision, time incarcerated while the state investigates and decides on an allegation or revocation means time away from work. This can lead to loss of income, making it harder to pay for basic needs like housing or childcare. It can even mean losing jobs—a challenge for people that evidence shows already face considerable barriers in getting a job. Ironically, employment and stable housing are often part of the rules of supervision. A person may risk a revocation if they don't have steady employment or stable housing.

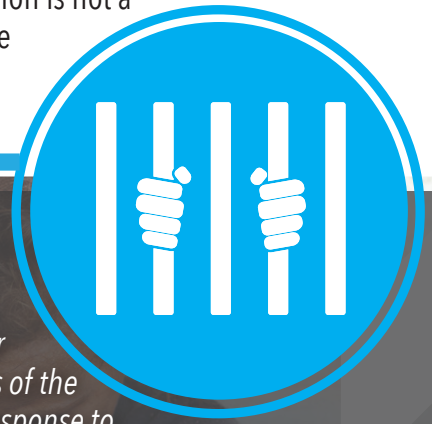
The stress and stigma of incarceration and supervision affect health. It can damage health when stressful situations consistently overwhelm a person's ability to cope—particularly when a person feels they have little control over these situations. Imprisonment is an acute stressor, as a major disruption in a person's life. It is also a chronic stressor that may involve daily exposure to violence or threats, hostile relationships with guards and other incarcerated people, overcrowding, and a lack of privacy and control. After release from incarceration, people remain marked by the stigma of a conviction and can face secondary stressors as they work towards rehabilitation—including the constant threat of revocation.

When a parent is incarcerated, families pay a price. Nearly half of people put in prison for a revocation without a new criminal conviction in 2015 were parents (48%). The impacts of incarceration extend beyond the people locked up, and are associated with wide ranging detrimental effects on children and families. The report finds that incarcerating people for revocation without being convicted of a new crime in 2015 put an estimated 2,700 kids at increased risk of poverty with a father's incarceration, and 1,600 kids in Wisconsin may have lost primary financial support with any parent's incarceration.

Revocation processes are applied inconsistently in Wisconsin. The Department of Corrections has yet to clearly implement the state law calling on it to create short-term responses for people who break the rules of supervision and to determine how to reward people under supervision for compliance. Current practice is inconsistent and there is too little training, lack of written policy, and opportunity to improve Department data collection.

Incarcerating people for breaking the rules of supervision doesn't improve public safety.

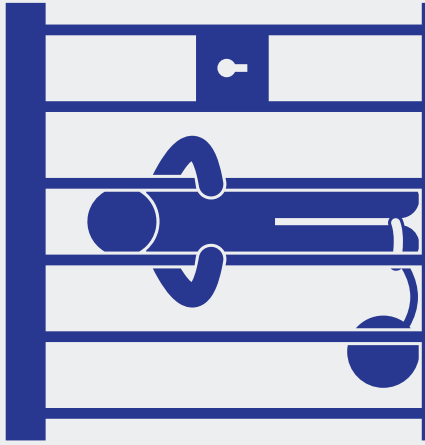
Research shows that violating what are known as technical rules of supervision is not a good indicator of new crime, and that incarcerating people for technical rule violations may increase recidivism—making the possibility of a person committing a future crime more likely.



RECOMMENDATIONS

- 1. Remove incarceration as a response to non-compliance for non-criminal violations of the rules of parole, probation or extended supervision.*
- 2. As an alternative measure to revocation for people on parole, probation, or extended supervision: continue to build on the partially implemented steps of the "short-term sanctions" law, by ensuring a consistent and racially equitable response to non-compliance and the granting of rewards for compliance that is transparently documented, through policy development, clear matrices, and workforce development that includes annual trainings.*
- 3. Consistently track, evaluate at regular intervals, and annually disseminate the outcomes on the use of alternative measures to revocation for people on parole, probation or extended supervision to build community trust.*
- 4. As an alternative to revocation, provide access and navigation into rehabilitative programs and assure successful graduation for people on parole, probation or extended supervision.*
- 5. Reduce the number of people and length of time people across races/ethnicities are placed on probation or extended supervision, which will in turn reduce agency caseloads.*
- 6. Apply greater due process rights for people in revocations investigations and proceedings, such as right to bail and a higher standard of evidence.*

THE CONSEQUENCES OF EXCESSIVE REVOCATIONS IN WISCONSIN



IN 2015

2,954 PEOPLE
IN WISCONSIN WERE PUT IN PRISON FOR A REVOCATION WITHOUT A NEW CONVICTION. IMPRISONED FOR AN AVERAGE OF

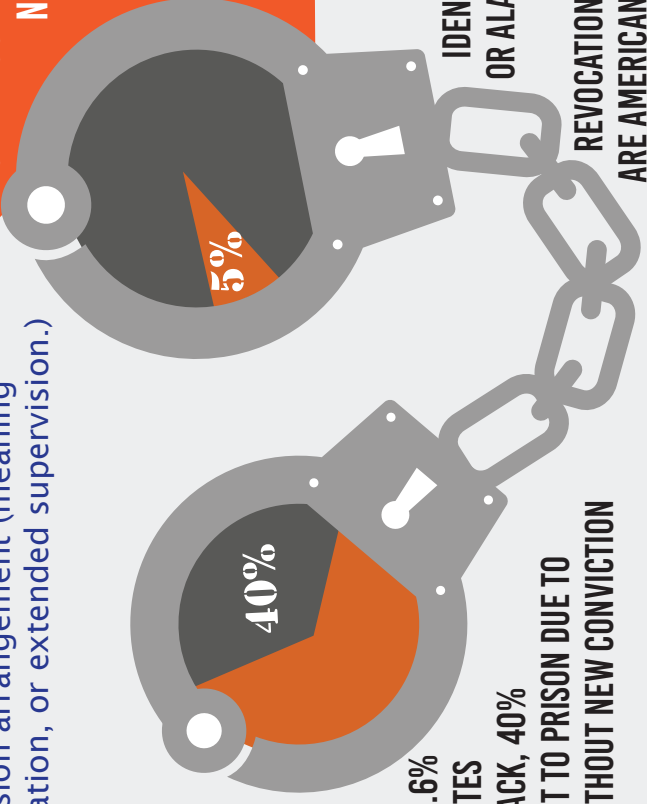
1.5 YEARS
COSTING THE STATE **\$147M**

REVOCAATION

noun /ˈrevəˈkeɪʃ(ə)n/
Incarcerating a person for violation(s) of their supervision arrangement (meaning parole, probation, or extended supervision.)

PEOPLE CAN BE REVOKED— IMPRISONED—FOR BREAKING RULES OF THEIR SUPERVISION ARRANGEMENT THAT DOESN'T BREAK THE LAW IN WISCONSIN, THIS IS REFERRED TO AS A REVOCATION WITHOUT A NEW CONVICTION.

EVEN FOR MISSING MEETINGS



THOUGH ONLY 6.6% OF WISCONSINITES IDENTIFY AS BLACK, 40% OF PEOPLE SENT TO PRISON DUE TO REVOCATION WITHOUT NEW CONVICTION ARE BLACK.

THOUGH ONLY 1% OF THE WISCONSIN POPULATION IDENTIFIES AS AMERICAN INDIAN OR ALASKA NATIVE, 5% OF PEOPLE SENT TO PRISON DUE TO REVOCATION WITHOUT NEW CONVICTION ARE AMERICAN INDIAN OR ALASKA NATIVE.

PEOPLE ON SUPERVISION ARE AT HIGHER RISK OF HOUSING INSTABILITY.

A recent study showed that people on parole experience on average

2.6
MOVES PER YEAR
that would mean moving
about every 4 months.

PEOPLE ON SUPERVISION EXPERIENCE CHRONIC STRESS, WHICH CAN LEAD TO WORSE HEALTH OUTCOMES.

In focus groups across Wisconsin, people consistently described deep stress to themselves and their families and experiences of “living in fear at all times” that revocation could happen at any time.

“IT’S FRUSTRATING WHEN YOU’RE OUT HERE WORKING A JOB, GOING TO COLLEGE, AND HELPING YOUR FAMILY OUT AND THEN THEY PLACE YOU IN PRISON EVEN THOUGH YOU HAVE NOT COMMITTED ANY CRIME.”

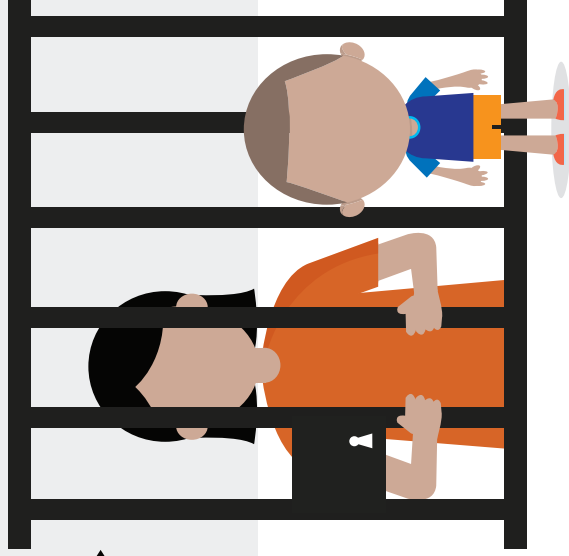
- Milwaukee EXPO Leader

It is estimated that
3,000 CHILDREN

under age 18 in Wisconsin had a parent sent to prison for a revocation without being convicted of a new crime in 2015.

48%
OF THE PEOPLE
INCARCERATED
WITHOUT A NEW CONVICTION
ARE PARENTS.

THOUGH ONLY **18% OF**
WISCONSINITES SUFFER FROM
MENTAL ILLNESS, **44% OF**
PEOPLE REVOKED WITHOUT A
NEW CONVICTION ARE LIVING
WITH A MENTAL ILLNESS.



WANT TO LEARN MORE?

Visit sentback.org to read the full research report by Human Impact Partners, WISDOM, and EX-Prisoners Organizing. Visit rocwisconsin.org to get involved in ending mass incarceration in Wisconsin.

Acknowledgments

This report is dedicated to the honor and legacy of John Stedman. Learn more about the John Stedman Fund at www.rocwisconsin.org.

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About This Report

This report examines what happens to individual and family health under the current system in Wisconsin of incarcerating people who do not meet the rules of their supervision. It reviews evidence of how this takes place, describe its consequences, and recommends changes grounded in the lived experiences of focus group participants, the expertise of key practitioners that work daily with justice-involved individuals and families, and research in public health and criminology.

The framework of Health Impact Assessment (HIA) is used in this report to guide the overall research process. As defined by the National Academy of Sciences, HIA is “a combination of procedures, methods, and tools that systematically judges the potential, and sometimes unintended, effects of a policy, plan or project on the health of a population and the distribution of those effects within the population. HIA identifies actions to manage those effects.”¹

The fundamental purpose of HIA is to inform decision-makers before they decide on a proposal and to involve stakeholders directly affected by a decision. (See Appendix B for more information on how different stakeholders participated in this report process.)

The findings described in this report derive from a range of methods:

- Review of research literature
- Data gathering from the Wisconsin Department of Corrections
- Phone and email communications with staff at the Wisconsin Department of Corrections
- Facilitating 5 focus groups and 8 interviews (see Appendix C for more information on focus group and interview methods)

Notes about Language

This report strives to use the language of ‘response’ and ‘effective responses to non-compliance,’ instead of ‘sanctions’ and ‘graduated sanctions.’ This reflects changes suggested by experts who design what are known as ‘sanctions and rewards’ programs. Experts describe that the shift is more than semantic and gets at the heart of what shapes behavior:

- A response to a violation does not need to be punitive to be effective, so use ‘response’ instead of ‘sanction.’²
- A different approach—rather than a more severe one—may positively shape behavior where a previous response failed, so use ‘effective responses to non-compliance’ instead of ‘graduated sanctions.’²

Separately, this report uses ‘justice-involved person’ instead of ‘offender’ or ‘convict’ to refer to a person who has spent time in jail or prison, unless it is a direct quote or citation for specific research. The intent is to avoid defining people permanently by past experiences.

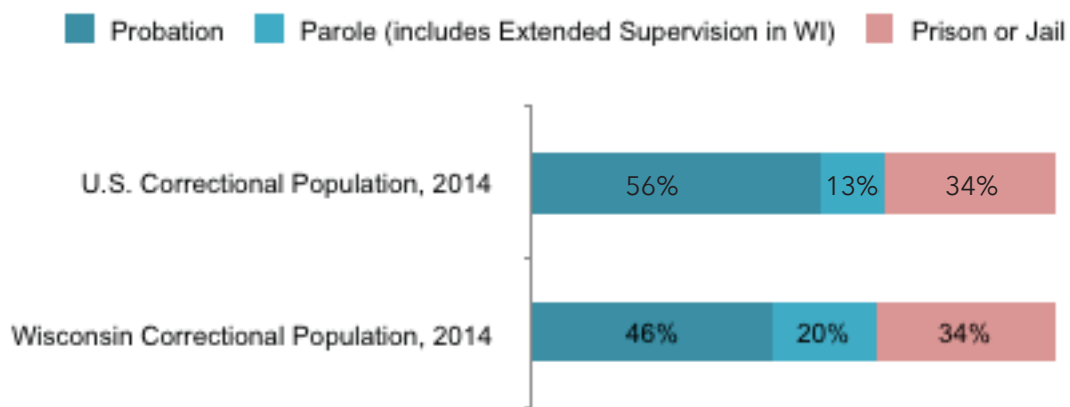
The Wisconsin Department of Corrections aims to successfully transition people off of supervision and into society, while simultaneously ensuring public safety. Although the Department is continuously improving toward that end, too many people still experience extensive challenges, resulting in what this report’s title refers to as ‘excessive revocations,’ which can have compounding health effects beyond incarceration itself.

From Mass Incarceration to Mass Supervision and Back to Mass Incarceration

We are living in fear at all times. All it takes is an allegation for us. And the reality of that—all it takes is an allegation for everything to be snatched out from under your feet, all your success and everything . . . To lock me up for one day . . . it would ruin our lives.
- Madison focus group participant

Supervision—including parole and probation—has become incorrectly viewed as a method to help reduce the numbers of people incarcerated, particularly in light of the many costs of incarceration and overburdened corrections systems. Some experts refer to this as “mass incarceration” giving way to “mass probation” and “mass parole.”³ This is reflected in the vast numbers of people currently on supervision: about 2/3 of people under the supervision of correctional systems nationwide and in Wisconsin were on probation or parole (including extended supervision in Wisconsin) in 2014.⁴

Figure 1: Breakdown of Correctional Populations, 2014



Note: Graphs may total more than 100% due to rounding.

Sources: Bureau of Justice Statistics, Annual Survey of Parole 2014, Annual Survey of Probation 2014.

Legal experts describe supervision as a prolonging of eventual incarceration—a tool that cycles people into jail or prison for failing to meet the rules of their release.⁵ People on supervision are required to follow a series of rules dictating their behavior, and can have their supervision revoked and be incarcerated for breaking these rules. One of the rules is not to commit a new crime. However, there are many other rules, which become reasons a person can be revoked and incarcerated without committing a new crime.

A report written by criminal justice experts about probation revocation articulates how a system that intended to be an alternative to incarceration instead can feed this cycle and be “punitive, demoralizing, and can work to increase crime rather than furthering public safety”:³

“Probationers who struggle with intrusive sentence conditions, for example, may have difficulty holding a job. Required meetings with a probation officer can make it hard to keep regular hours at work—especially if the probation department is far away, public transportation is lacking, etc. (A probation officer who shows up at a client’s place of work may not be much better.)”³

¹See the Glossary in Appendix A for explanations of key terms in the report, such as ‘probation’ or ‘parole’.

Estimates suggest that across the U.S., half of the people in jails and more than 1/3 of those entering prison are locked up as a result of revocation.⁵ Often, the revocation is the result of breaking rules of supervision, not a result of a new criminal conviction.

The same is true in Wisconsin, where nearly 1/3 of all people put in prison in 2015 for revocation were there without a new criminal conviction. This means that approximately 3,000 people were incarcerated without a new criminal conviction—and on average, they will spend approximately a 1.5 years in prison.

This is happening to large proportions of people of color:^{6,7}

- 7% of Wisconsin residents identify as Black, yet 40% of people put in prison for revocation without a new criminal conviction in 2015 identify as Black.
- 1% of Wisconsin residents identify as American Indian / Alaska Native, yet 5% of people put in prison for revocation without a new criminal conviction in 2015 identify as American Indian / Alaska Native.

There Is a Strong Relationship between Health and Incarceration

From a health perspective, the increase in incarceration rates over the past several decades has impacted the social and economic fabric of communities, through reduced opportunities in education, employment, and housing for people who have been incarcerated.

What are the social determinants of health?

People's life circumstances—for example, the conditions in which people live, work, play, grow, and age as well as social conditions like racism, sexism, and other forms of discrimination, political conditions like the distribution of power, and public policy choices that affect different groups of people differently—are known in the public health community as the social determinants of health.

What is health equity?

Health equity means that everyone has a fair opportunity to live a long, healthy life—and that health should not be disadvantaged because of a person's race, income, neighborhood, gender, or other social or policy factor.

These opportunities are part of what in the health field is known as the social determinants of health, meaning the social and economic conditions that shape the policies and places people need to live healthy lives. Although individual health behaviors and access to quality health care undoubtedly influence a person's well-being, it is estimated that more than 50% of a person's health is actually determined by social and environmental conditions.⁸ These conditions are, in turn, shaped by economic and social policies, which can either help build healthier communities or harm them.⁹ Being incarcerated can impact an individual's health in profound ways, and social policies that lead to mass incarceration can impact the health of entire groups.^{10,11}

The policies leading to mass incarceration have profoundly affected health and impact large proportions of people of color, particularly Black people, contributing to racial health inequities. In Wisconsin, the health of Black, American Indian, and low-income rural White communities are all impacted by incarceration.^{10,11}

Across the country, local health departments and community organizations are partnering to address the disproportionate burden of morbidity and premature mortality experienced by low-income people and communities of color. Increasingly, these partnerships are including attention to mass incarceration policies and practices as root causes of health inequity, alongside issues like access to safe and affordable housing, quality education, and employment opportunities. Inequities rooted in incarceration policy have meaningful implications for Wisconsin's public health system and practice. Addressing mass incarceration is a critical public health issue that is fundamental to achieving the goal of eliminating health inequities.

Overview of Wisconsin Supervision Legislation

Key legislative changes over the past 2 decades in Wisconsin have altered the length of time people are on supervision.

In 2000, Wisconsin enacted a “Truth in Sentencing” law that is known as one of the most severe in the nation. The law effectively is part of the national trend that extends mass incarceration to mass supervision and back to further mass incarceration, sending more people to prison for longer periods of time. It requires that all people convicted of a crime before 2000 serve their entire sentences without possibility for early release or parole.¹² For people convicted of a crime after 2000, it eliminated the use of parole boards and instead created ‘extended supervision.’ Currently in Wisconsin, a person can be on parole (if conviction pre-dated Truth in Sentencing), probation, or extended supervision. Collectively, this report refers to these as supervision.

The law also mandates the amount of time a person who is released must be on supervision:

- At least 25% of a person’s prison sentence
- As long as 2 to 20 years depending on the initial crime¹³

Example responses for non-compliance include (see Appendix F for a full list):⁶

- Written assignments
- Reprimand
- Community service hours
- Modified curfews
- Program extension
- Electronic monitoring
- Inpatient or outpatient treatment
- Time incarcerated

In 2014, Wisconsin then passed a law, which “directs” the Department of Corrections to develop a system of “short-term” responses that are quick, fair, and proportionate, for responding to people who violate rules of parole, probation, or extended supervision.¹⁵ It calls for responses for non-compliance to take into account their effect on a person’s employment and family. In essence, it seeks to limit the time people spend in prison, and the related harms.

The law also sets a 90-day limit on using incarceration as a response to non-compliance for a person on supervision who admits to a violation of the rules of supervision, before a person has been revoked. The idea is that “the swiftness and the certainty of the sanction—not the length or severity—changes offender behavior.”¹⁶ Two years later, the Department of Corrections has many people on supervision for long periods of time, despite this law passed by the State Legislature that the Department has yet to clearly implement. The idea of “short-term” responses for non-compliance has not been formally adopted in Department of Corrections practice with clear rules or training, according to conversations with high-level Department administrators and with agents.

Separately, Wisconsin legislators recently tried to change revocations procedures. Proposals that failed to pass include:

- Setting a 90-day maximum for incarcerating a person on probation or extended supervision after they have been revoked for breaking the rules of supervision so long as it does not involve a new crime, and with some caveats¹⁷
- Ensuring a person cannot be incarcerated for failing to pay a supervision fee¹⁸
- Including time on parole or extended supervision as part of time served, when that parole or supervision is revoked¹⁹

Who Is Incarcerated without Conviction in Wisconsin?

One in 3 people put in prison in Wisconsin in 2015—that's 2,954 people—were there for revocation without being convicted of a new crime.⁶

Data shows that people put in prison in Wisconsin for revocation without being convicted of a new crime in 2015 share some characteristics:⁶

- 91% of them are men
- 48% of them are parents
- 44% of them have a mental health condition³
- 46% of them identify as a person of color

The large majority (86%) of people in prison for revocation without a new conviction are in prison for more than 6 months. This doesn't include the time a person is incarcerated—on average nearly 2 weeks—while the state figures out if it will pursue additional incarceration time.

The Department of Corrections suggests that about 70% of people revoked without a new criminal conviction to prison in 2012, which is the most recent estimate available, *may* have broken the law. There are estimates but not clear counts of these possible crimes. In conversation with us, Department staff described that they are working on a system to actually count these instances.

In the meantime, we turned to interviews with public defenders, prosecutors, and a state representative. Stakeholders expressed that when people are not officially charged it often is because prosecuting the new offense is not viewed as a good use of resources, particularly for low-level offenses, and because there may not be sufficient evidence. There were mixed perspectives on how frequently revocation is used instead of a new criminal charge:

It is not an uncommon practice for prosecutors to hold off on prosecuting new charges pending the outcome of revocation proceedings.

- State Public Defender's Office

My sense is [the decision of whether or not to pursue a new criminal charge for minor offenses] is not a frequent occurrence. I don't have a sense of how many times it's happened. But I would say it's occasional at best.

- District attorney

It is important for the Department of Corrections to have clear counts of confirmed criminal behavior for people who are revoked without a new criminal conviction. Until clear data is available, people should not be assumed to have committed a new crime unless charged and convicted.

² In 2015, there were 2,964 admissions to prison for revocation without being convicted of a new crime. Ten of those were people admitted more than once in the same year. The number reported here—2,954—reflects that adjustment.

³ See Appendix D for how mental health conditions are measured.

Pronounced Disparities in Whom Wisconsin Incarcerates on Supervision

Wisconsin incarcerates people of color disproportionately overall, which is reflected in the proportions of people incarcerated for not meeting the rules of their supervision. As Figure 2 shows, in 2015 alone Wisconsin incarcerated Black people at a proportion almost 6 times greater than their share of the state population, and American Indian / Alaska Native people at a proportion 4 times greater than their share of the state population.

Figure 2: Wisconsin Population and Percentages of People Revoked without a New Criminal Conviction in 2015

Race/Ethnicity ⁴	Percentage of population	Percentage of people incarcerated overall	Percentage of people who did not meet supervision rules and were put in prison without a new criminal conviction
Black people	7%	41%	40%
American Indian / Alaska Native people	1%	4%	5%
Latinx people⁵	7%	8%	6%
Asian / Pacific Islander people	3%	1%	<1%
White people	88%	54%	54%

Note: Latinx is counted separately from race, so totals may exceed 100%.

Sources: Wisconsin Department of Corrections Prison Point-in-Time Dashboard. U.S. Census Bureau Wisconsin Quick Facts, 2016

Incarceration Rates of Black Men in Wisconsin

- Wisconsin incarcerates Black males at the highest rate of any state in the U.S., according to the 2010 U.S. Census.²⁰ One out of every 8 working-age Black males in Wisconsin is incarcerated—a rate nearly twice the national average.²⁰
- Milwaukee County, which is home to the vast majority (70%) of Black males in the state, has among the highest overall incarceration rates in the country. Over half of Black males in their 30s in Milwaukee County have served prison sentences, according to a University of Wisconsin–Milwaukee review of state prison records from 1990 to 2012.²⁰

Incarceration Rates of American Indian / Alaska Native Men in Wisconsin

Wisconsin incarcerates 1 out of every 13 working-age Native American males (7%), compared to a national average of 1 in 32 (3%).²⁰ These numbers are likely undercounts, as American Indian / Alaska Native people are frequently miscounted as another race, such as Latinx or White.

⁴ Race classifications by the Department of Corrections are based on self-report by incarcerated people.

⁵ Latinx is used as a gender-neutral alternative to Latino and Latina and interchangeably with Hispanic.

⁶ This is based on 2014 data from the Department of Corrections, since Latinx data is not available on the Department Point-in-Time Dashboard.

⁷ This is likely an undercount. Latinx ethnicity is optional and self-reported by people who are incarcerated, and the vast majority of people incarcerated in Wisconsin for breaking rules of supervision without a new criminal conviction (84%) did not answer a question about Latinx ethnicity in 2015.

The Rules of Supervision

I'm new to working again and I got a second job, but with everything I have to go to for AIM [Alternatives to Incarcerating Mothers] court, for meetings I have to go to, it's already getting overwhelming. It's really hard to balance everything and not neglect family and home life.

- Eau Claire focus group participant

Supervision is intended to structure surveillance, re-integration, and rehabilitation of a justice-involved person, while protecting public safety. It includes rules for a person to comply with, as part of a comprehensive plan for an individual who was removed from society when incarcerated, and is now returning to a community. However, when used inconsistently or excessively, the rules can instead challenge the rehabilitation and successful re-entry of justice-involved individuals.

Wisconsin Enforces at Least 18 Rules of Supervision

Across the U.S. there is wide variety in the number and kind of rules of supervision.⁵ Even when those rules are reasonable individually, taken together with other requirements of supervision and rehabilitation they can create a system that is very difficult to successfully navigate. This dynamic can be particularly true in places where recommended services or programs may not be reasonably accessible, or may only be available at times that require a person to take time off work, for example.⁵ In conversation with us, Department of Corrections staff described that

approximately 2.5 years ago, they revised the number of rules of supervision that could be used, recognizing that the up to 50 restrictions at that time was unrealistic and not helping people or safety. The Department reduced the number of rules and ensured they were relevant to the reason a person was on supervision. For example, a rule prohibiting alcohol should only be used for a person whose conviction and subsequent violation related to alcohol use.

Interpretation of Rules

Standard rules can be written in a way that still relies on agents to give them meaning.³⁵ For example, a rule describing that a person must submit to drug testing ordered by their agent leaves open a wide range of possibilities on how many tests, where to test, when to test, and other terms that individual agents can interpret in different ways.³⁵

Currently in Wisconsin, a person on standard parole, probation, or extended supervision has at least 18 and as many as 23 rules with which they must comply.⁸ Some rules are very specific: for example, rule 11 states a person must get written approval before borrowing money or buying on credit. Other rules leave wide room for interpretation by the agents that enforce supervision. For example, rule 1 describes complying with all laws and avoiding all conduct that “is not in the best interest of the public welfare or your rehabilitation”—a rule that could be interpreted differently across agents.

In addition to the 18 standard rules, both the supervising agents and the judge in a sentencing court can create and enforce 5 additional rules for the person on parole or probation, for a total maximum of 23 rules.⁵ These additional rules can vary greatly in how clearly they are written or how broad or detailed they are, according to stakeholders interviewed for this report.

⁸ People on supervision after previous conviction of sexual offenses have more rules of supervision. They'll have 24 standard rules and up to 10 additional rules, for as many as 34 total.

Wisconsin Rules of Supervision

You shall:

1. Avoid all conduct which is in violation of federal or state statute, municipal or county ordinances, tribal law or which is not in the best interest of the public welfare or your rehabilitation.
2. Report all arrests or police contact to your agent within 72 hours.
3. Make every effort to accept the opportunities and cooperate with counseling offered during supervision to include addressing the identified case plan goals. This includes authorizing the exchange of information between the department and any court ordered or agent directed program for purposes of confirming treatment compliance; and subsequent disclosure to parties deemed necessary by the agent to achieve the purposes of Wisconsin Administrative Code Chapter DOC 328 and Chapter DOC 331. Refusal to authorize the exchange of information and subsequent disclosure shall be considered a violation of this rule.
4. Inform your agent of your whereabouts and activities as he/she directs.
5. Submit a written report monthly and any other such relevant information as directed by DCC staff.
6. Make yourself available for searches including but not limited to residence, property, computer, cell phone, or other electronic device under your control.
7. Make yourself available for tests and comply with ordered tests by your agent including but not limited to urinalysis, breathalyzer, DNA collection and blood samples.
8. Obtain approval from your agent prior to changing residence or employment. In the case of an emergency, notify your agent of the change within 72 hours.
9. Obtain approval and a travel permit from your agent prior to leaving the State of Wisconsin.
10. Obtain written approval from your agent prior to purchasing, trading, selling or operating a motor vehicle.
11. Obtain approval from your agent prior to borrowing money or purchasing on credit.
12. Pay court ordered obligations and monthly supervision fees as directed by your agent per Wisconsin Statutes, and Wisconsin Administrative Code; and comply with any department and/or vendor procedures regarding payment of fees.
13. Obtain permission from your agent prior to purchasing, possessing, owning or carrying a firearm or other weapon, or ammunition, including incapacitating agents. An offender may not be granted permission to possess a firearm if prohibited under federal or state law.
14. Not vote in any federal, state or local election as outlined in Wisconsin Statutes s.6.03(1)(b) if you are a convicted felon, until you have successfully completed the terms and conditions of your felony sentence and your civil rights have been restored.
15. Abide by all rules of any detention or correctional facility in which you may be confined.
16. Provide true, accurate, and complete information in response to inquiries by DOC staff.
17. Report as directed for scheduled and unscheduled appointments.
18. Comply with any court ordered conditions and/or any additional rules established by your agent. The additional rules established by your agent may be modified at any time as appropriate.

Focus group participants described that complying with rules can make it difficult to meet other basic needs like holding a job, finding a place to live, and achieving other daily functions that support rehabilitation and in some cases are part of the rules of supervision. Multiple restrictive rules and responses to non-compliance impact quality of life with collateral impacts to health. People experience tension between trying to meet requirements of supervision, employment needs, and family needs.

I had to report every other week when I got out. So that was every other week that I was late for work . . . And if I didn't show up they'd be at my house . . . [I'd explain] I didn't report today because if I don't go to work I'm out of a job. And he would show up . . . They try to get you. They try to find something to get you, so they can lock you up . . .
- Menominee focus group participant

Complying with these rules gets even harder when layering on the potential for additional scrutiny and interaction by law enforcement based on racial profiling. For example, the burden of reporting all stops and arrests to an agent within 72 hours (rule 2) for a person of color may vary widely with that of a White person.

Justice-Involved Individuals Must Pay Supervision Fees

In the U.S., including in Wisconsin, people on parole, probation, or extended supervision pay fines and fees associated with their supervision. Some examples include the costs associated with incarceration stays, legal representation and court appearances, electronic monitoring, and other charges related to parole and probation services.

In Wisconsin, the justice-involved individual pays a monthly fee for their own supervision: \$20, \$40, or \$60 each month depending on their income.²² Put differently, a person pays between \$240 to \$720 dollars for every year they are on state-mandated supervision.

These monthly costs do not include other fees for additional rules of supervision, including urine tests or electronic monitoring, and for which costs vary. As an example, electronic monitoring has an initial set-up fee and daily charge:²³ a person in Eau Claire County on electronic monitoring for 4 weeks owes nearly \$700 in addition to monthly supervision costs.²³

A 2015 White House Council of Economic Advisers brief explained that across the U.S., the financial obligations associated with parole and probation “are disproportionately borne by the poor . . . [and] can lead to high levels of debt and even incarceration for failure to fulfill a payment.”²⁴ These costs can include having to make difficult tradeoffs in terms of neglecting other financial needs, “increasing the likelihood of job loss . . . [and] returning to criminal activity to pay off their debts, perversely increasing recidivism.”²⁴

Is the Purpose of Supervision Rehabilitation or Surveillance?

In Wisconsin—on top of the financial burden—failing to pay these fees is a violation of a person’s rules of supervision and among the reasons a person can be incarcerated. Supervision fees raise a question about the mission of supervision in the modern era: Is it rehabilitation or surveillance? States vary widely in their philosophical approach toward putting surveillance or rehabilitation of individuals first.⁵ The tension often results in competing demands—between surveillance needs and rehabilitation needs—on limited agent time and financial resources.⁵ In conversation with DOC staff, they described being in a position that requires balancing public safety with the rehabilitation of the justice-involved individual.

One focus group participant articulated a perceived imbalance in the system between surveillance and rehabilitation:

We have heard this around the table again and again. If the PO [parole/probation officer] clearly said that "I am here to help you find a job, I am here to help you find housing, I am here to help you succeed"—if that was clear then that would REALLY lift the pressure off.

But instead you hear . . . that people who have the POs, 90% of them, they're just [there] to catch you when you've done wrong. That's the law enforcement mentality, not social worker mentality that "I'm here to help you." That attitude of the PO and whole clearance of who is a PO [who gets the job] and what does it take—you know that's something that's got to be addressed as well as this crimeless revocation policy, the two are hand in hand.

- Milwaukee focus group participant

Spectrum of Experiences with Agents

The relationship between a parole/probation agent and justice-involved individual is central to the supervision process. Focus group participants described a range of experiences with agents, ranging from a supportive and reinforcing experience for re-entry to a wholly unsupportive experience, such as below:

Being on parole has been a very big security blanket for me—it keeps me clean knowing that I have to check in every Tuesday. It helps me at least try to maintain and do what I'm supposed to be doing. I asked my agent last week when I'm off papers, can I call you still? The agent has been a person in my life for 3 years and a support system as well.

- Kenosha focus group participant

I never got any help from my PO in finding a job but it was required that I look for a job and find employment. She helped me with other things, but she never once helped me find a job. I think that Department of Corrections should have more emphasis on counseling and helping people be a success and less emphasis on "You forgot to dot that i we're going to send you to MSDF [Milwaukee Secure Detention Facility]." It's an exaggeration, but it's the truth . . . And if they do send you there, you lose it.

- Milwaukee focus group participant

What Counts as Failing to Meet Supervision Rules?

Although a person on supervision has up to 23 rules, there are many more reasons why they can be seen as failing to meet rules of supervision. Importantly, a person living in their community on supervision can be incarcerated without breaking the law, for actions for which a member of the general public would never expect to be incarcerated.

Parole or probation agents who were interviewed described seeking alternate options and their perspectives of revocation as “a last resort”:

You certainly try out alternatives to revocations, or examine if there are some other things we could utilize out in the community or even some institution-based programming like halfway houses, treatment groups . . . electronic monitoring, anything that would still address the violation and help encourage the offender to make some behavioral changes . . . We go through the list of how can we address these violations the best way without going to revocation. Revocation tends to be more of a last resort . . .

- Parole/probation agent

Yet, there is a mismatch with the experiences of individuals. People are still incarcerated without necessarily committing a new crime. Focus group participants described their personal experiences or experiences of people close to them with revocations for breaking rules of supervision without a new criminal conviction. Reasons included monitoring equipment failure, missing appointments, failing to report a change of address, or allegations of breaking the rules.

One time he was put in jail over his GPS system . . . He was put in jail because they said he didn't use the equipment correctly. And he did not just sit in jail for a couple months . . . They sent him back to prison for 2 years for not knowing how to use the equipment properly.

- Madison focus group participant

Someone close to me was put into custody for not telling the probation officer he changed his address. He was held for multiple weeks for a change of address.

- Kenosha focus group participant

One focus group participant who was formerly incarcerated described feeling hopeless or trapped after unintentionally breaking a rule of supervision by missing an appointment:

Absconding, not going to your appointments—I missed one and I was too scared to face her [agent] . . . I thought it was one day and it was actually the next day. I felt trapped because I knew that no matter what I did I would go to jail . . .

- Eau Claire focus group participant

Reasons People Are Held in Custody in Wisconsin for Breaking Rules of Supervision without a New Criminal Conviction

(Note: This list excludes criminal reasons a person also can be held for violating supervision, and is in the language provided by the Wisconsin Department of Corrections.)

- Changed address without permission
- Changed or ended employment without agent's permission or without advising agent
- Driving or owning a vehicle without agent's permission
- Did not pay restitution, fines, or court obligations
- Refused to seek employment or go to work or school
- Failed to report to agent
- Refused to take urine test
- Refused a search
- Refused to sign an agreement
- Failed to report contact with law enforcement or an arrest
- Filed a false monthly report
- Gave false information to an agent
- Failed to report to jail
- Refused to inform agent or write statement of whereabouts and activities
- Violation of a community service order
- Violation of a 'no contact' rule, including contact with associates, peers, former accomplices, child, family member, spouse or partner, felon, or victim
- Violation of an 'Alternative to Revocation' placement or treatment plan, or refusing either of these
- Violation of the electronic monitoring program
- Violation of the special action release program
- Drinking when the person has a 'no drink' rule, including:
 - Entering a tavern when an agent prohibits it
 - Public drunkenness
 - Positive Breathalyzer test
 - Using an inhalant
 - Possession of open intoxicants (i.e., open container)
- Absconding, meaning an agent determines a person's 'whereabouts unknown,' 'left local area without permission,' or 'left state without a travel permit'
- Non-criminal verbal and written threats to other people
- Non-criminal traffic rules violations, such as a first conviction of driving while intoxicated, not having a driver's license, driving a vehicle after revocation, or warrants for this and other non-criminal traffic violations
- Violations of halfway house rules, including:
 - Program discharge
 - Curfew violations
 - Leaving without permission
 - Not cooperating with treatment
- Other community-based program rules violations include:
 - Discharge
 - Failing to attend or complete a program
 - Not cooperating with a program
- Refusing to take prescribed medications
- Non-criminal violations of work release

Inability to Follow Rules of Supervision Does Not Predict New Crime

In general, the strategy of incarcerating people for what the literature calls technical violations—breaking the technical rules of supervision without breaking the law—is based on an assumption that a person’s inability to follow rules of supervision is a proxy, or substitute, way to assess their future criminal activity. The practice implies that to protect public safety, people must be locked up for non-criminal violations.

However, until recently there has been little research about this assumption. What research has been done indicates that using these practices can undermine goals of supervision. Research finds that in general, technical violations are not a good predictor of criminal activity. Research also indicates that incarcerating people for technical violations specifically may make recidivism, or the possibility of a person committing future crime, more likely.²⁵

People Incarcerated for Technical Violations Are Less Likely to Engage in Prison Misconduct

Research consistently connects prison misconduct to recidivism, so report authors looked at prison misconduct among people incarcerated for technical violations. Research shows that men in a large Southern state (not identified in the original study report) who were returned to prison for technical violations of their parole were less likely to engage in prison misconduct than those returned to prison for a new criminal offense.²⁶

Researchers see this as evidence that reducing or eliminating incarceration for technical violations may be effective in shrinking the number of people in prison, without risking public safety.²⁶

Different Risk Factors for Recidivism and Technical Violations

Researchers have also studied the connections between technical violations and new crime by using risk assessment tools that predict recidivism. Studies found that technical violations, in general, do not predict new crime.

- Characteristics that predict non-criminal technical violations are markedly different from those that predict felony recidivism or that an individual will be incarcerated for a new offense, based on studies in Washington and New Jersey.^{25,27}
- For many people on probation, different characteristics predicted technical versus new crime violations, in a statewide study in Michigan.²⁸ For example, people with prior drug use were more likely to have a technical violation (probably because they were more likely to be required to submit a urine test) but no more likely to commit a new crime.²⁸

Across these research studies, there were some exceptions to the trend that technical violations fail to predict new criminal activity:

- Absconders, or people who make their whereabouts unknown to their supervising officers, were an exception in the Washington study.²⁷
- People on probation who had multiple technical violations were more likely to commit a new crime in the Michigan study.²⁸

Incarcerating People for Technical Violations Does Not Prevent Future Crimes

Revoking supervision for technical violations and incarcerating people—particularly for long periods of time—does not effectively prevent future recidivism or protect public safety. Analyses from Washington have found that using confinement as a punishment for technical violations specifically is actually associated with an increased likelihood that someone will later commit a new crime when controlling for a wide variety of other factors.^{29,25}

Recidivism Decreases with Reduced Incarceration Time for Technical Violations

States that have enacted policy changes to reduce incarceration for technical violations have seen benefits including improvements in public safety.

- In Washington, reducing the number of people who were confined for a violation and the length of confinement also reduced the probability of recidivism, especially for violent crimes.³⁰ The same evaluation of Washington's policy change also found that a portion of savings from reductions in incarceration were reinvested into programs focused on supporting reentry.³⁰
- Louisiana also saw reduced recidivism through limiting the amount of incarceration time for non-violent, non-sex offender parolees and probationers who are revoked for the first time for a technical violation. By capping incarceration time at 90 days—the same cap that Wisconsin attempted to create in a bill that failed—Louisiana reduced incarceration times for this group of people by over 9 months on average.³¹

Supervision and Revocation Processes Are Applied Inconsistently

The system's not fair. Some people are revoked for small infractions and some people aren't . . . When the system is unequal and unfair, you have less likelihood that people will buy into it and agree to live by those rules.

If I know the system's not fair, why should I abide by it? And so the more equal we make our system, the more fair, the more unbiased, the more I think individuals agree to live by those rules.

- State Representative Evan Goyke

In Wisconsin, a parole/probation agent and the agent's supervisors decide whether to use responses to non-compliance or alternative approaches, or seek revocation if a person doesn't comply with rules of supervision.

There are mixed perspectives on how consistently agents use incarceration versus other responses to non-compliance or rehabilitative approaches in the state. One focus group participant described receiving mental health treatment support under one agent but time incarcerated under a different agent elsewhere in the state after re-exhibiting a behavior related to their mental health condition—with the latter at the cost of their education, job, and income.

Agent discretion can be helpful, but absent transparency or clear evidence of consistent use it can create an overall impression of unfairness and lead to non-compliance, chronic stress, and anxiety for justice-involved individuals.

This fear of not knowing what's going to happen . . . it's hard for somebody to be on eggshells like that, or the anxiety, and think long term about career development or employment development when you're scared that you might sneeze in the wrong direction and go back up north for 18 months.

- State Representative Evan Goyke

It is a position of defenselessness . . . Sitting here right now, one of my biggest concerns is I know I can leave here and be at home tonight and get a phone call, and the next thing I know the police are showing up at my door. I know I haven't violated or done anything. Somebody says something or there is an equipment failure and then I'm being held accountable for that. At the same time, I am not given any leeway or even a simple apology [by law enforcement] to say, "We were wrong." Nothing. And I'm home, and my family is there . . . and when the police come they don't come one at a time, they come with 6 to 7 cars and it is like everyone is crying—they are all upset and wondering, "What did he do?" The police are being aggressive. We have to be in the middle to keep our family calm and keep telling them it will be ok. The anxiety and pressure can be overwhelming.

- Madison focus group participant

Part of the consistency can come from the system and tools that a department uses to provide agents with structure while enabling discretion that is used consistently across agents. Yet as was noted earlier, we found that the Department of Corrections has yet to implement in a clear way the law calling on them to create short-term responses to non-compliance and to determine how to reward people under supervision for compliance.¹⁵ The lack of in-depth training and written policy for short-term responses for non-compliance can contribute to inconsistencies in how agents respond to people who break the rules of supervision without a new criminal conviction.

Tools to Increase Consistency and Predictability of Supervision in Wisconsin

Effective responses to non-compliance, also known as graduated sanctions, are “structured, incremental responses” used when a person breaks a rule or condition of supervision.³² These responses to non-compliance can range from written assignments to jail time. Increasingly, supervision might also include rewards or incentives to provide positive reinforcement for complying with supervision. Examples of incentives include verbal praise or reduced drug testing or office visit requirements.³³

Research describes 4 important aspects to increase the consistency and predictability of a program using responses to non-compliance and rewards for compliance in corrections departments:

- A written policy about department practice on responses to non-compliance and rewards for compliance
- Use of matrices for agents to identify responses to non-compliance or rewards for compliance based on behaviors
- Staff training
- Quality assurance

See Appendix E for examples of resources used by corrections departments in other states.

Setting a Written Policy on Responses to Non-compliance and Rewards for Compliance

A policy that guides staff and is available to clients and the public would delineate a departmental system of responses to non-compliance and rewards for compliance. It would not dictate to agents the specific responses or rewards to use. A department should clearly define its policy to create more consistent and predictable use of responses to non-compliance and rewards for compliance in a way that “was absent in the traditional handling of probation and parole violation.”¹⁴

A well-defined system provides agents and supervisors with clear direction about when and what type of response to non-compliance or reward for compliance to use.¹⁴ Many places have formal policies about effective responses to non-compliance or rewards for adults and/or juveniles—including Alaska, Georgia, Kentucky, Utah, and numerous California counties.

Developing a Response Matrix

A matrix is typically organized by the behavior and the risk level of the justice-involved individual, and provides a menu of options to agents. While structured, agents also have discretion in which responses to choose. For certain responses—such as early termination and revocation—an agent needs approval of a supervisor or, in some states, a court.

Ensuring Consistency with Training and Quality Assurance

Training is meant to ensure that agents understand how to use the tools and why they are important, and that the tools are used consistently by agents. Quality assurance is meant to ensure that agents use the tools as they are intended, that tools are used consistently across the department, and that use of the tools contributes to intended outcomes.

The table below describes how the Department of Corrections uses these tools in Wisconsin. The table pulls information from conversations with Department of Corrections staff, interviews with parole/probation agents, and online searches.

Tool	Does Wisconsin use it?	Agent Experience
Policy	In conversation, Department of Corrections staff said there is a practice of using responses to non-compliance and rewards for compliance. There is a written policy for use of incarceration as a short-term sanction. There is not written policy about use of rewards for compliance.	Not Available (N/A)
Matrix	<p><i>Responses to non-compliance</i> – The Department uses a violation matrix in the case management software that agents use to identify responses to non-compliant behaviors. (See Appendix F for responses to non-compliance used by the Department.)</p> <p><i>Rewards for compliance</i> – The Department has a list of possible rewards for compliance in the case management software that agents use (see Appendix G for rewards used by the Department).</p>	<p><i>Responses to non-compliance</i> – A parole/probation agent interviewed described inconsistency in how agents use the violation matrix, and suggested the Department give agents more information behind the research to develop it. Agents described using incarceration as a 'last resort'.</p> <p><i>Rewards for compliance</i> – One parole/probation agent interviewed was skeptical about consistency across the Department in using rewards. The person described “a lot of talk about it,” but said they would like more training and guidance in how actually to use rewards for compliance.</p>
Training	Current training is brief. All agents get a one-time, part-day training about a need to balance rewards for compliance and responses to non-compliance. The Department plans in the next fiscal year to train staff more in “rewarding positive behavior and addressing non-compliant behavior.”	One parole/probation agent described receiving training in using a matrix for responses to non-compliance that they considered “very poor,” and wanting more reinforcement from supervisors in using these tools.
Quality assurance	There are some data gathered about how often all sanctions are used as a response to non-compliance. Data is not currently gathered about the extent rewards are used for compliance if their use links to expected outcomes, how often rewards are co-created with individuals on supervision, or how often agents use exercises they have access to, for identifying rewards. DOC described setting plans to gather this information.	One parole/probation agent interviewed described some check in on their use of rewards but a general lack of systematic oversight.

Regarding the Department’s violation matrix, a parole/probation agent interviewed described a lack of trust in it among some staff and suggested that the Department give agents more information behind the research used to develop it.

They [Department of Corrections] came out with this matrix and the training just is very poor . . . Right now, there's not a lot of trust in it. I've seen supervisors that are kind of looking for ways to override it. If it's a really good, valid tool based on research we probably shouldn't be overriding . . . Some of the times I question whether or not the employer trusts the tool they're promoting.

- Parole/probation agent

Agents who were interviewed wanted more training on using responses to non-compliance and rewards for compliance. In particular, one agent described that current training tends to cover the paperwork to complete and has too little practice on how to use the options. The agent described wanting more hands-on, practice scenarios:

Basically, they [the Department] talk about it [rewards] a lot. It's talked about. But I don't know if they ever bring it out and say, "Let's practice this, let's do this together." You've got to get comfortable . . . If you're not comfortable you're not going to use it.

- Parole/probation agent

Based on agent feedback, one idea is for the Department to ask both agents and clients what will improve their experiences with responses to non-compliance and rewards for compliance as they design trainings for the upcoming fiscal year. Another idea is for the Department to more explicitly promote culture change among veteran agents.

Fraternization Policy among Possible Barriers to Agents Using Rewards for Compliance

The Department of Corrections has a "no fraternization" policy that limits the ways agents interact with justice-involved individuals. The parole/probation agents interviewed had different perspectives on the role of the Department fraternization policy in using rewards for compliance.

One agent said that it was not an issue for them in using rewards for compliance. A different agent described the fraternization policy as one of several barriers to using rewards, which also included limited time with clients and a lack of items available to give clients. The agent said:

Overall, there has to be some investment in working at improving the morale of the workforce so that people aren't constantly on pins and needles if they're going to get in trouble . . . Even giving an offender candy out of the candy bowl on your desk would qualify as fraternization. It's a fine line but this isn't an environment where I would even feel comfortable doing that.

- Parole/probation agent

Not Enough Alternative Rehabilitative Programs in Wisconsin

The availability of appropriate programming is essential to reducing revocations while protecting public safety. A report by the U.S. Department of Justice found that out-of-custody treatment programs, for example, reduced recidivism rates on average by 10% to 20% among program participants.³⁴

Agents described a great shortage of potentially beneficial and effective alternatives to incarceration. One agent explained that sometimes revocation is used when an alternate program would have been the first choice.

When it's an alternative to revocation . . . they go for 90 days and they get all this treatment. Which most of the times I've had great success rate with that. But we only use that for an alternative to revocation. Like they are almost being revoked. And those beds are very, very hard to get.

- Parole/probation agent

. . . There are not a lot of options available to us, so sometimes we just move to using revocations faster now because we don't have anything else for us to do . . .

- Parole/probation agent

Community-based or institutional programming for post-release is available in Wisconsin—yet availability varies by geography and there can be a substantial waitlist for participation for more resource-intensive and evidence-based programs.

Agents who were interviewed described wanting to get their clients into programs to support full integration into society, but that programs can be inaccessible due to geography, rules of supervision, work schedules, or too few openings. These factors create conditions where agents cannot meet client needs.

Say they violate . . . and we want to put them in AODA [Alcohol and Other Drug Abuse treatment program] and that's what your supervisor agrees with, fine. Then you have to wait 6 months to get them into AODA. How is that immediate response to their behavior, how is that going to help them, if they're using drugs, but you can't get them in AODA for 6 months?

- Parole/probation agent

Current System Can Leave Agents Stressed

One agent described that over-burdened caseloads contribute to stress and turnover.

If there were more agents and caseloads were a little bit less, it would be a little bit more manageable. But right now they can't even keep agents. The turnover rate is so high. It's the caseload, the stress . . . It's the hardest thing I've ever had to do for probably the littlest amount of money. It's a hard job.

- Parole/probation agent

Wide Discretion in Revocations Proceedings

If an agent does move to seek revocation, it is a process that builds in great human discretion. Like the discretion in responses to non-compliance and rewards for compliance, this flexibility can be productive but if perceived as being used inconsistently or in an overly punitive way, it can cause harm.

In addition to the agent's own discretion, a source of discretion comes from the agent's supervisor. That supervisor can decide whether to follow the recommendation of the agent or choose a different—sometimes harsher—response to non-compliance, as one parole/probation agent described happened with a supervisor.

If a case moves to revocation, a district attorney can decide to seek revocation or, if applicable, a criminal charge. Further, an administrative law judge is not bound to an agent's recommendation—they can decide to follow or buck an agent's recommendation for next steps.

While these various discretion points unfold, individuals can sit incarcerated for long periods of time. A table provided by the Department of Corrections describes that on average across the state people were held in custody for 13 days in 2014-2015 on what are known as "payable holds," which are holds in custody when a person is not charged with a criminal offense and the Department is responsible for paying the facility that is holding the person (see Appendix H). Among focus group participants, the amount of time incarcerated ranged from a few days to more than 2 years.

Focus group participants also described how prison harms their beliefs about themselves:

Them just telling you that you are a criminal . . . you are a deviant and don't deserve to be in society. And having them paint you because they clearly know better than you . . . So then when the system tells you that you belong in jail, even if you didn't do anything, then you believe that you are a deviant and you belong in jail. You are a criminal, crime or not.

- Eau Claire focus group participant

Lower Standard of Due Process in Revocations Proceedings

A person going through the revocations proceedings without a criminal charge has fewer rights than a person not on supervision who is suspected of a crime. This is dictated in part by federal law, but the State Legislature also can grant more rights than currently are allowed.

In Wisconsin, the following applies to people in revocations hearings:^{35,36,37}

- There is a lower standard of proof. Suggesting a person probably did something is sufficient. This is different from criminal cases that need proof "beyond a reasonable doubt."
- Statements made outside of court can be used to support an allegation, even if they are based on hearsay, which generally is not admissible in non-revocations hearings.
- Instead of a circuit court judge, an attorney known as an administrative law judge (ALJ) who is on staff at the Division of Hearings and Appeals presides over the hearing. The ALJ is required to be impartial and unconnected to the case, but can imprison someone for the maximum time regardless of a parole agent's recommendation.

Focus group participants described an acute awareness of the differences in evidence required:

What needs a major change is the revocation hearing itself. The preponderance of evidence in a revocation hearing is small compared to what is needed to be found guilty in a court of law. It is not appropriate that you took a picture of a red mark on your face and just had to show that picture as grounds to send me back to prison. You can't just take a picture of a slashed tire . . . and send me back. They don't need evidence to find you guilty as in criminal law. It is not fair.

- Kenosha focus group participant

While the process unfolds, before any allegations are confirmed, a person may sit incarcerated without the option of bail. The state can hold in custody people suspected of violating rules of supervision or laws, or who are likely to run away. A step further, state law requires holding a person in custody if the behavior they've been accused of is "assaultive or threatening in nature." 'Assaultive' here includes not only a person's actions, but even what were understood as their intentions.

In Wisconsin, how long a person can be held in custody differs based on the phase of revocations:

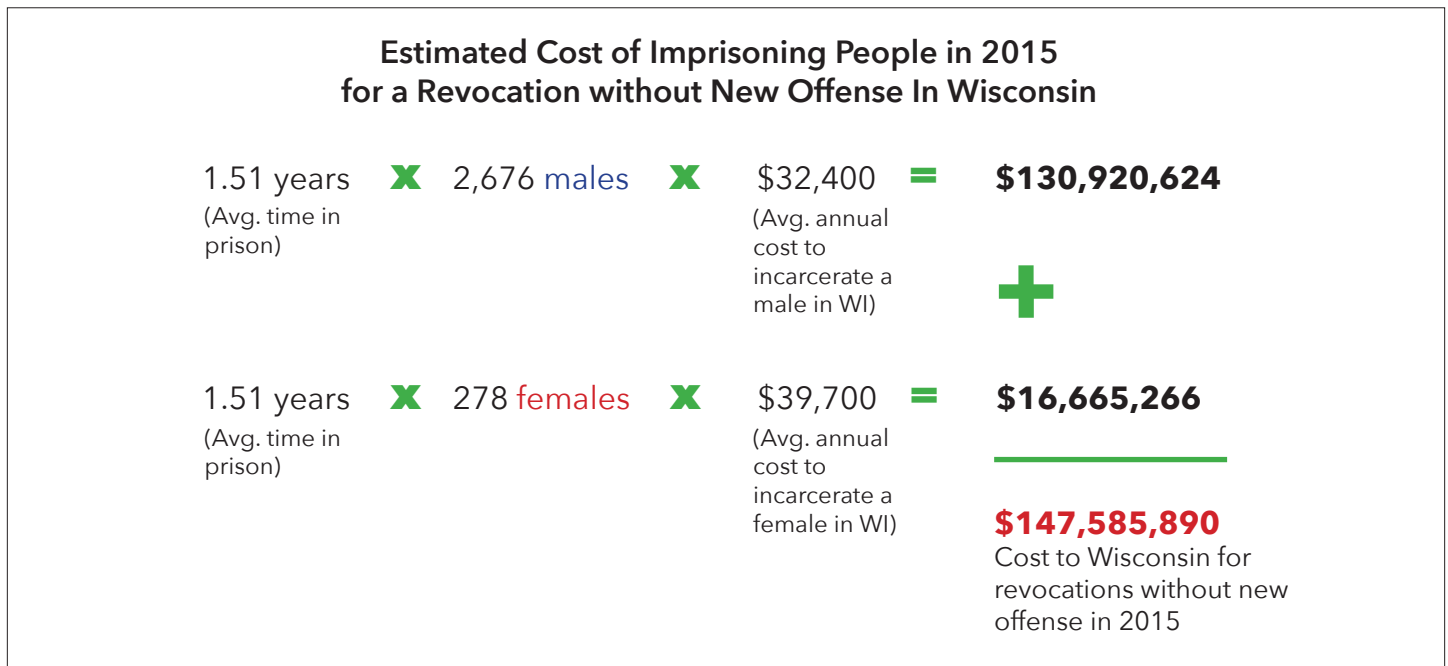
- Investigation period—21 working days⁹ is the maximum time held while the state investigates an allegation, but it can be extended with the approval of an administrator. At the end of 21 working days the Department of Corrections either releases the person or initiates revocation.
- Revocation period—A new timeline starts once a revocations notice is served. The process described above takes effect with limited rights for the individual.

While a person is held in custody, it can harm their employment, housing, and health, as shown by evidence in the subsequent sections of this report.

⁹Weekends and holidays do not count toward working days. For example, for a person incarcerated on a hold on a Friday during Labor Day weekend, Saturday, Sunday, and Monday do not count as working days that they were held.

Wisconsin Spends Millions to Incarcerate People for Breaking Rules of Supervision

The state of Wisconsin spent an estimated \$147 million on revocations without a new criminal conviction.^{6,38} This is likely an undercount of money spent, since it only accounts for time spent once people are revoked—it does not include time and money spent to incarcerate people on custody holds prior to revocation, which can be months per person, and may include people who in the end are released rather than revoked.



Instead of incarcerating people for breaking the rules of supervision, Wisconsin could begin to address the scarcity of alternatives to revocation and other rehabilitative programs available for people on supervision.

Immediate Consequences: Effects to Employment and Housing

Employment and Housing Are Key to Successful Re-entry

Two key factors that shape health are steady employment that covers a person’s basic living expenses and having safe, stable, affordable, quality housing.^{39,40} Research is abundantly clear that greater income means better health and lower income means worse health, across all income levels, and public health has long recognized that housing is foundational to good health.^{41,42,43} Employment and housing are particularly important for successful re-entry of people coming into communities following release from incarceration.⁴⁴ People re-entering are often experiencing mental health or substance abuse issues—both easier to address from stable housing. Evidence links stable housing for justice-involved people to reduced recidivism rates, and employment to predicting probation success. For some people who have been incarcerated for breaking rules of supervision there is an added layer, where not having employment or housing can be grounds for revocation.

Employment and Housing Are Interwoven

There is an interdependent relationship between employment and housing. The income from a job often is essential to pay for housing—but to get a job people often need a mailing address for details as basic as filling in their application paperwork. For justice-involved people who research

shows already have a more difficult time than others in getting a job, it can be that much more complex. Justice-involved people who participated in focus groups described that in trying to meet basic needs of their families and children, or amid housing instability, they at times felt forced to do illegal things for income even if it wasn't what they wanted to do.

Working for minimum wage, I couldn't take care of my son. I was forced to go to a men's shelter to save money because I couldn't pay rent and take care of basic needs. I was forced to go to a men's shelter, and my old lady and my kid had to go to a YWCA. My son got tired of living there and wanted to go home. It was hurting my feelings so it pushed me to start selling drugs. I started selling weed. And when I got money I was able to get a house . . . Then I started smoking and was in violation of my probation . . . When I got sent away again we were losing housing yet again—it's like a repeating cycle. If I don't get a good job I am forced to go out there and do something I don't want to do and end up back in the same situation.

- Madison focus group participant

Getting honest, when things weren't going right in earlier years I would result back to criminal behavior selling drugs and shoplifting to make sure my children had food on the table or whatever because I couldn't get a job because of my record.

- Kenosha focus group participant

Multiple Barriers to Employment for Justice-Involved People

People on supervision often have been incarcerated before, and research clearly shows that people who have ever been incarcerated do poorly in the labor market, with harms to employment, wages, and income. These studies often compare formerly incarcerated individuals to people who have never been incarcerated, and find that:⁴⁵

- Employment declines 5-20% after incarceration.⁴⁵
- Annual income declines by 10-40% after incarceration.^{45,46}
- Formerly incarcerated people are more likely at 8 months out to have informal work (47%) than formal work (41%) based on one longitudinal study.⁴⁵

Justice-involved people who participated in focus groups echoed the challenges of finding work—including stigma and discrimination from employers—as someone with a history of incarceration. One participant referred to the box checked on an application for a past criminal conviction:

You gotta check that box, and a lot of doors get shut in your face . . . a lot of people tend to give up . . .

- Menominee focus group participant

I went in at 15 years old. When I got out at 30, I had this big gap in my work and rental history. Who is going to hire me? Who is going to give me housing? How is that possible? They see this big gap—that's 15 years that are not explained. There are no resources for that.

- Madison focus group participant

Harms to employment vary by race and last over time.⁴⁵ Research documents high levels of discrimination against Black people overall, and particularly Black people with prison records.⁴⁷ Time incarcerated affects employment at different rates:⁴⁶

- For young White men it cuts employment by about 5 weeks per year.
- For young Black men it cuts employment by about 8 weeks per year.
- For young Latino men it cuts employment by about 8 weeks per year.

In addition to harming the individuals who are incarcerated, research finds that family income suffers while and after a father is incarcerated.

- There is a nearly 40% increase in the probability that a family is put into poverty while a father is incarcerated.⁴⁸
- Family income is 22% lower when comparing the years a father is incarcerated to the year before a father is incarcerated.⁴⁶
- Family income remains 15% lower in the year after a father is released compared to the year before he was incarcerated.⁴⁶

Researchers disagree about why people who have been incarcerated do poorly in the labor market, but offer possible reasons including:⁴⁵

- Unemployment / underemployment before being put in prison
- Time in prison is time out of job market and for some may be time without building skills
- Laws restricting job opportunities
- Employer stigma about people with a record
- People who have been incarcerated perceive their record as a barrier and may avoid job opportunities

However, the balance of evidence is clear that incarceration harms employment and earnings.

Navigating Supervision Can Compound Struggles with Employment

Focus group participants described how navigating the rules of supervision, or the actions of a particular parole/probation agent could harm their current employment:

... When they [parole/probation officer] come to the front desk and they have to mention ... "I'm representing the probation department for [your employee]" and the secretary, who had no idea, now knows that I had a relationship with the prison system ... It breaks confidentiality ... Don't just pop up and come into the office and assume that you've disclosed your information to everyone in the workplace, which can make it very combative ... to just come puts a stigma on persons in the workplace ...

- Milwaukee focus group participant

One approach to easing job struggles used nationwide, known as Intensive Supervision Probation / Parole (ISP), has shown possible short-lived improvements in employment, along with serious and questionable tradeoffs. The ISP programs often involve more stringent reporting requirements, more random drug testing, or additional rules for a person on supervision, and are often seen as an alternative to revocation. One study of ISP used a particularly strong research model. It was an experimental evaluation with randomized treatment and control groups that included more than 2,000 adult participants across 14 sites throughout the U.S. whose current conviction was non-violent.⁴⁹ In that study of ISP, researchers found:

- Possible, modest improvements in being employed at 1-year follow-up (more than half of ISP participants vs. 43% of people on routine supervision were employed, with significant differences in 4 states' programs).

- Improvements may come from a requirement that a person hold onto a job to be part of the ISP program, or that people in ISPs temporarily get more help finding employment.
- On the other hand, people participating in ISP are more likely than their peers to subsequently have a technical violation (65% vs. 38%) and be re-incarcerated (24% vs. 15%), likely because of the additional scrutiny.

Furthermore, for people on routine supervision, the threat of revocation for breaking rules of supervision can prevent people from seeking certain jobs. There is limited evidence specifically about how this affects employment, but in one California study of people on parole, either the threat of revocation kept participants from seeking employment or people reported risking violation of their parole terms to maintain employment.⁵⁰

Moreover, incarceration for breaking rules of supervision also lengthens the worker's criminal history. This history is posted publicly in Wisconsin's Circuit Court Access to Public Records system that details records of justice-involved individuals, and may further discourage employers from considering the worker for employment or promotions to more responsible positions.⁵¹ The website is available online for potential and present landlords, and potential and present employers. The website can directly affect the lives of people released from incarceration or even those with pending allegations, whether they ultimately are convicted or not.

In a chicken-and-egg type of pattern, employment problems can increase the odds of a person breaking the rules of supervision. Probationers had 1.5 times the odds of technical violations if they had employment problems¹⁰ and what researchers defined as criminal relations in a study of over 1,000 adults.⁵²

Time Incarcerated for a Custody Hold Can Threaten Employment and Housing

For people on supervision, any time incarcerated while the state investigates and rules on an allegation or revocation—whether 3 days, 90 days, or more—means time away from work. It can mean unanticipated time away from a job or multiple jobs that a person may piece together. This can lead to loss of income, making it harder to pay for basic needs like housing or childcare—particularly for people who may already live paycheck to paycheck. Incarceration can mean losing jobs—a challenge for people who evidence shows already face considerable barriers to getting a job. The possibility of deep impacts to employment and housing underscore the need for consistent use of incarceration as a response to non-compliance with rules of supervision.

Key informant interviews articulated the very real effects that time incarcerated—even for a hold in custody while an allegation is investigated—can have on housing and employment:

I'd say in the great majority of the cases, my client goes to jail while the investigation happens. If they're working, the job's gone. If rent is due the next week and they can't pay it, the residence is gone if they have one or at least there is an eviction notice. So the threat of revocation is real, in the sense that any kind of call that comes in [alleging the person on supervision broke rules] can result in my client going to jail. Maybe not permanent jail, but enough to really mess up a life.

- Criminal defense attorney

¹⁰Employment problems were defined as either a lack of job skills as a primary work problem or being employed less than full-time for most of their working life.

It doesn't take much to upset a life that's living on the edge. The loss of residence, the loss of a job, and the inability to report for picking up your food stamps, there are deadlines each month that my clients have to observe to continue to live. Being thrown in jail makes meeting those deadlines either difficult or impossible. It's remarkable to me how little it takes to upset all of the careful planning that has been done and put them right back at the beginning.

- Criminal defense attorney

One focus group participant described a desire for different response options for those who are employed so they don't lose a job:

It is set up so that so if you make these mistakes, you lose your job, and you lose your home . . . You're going to fall . . . It takes time . . . If you are lucky enough to have a job when you get a sanction, then sanctions shouldn't be the same so you don't get fired.

- Eau Claire focus group participant

The Criminal Justice System Is a Key Player in Housing Instability

Findings below about housing are based on the few studies available. We didn't find studies on probation, specifically—but did find studies about parole or supervision more broadly.

Research describes a number of ways that people who have been incarcerated can be excluded from housing:⁵³

- Landlord exclusion through cost or background checks
- Public housing rules
- Rules of supervision may prohibit living with family or in certain locations
- Strained family relationships after time away
- Financial ability, employment, or credit history
- Stigma

A focus group participant articulated these challenges of finding housing:

The big issue I had was with housing. I was a first time felon. It took me 6 years to get a place and I had to live in a hotel for 6 years. Last October I was blessed to get a place but when I applied for the apartment, they didn't do no background check, so that's how I got the apartment.

- Milwaukee focus group participant

For people on supervision, additional housing instability can come directly from being on supervision. Nearly 1/3 (32%) of interruptions in housing in a Michigan study of people on parole were due to "intermediate sanctions," defined as removing parolees from the community for short stays in jails, residential treatment centers, and programs for technical rule violators.⁵⁴

Notably, researchers found that putting people in a treatment facility or incarcerating them are residential moves that can be triggered by sanctions. In the Michigan study, absconding, or being "on the run," could also be a consequence of sanctions when a person absconded to avoid anticipated violations, such as testing for substance use.

Michigan researchers further found that when combined, intermediate sanctions, moves for treatment or care, being put in prison, and absconding accounted for nearly 60% of all the moves made by parolees in the study.⁵⁴ Parolees in the study averaged 2.6 moves per year, far beyond the more than 1 move a year that defines residential instability.⁵⁴

Tying back to the overlap between employment and housing, authors found that earning more money may help protect against disruptions in housing due to “intermediate sanctions”.⁵⁴ Researchers also found that despite this instability, homelessness was relatively rare among parolees in the study.⁵⁴ Nevertheless, housing instability remains a serious issue on its own, and in how it affects employment. As focus group participants described in an earlier section, housing instability can lead them to engage in illegal activities they feel forced to do out of necessity.

Circular Relationship between Housing Instability and Responses to Non-compliance or Revocations

There is a circular relationship where responses to non-compliance may trigger residential instability, and residential instability increases the chances of more responses to non-compliance or revocations. For example, failing to comply with the rules of a halfway house is seen as a violation of one’s rules of supervision.

Frequent housing moves within the first year of release increase the likelihood of failure while on supervision and readmission to prison.⁵⁵ Possibility of arrest increased by 25% every time a person moved, according to one Georgia study of people on parole.⁵⁵ In the study, parolees who experienced periods of homelessness had 3 times the rate of revocations compared to parolees in stable housing.⁵⁵

Researchers find: “Simple infractions of release conditions (e.g., breaking curfew, imbibing alcohol) are more likely to be detected in correctional-based housing than in private residential settings. . . . [Incarcerated people] released to transitional housing and work release centers were not more likely to be arrested after release, but they are at a great risk of supervision revocation.”^{55,56}

Halfway houses are community-based residential facilities where people on supervision may be required to live, as a rule of their supervision.⁴⁵ Halfway houses are non-secure facilities that house a relatively small number of people temporarily through a private provider.⁴⁵

Various programs have made progress in minimizing revocation due to housing instability but there is no single, clear solution. A program in Washington providing wraparound services to reduce residential instability among parolees reduced recidivism and lengthened the time until people were revoked—yet it did not change the number of people revoked among study participants.⁵⁵

Risk of Revocation Is Greater in Housing Where People Are Watched More Closely

Many forms of supervision that increase surveillance of justice-involved individuals also tend to significantly increase revocations.⁵⁵ Research shows that revocation rates are highest for people in transitional housing, where they may be most closely monitored for violations, and lowest for people in private residences, where they are much less likely to be monitored for violations, according to a Minnesota study of people released from state prisons.⁵⁶ Study authors found statistically significant higher risks of revocation among people released to transitional housing (89%), work release centers (88%), and treatment facilities (61%) compared to people released to private residential addresses.⁵⁶ Researchers say the higher risks could be due to closer monitoring in correctional-based housing where “simple infractions” are more likely to be seen than in private housing.⁵⁶

Housing instability affects not only an individual but also a family or household. Ever having a parent incarcerated increases the risk of homelessness for children. Nationally, more than 2% of children with an incarcerated parent become homeless as a result of parental incarceration.⁵⁸

Incarceration Is Associated with Multiple Health Problems

Physical Health Problems Include Chronic Conditions

Adults who have been incarcerated report more chronic health problems after their incarceration than before—even accounting for a variety of factors including pre-existing chronic diseases prior to their confinement.⁵⁹

- They are at greater risk of contracting infectious diseases, like HIV, tuberculosis, and hepatitis A & B, since conditions in prison allow these diseases to spread.⁶⁰
- They are also at a greater risk for physical health problems associated with stress after their release.⁶⁰ These include high blood pressure, chronic lung disease, and heart problems.⁶⁰

Some people's health can actually improve when they enter prison, if they gain access to basic health care or medications, are removed from dangerous home environments, or stop using substances.⁶¹ However, this is much more an indication of the support that is lacking in communities than any health-promoting aspects of prison. But on the whole, after their release, people who have been incarcerated are at great risk for multiple health problems.⁵⁹

Generally, having been incarcerated at *all* has greater impacts on overall health than the number of incarcerations or the length of time someone is incarcerated based on the studies available. There is an effect of incarceration on overall health but compared to the effect of ever being incarcerated, it is weaker for people serving very long sentences or very frequent recidivists. This is likely because of underlying circumstances that lead both to incarceration and to poor health.⁵⁹

Stress and Stigma May Be Crucial Links between Incarceration and Poor Health

Stress and stigma are 2 major pathways by which incarceration might affect mental and physical health, whether stress in prison, while on supervision, in acute situations, or in chronic and long-term ways. While everyone experiences stress at some points in their life, most people have sufficient resources to manage their stress, and for them a stressful situation is typically a short-term experience. On the other hand, chronic (or unmitigated) stress it can damage health. This type of response can occur when stressful situations consistently overwhelm a person's ability to cope—particularly when a person feels they have little control over these situations.⁶² Chronic stress can lead people to adopt behaviors that compromise their health, and can also have direct physiological impacts.⁶² After sustained stress, people's bodies can lose the ability to turn off the physical stress response, leading to "wear and tear" on the body's systems and organs.⁶²

More specifically, stress raises the levels of certain hormones in the body, such as cortisol and adrenaline.⁶³ High levels of these stress hormone levels can be helpful in the short term, preparing the body for a "fight or flight" response. But long-term, chronic elevations of these stress hormones lead to significant, long-term health problems. For example, chronically high levels of adrenaline lead to chronic increases in blood pressure that in turn increases people's likelihood of heart disease, stroke, and other serious complications.⁶⁴ Likewise, chronically high levels of cortisol disrupt the immune system—increasing people's risk for cancer and other chronic illnesses—and increasing the risk for obesity, diabetes, and their serious health complications.⁶³ Incarceration is an acute stressor, as a major disruption in a person's life. It is also a chronic stressor, potentially

involving daily exposure to violence or threats, hostile relationships with guards and other incarcerated people, overcrowding, and a lack of privacy and control.⁶⁵

After release from incarceration, people remain marked by the stigma of a conviction, and can face secondary stressors like struggles with employment and housing, as discussed above. The psychological effects of incarceration may make it even more challenging to cope with these challenges.⁵⁹ Incarceration may then be an example of “stress proliferation”—a single event that “leads to subsequent stressful events while simultaneously undermining one’s ability to cope.”⁵⁹

The stress of life after incarceration was a consistent theme with focus groups participants, one of whom discussed the complex interplay between stress, behaviors like substance use, and physical health ailments:

The stress affected me physically . . . it started off with acid reflux. Drug usage caused some of that, but it agitated it due to nervous conditions, and dealing with the POs [parole/probation officers] and all these different dates and all these different times. And I believe it also carried into when I had a stroke . . . It is just all the physical problems I have had, and this is since I’ve been out of prison and since I’ve been clean and sober. And a lot of the stress was from dealing with the Department of Corrections and dealing with probation and parole.

– Milwaukee focus group participant

Supervision and the Fear of Revocation Are Additional Stressors

In focus groups, many participants emphasized that supervision itself could lead to significant stress—that balancing the requirements of supervision with attempts to rebuild their lives could feel overwhelming. People also described a constant fear and anxiety associated with the uncertainty and instability of being on supervision, where being accused of a violation can mean they are revoked or incarcerated. Participants described that it impacts overall family stress.

To have to live like that—to know that we’re sitting in this setting right here and with a snap of a finger you are locked up without any new case. It is a problem. From a mental capacity—it messes with you . . . You want me to be in society and you want me to do the right thing but [the criminal justice system] it’s constantly messing with my mental [state] because I don’t know when I’ll be locked up and I don’t know what it’s gonna be for.

– Madison focus group participant

The fear is incredible. It causes tremendous anxiety, it affects my social life. I am afraid to go places and interact with people because it could lead to something that would get me in trouble with my PO [parole/probation officer]. The fear is tremendous.

– Kenosha focus group participant

Incarceration Can Literally Take Years Off of Peoples’ Lives

People who leave prison are at increased risk of dying early, especially immediately after their release. These short-term effects on mortality are mostly due to increased risk of death from drug overdose, as well as suicide and homicide.⁶⁵

Yet there appear to also be long-term effects on people’s lifespans, and evidence shows that the impacts of incarceration on mortality are even greater for women.

- A study of people incarcerated in Georgia found that mortality rates were about 50% higher for previously incarcerated men when compared to other state residents, and over 150% higher for women.⁶⁵

- Research in New York State found that each year of incarceration is associated with 2 years of premature mortality.⁶⁶ **In Wisconsin, this means approximately 3 years of lost life per person incarcerated for a revocation with no new conviction in 2015.**



Some Severe Mental Health Conditions May Be Caused by Incarceration

The Wisconsin Department of Corrections reports that 79% of women and 34% of men who are currently incarcerated have mental health conditions—when Wisconsin has an 18% prevalence of mental health conditions statewide.^{67,68} Many psychiatric disorders are more prevalent among currently or formerly incarcerated people. This is partially due to risk factors, such as substance use or adverse childhood experiences, that increase risk both for incarceration and for mental health problems. Yet incarceration itself makes it more likely that someone will have debilitating mood disorders, like severe depression and bipolar disorder.⁶⁹

Several focus group participants shared deeply personal stories about their experiences with depression—both while incarcerated and afterward. One participant spoke of a suicide attempt they made while in prison, and the dehumanizing responses from prison staff:

There was a time in jail when I tried to hang myself because of it, because there was no way out. They had taken blood from me, and the nurse had wrapped my arm in gauze. Well, I had 4 feet of gauze and I tried to do it . . . They don't want anything to do with you—you're an animal at a certain point. It is just basically, "We'll tie you up and when you are finally normal, then we will take care of you." I don't feel like jail was the place I needed to be.

- Eau Claire focus group participant

Another person spoke to how their depression was worsened by a revocation that interfered with their ability to further their education, and to the intersection of physical and mental health problems:

I was suicidal. I was depressed and I got revoked on an accusation. I had no hope because I lost my opportunity to go to school and with 3 decades of a felony record, education was my only opportunity to get a job that's decent. It affected me mentally . . . I ended up diabetic and I was affected with this last incarceration a lot.

- Kenosha focus group participant

Interruptions in Care Hurt People with History of Mental Health Conditions

For people with physical or mental health problems that are being treated while they're in prison, continuing to meet their health care needs after leaving prison can be extremely difficult. This is exacerbated because Wisconsin terminates state benefits when people are incarcerated or revoked, rather than suspending them like in many states. This means new paperwork and bureaucracy for people to contend with when they leave prison.

Wisconsin Terminates—Not Suspends—Benefits for People Who Are Incarcerated or Revoked

States have the option to temporarily suspend or entirely terminate social benefits for incarcerated people, including those who are revoked. Unlike suspension, termination of benefits means that a person needs to fully re-apply for their benefits upon release to determine their eligibility for the same benefits that they received pre-incarceration. Wisconsin terminates Medicaid benefits for people who are incarcerated, with some exceptions.⁷⁰ States are changing their policies on benefits—in 2000, 50 states terminated Medicaid benefits for incarcerated people but by 2014, only 39 states did.⁷⁰ The Centers for Medicare and Medicaid Services promotes benefits of suspension over termination to avoid extended periods without access to health care, since the re-application process to determine eligibility can “take as long as 45 to 90 days under federal guidelines.”⁷¹

Terminating benefits for incarcerated or revoked individuals can have long-lasting effects:

- It threatens continuous medical care, behavior health services, and long-term access to medication.⁷²
- It also terminates coverage for their kids and dependents if the person who is incarcerated is the only parent or caretaker in the home.⁷³

Public Health Perspectives on Treating Substance Abuse and Mental Health

Two policy statements by the American Public Health Association (APHA) describe substance or drug abuse and misuse as a public health issue that should not to be criminalized, with priority given instead to prevention, treatment, and recovery.^{74,75} The APHA recommends “that no punitive measures be taken against the users of alcohol, marijuana, or other substances when no other illegal act has been committed.”⁷⁴

A defense attorney interviewed for this report noted the contrast between public health and criminal justice systems’ perspectives. While a public health approach recognizes that relapse is likely—and even to be considered normal or expected—during the course of recovery, the criminal justice system approach sees 1 or 2 instances of relapse as failures worthy of revocation:

If someone has relapsed who has substance abuse issues, my impression is 1 relapse may be allowed but 2 are not. On the other hand, relapse is part of recovery, probably for the rest of that person’s life.

- Criminal defense attorney

The State Public Defender’s Office described a cycle of incarceration for people who experience untreated substance abuse or mental health issues as it relates specifically to revocation:

Another big issue in the criminal justice system is the number of people with substance abuse and mental health issues. If there’s not appropriate treatment options, people will continue to be revoked. There are inadequate resources in our state’s largest cities but in more rural parts of the state treatment options are almost non-existent.

- State Public Defender’s Office

From decades of research it is clear that substance abuse and mental health conditions often occur simultaneously and interact with each other. National data show that over half of people incarcerated—which can include people who are revoked—meet the criteria for having mental health conditions, and that people with mental health conditions are 4.5 times as likely as the general public to be arrested.^{76,77}

About 3/4 of people put in state prison (74%) or put in local jails (74%) who had mental health conditions also had substance dependence or abuse issues, according to 2006 national data.⁷⁶ Nationally, a lack of sufficient community-based treatment options has resulted in drastic increases in the incarceration of people with mental health conditions, which can include people who are revoked.⁷⁷

When a Parent Is Incarcerated, Families Pay a Price

It affected my wife, it affected all of my children, and it affected my parents, my brothers and sisters . . . The whole circle around you . . . And a person misses out on a lot of life . . . I feel for my family.

- Menominee focus group participant

The impacts of incarceration extend beyond the people locked up, and are associated with wide-ranging detrimental effects on children and families. This means a persistent, intergenerational disadvantage in communities with high levels of incarceration. Stark racial inequities in incarceration make it a driver of inequity, specifically in reproducing disadvantage in Black and American Indian or Alaska Native communities.⁵⁸

Some research has indicated that multiple incarcerations compound negative impacts on kids. There is a significant body of research on how children are affected by a parent's incarceration, but none of it looks specifically at children of parents who are locked up without a new criminal conviction. When this section cites existing literature, it is about the impacts of incarceration in general. However, to the extent that revocation without being convicted of a new crime may often represent an unnecessary incarceration, the findings below relate to Wisconsin's revocation policies and practices.

Incarceration Strains Family Bonds

Incarceration separates children from their parents, both while they are in prison and potentially after they are released, since incarceration makes divorce or relationship dissolution more likely. The vast majority of incarcerated parents are fathers. The mothers of their children then often rely on extended family networks to support their kids, despite reporting lower levels of support from family and friends.⁷⁸

Most incarcerated parents are fathers. Increasingly, mothers also are incarcerated amid rapidly increasing numbers of people put in prison. Their kids are much more likely to end up in foster care—and rising rates of maternal incarceration contribute to growth in foster care caseloads.⁷⁹

In focus groups, many people who experienced revocation described pain and regret at being separated from their children and grandchildren.

. . . My kids did all the time with me. My last revocation was crimeless. Me and my one son [had] been inseparable whenever I'm out . . . and [now] I haven't seen him in 5 years. I got out. He went in. When he came home he had his aunt tell me that he'd contact me when it felt right. Had I not been . . . revoked I would have been there for him, and in my grandchildren's lives right now.

- Kenosha focus group participant

Participants reported relying on extended family—and particularly children's grandparents—for support. Many people reported family bonds strained by incarceration, extended family members struggling financially, and incarcerated parents missing valuable time with children and family.

When I went to jail, my kids moved from foster care to my mothers' place, and there is a lot that mom couldn't afford for my children. So they more than likely had to do without, or she had to find support through the State.

- Eau Claire focus group participant

In some cases, close relationships with grandparents ensured that their children were well cared for and that parents could reconnect with their kids when they exited prison.

One positive note, when I was incarcerated my mom took that place for me. She made sure my kids stayed focused. They really didn't have behavior issues—just separation with me . . . Now they don't want to leave my side.

- Kenosha focus group participant

For some people, while revocation disrupted their relationships, family connections ultimately gave them a reason to stay out of prison.

The first time I got out I had a very strong and positive relationship with my grandkids . . . I formed a relationship with them and I guess with the revocation they were wondering, "What happened to Grandpa?" . . . I got revoked the second time and . . . I came back home and I called my daughter and I asked her about the kids . . . She said I had to make a decision to stay out of prison and have a relationship with her babies, or stay in prison and not have a relationship with her children. So it gave me an incentive to stay out, to keep a positive relationship with my daughter and my grandkids because I did want them to be a part of my life. And I did want them to understand the things I was going through as well, as their grandfather.

- Milwaukee focus group participant

Yet for others, repeated incarcerations meant losing connections with children or grandchildren.

I came home after not having a relationship with my daughter for 20-something years and began building it. But because of the constant back and forth—being locked up, being locked up—she said, "Dad, it's too much." She didn't want my grandchildren constantly asking, "Why is Grandpa locked up? Why is he in jail?" The end result is she left Wisconsin . . . and we don't have that communication that we once had.

- Madison focus group participant

Kids' Academic Performance Worsens . . .

Having an incarcerated father can affect a child's performance at school and is associated with lower readiness for school in young kids,⁸⁰ lower GPAs,⁸¹ greater chances of being held back in school,⁸² and less likelihood of graduating high school or college.⁸¹ These outcomes may come in part from stigma or teachers' lowered expectations. One study found that with all other factors equal, teachers perceived kids of incarcerated moms as less competent than other students.⁸³ These outcomes may also be driven by the chronic stress and anxiety children experience associated with the adverse childhood experience of having a parent incarcerated.

Many focus group participants recognized that their children struggled in school, several noting a marked change in behavior after their incarceration:

When you talk about crimeless revocation and going to prison, the children become almost invisible. In fact families almost become invisible too. We don't call it trauma, but they are experiencing trauma . . . Kids get kicked out of school and a lot of time, the teachers are not able, the school is not able, to understand that they are acting out a particular trauma, of a home life, or parents going to jail, or going to prison.

- Milwaukee focus group participant

One participant associated their son's struggles in school with the stress of a parent's probation:

He can't focus. He's just in a bad state. I'm not saying he's directly thinking, "Oh my mom, she's in jail, this is why I'm upset." But he would get irritated in the morning, so he has a bad morning and he can't focus on school. And then they're taking a test in school and he can't concentrate. It's this constant revolving thing . . . So I ruined his whole day and my whole day and it's all so intertwined.

- Eau Claire focus group participant

. . . And Behavior Problems Increase

Focus group participants saw close connections between their kids' troubles in school and their struggles with behavior and anger:

My daughter . . . turned into a bully . . . especially when her father and I were taken out of the picture . . . When she got to school she decided it was time to be very mean and bully a lot of kids.

- Eau Claire focus group participant

She [my daughter] has [some] friends who she's known since she was little, and then other kids would tease her and say, "You don't have a mom" . . . [T]hey would say that your mom doesn't care . . . so she would act out and beat up the kids who were teasing her.

- Eau Claire focus group participant

These issues are also widely reflected in research on parental incarceration. Young children, and especially boys, with an incarcerated father are more likely to have behavior problems—especially “externalizing” behaviors, or destructive and disruptive behaviors such as physical aggression.^{84,85} Behavioral problems are even more likely when the child's father has not been convicted of violent crime or engaged in domestic violence.⁸⁶

Parental Incarceration and ACEs

Having an incarcerated family member is widely considered to be a traumatic event for children. It is one of 10 ‘adverse childhood experiences,’ or ACEs, that are correlated not only with being a victim and/or perpetrator of violence in the future, but also with a host of chronic health problems, from depression to heart disease.⁸⁷ Other ACEs include physical, sexual, or verbal abuse, having a family member addicted to drugs or alcohol, or witnessing a family member being abused. The concept of ACEs comes from a groundbreaking study about childhood experiences and adult health and well-being conducted by the U.S. Centers for Disease Control and Prevention (CDC) and Kaiser Permanente in the 1990s.⁸⁷ An ‘ACE score’ ranges from 0 to 10, based on how many different types of adverse experiences a child had, with higher scores associated with a greater likelihood of poor health and health risk behaviors.⁸⁷

Since 2010 Wisconsin has collaborated with the CDC to collect data on ACEs and health outcomes in Wisconsin, and has found that about 1 in 20 Wisconsin adults had a household member incarcerated during their childhood.⁸⁸ These people were also the most likely to have a high ACE score overall.⁸⁹ Sixty-three percent had an ACE score of 4 or more; these individuals were more likely to be people of color and to have low incomes and low educational attainment, and they had increased risks of chronic illness.⁸⁹ The Wisconsin Children's Trust Fund has identified addressing co-occurring ACEs among children with incarcerated parents as a key priority area for the state.⁸⁹

Kids' Struggles with Mental Health and Substance Abuse May Increase with Multiple Parental Incarcerations

Problems may increase when parents are incarcerated multiple times. This means that even for kids with a parent who has already been in prison, things can get worse if they are incarcerated again, possibly owing to the chronic instability, or “churning,” created when parents repeatedly enter and exit prison.⁹⁰ Children whose fathers were incarcerated multiple times were more likely to have substance use problems that interfered with their lives, while children with mothers who were incarcerated multiple times are more likely to be depressed.⁹⁰ Depressive symptoms among children of incarcerated parents may persist into adulthood.⁹¹

Family Financial Stability Suffers

Children of incarcerated parents experience material hardship if they lose their parents' contribution to household income.⁹² When a father is incarcerated, children's mothers report hardships that also affect their kids' well-being: they are more likely to lack money for electricity bills,⁹² to face eviction and housing insecurity,⁹³ and to rely on public assistance.⁹⁴

Children with recently incarcerated fathers are at greater risk of homelessness, especially Black children—another sign of how mass incarceration contributes to intergenerational racial inequity.⁹⁵

Other Family Members Are Also Affected

It's not only children who experience these burdens—the health and well-being of other family members also suffer. This is especially true for mothers parenting a child whose father is in prison. These mothers experience higher odds of physical health problems, including heart attack, stroke, obesity, and worse self-rated health.⁹⁶ These women are also at increased risk of depression and lower life satisfaction—issues that are worse for a father's recent incarceration even if he has been incarcerated in the past.⁹⁷

Family members of people incarcerated for breaking rules of supervision in Wisconsin described both financial pressures and strain on their mental health as they tried to cope:

As his wife, as the mom, it forces me to explain to the kids what's going on . . . By him being the breadwinner, it forces me to go into fight mode to pay bills, to put food on the table. We have a severely disabled daughter—how am I going to take care of her myself? It forces my family members to go into this whole mode of depression, anxiety, feeling like “What am I going to do,” feeling helpless, hopeless. Not even to mention how it affects the kids and what they go through as children. It wasn't like he committed a crime—like “Oh he robbed a bank” . . . I'm talking about equipment failure . . . How do you explain that to someone? And if I can't explain it, how are they going to understand it?

– Madison focus group participant

How Many Children in Wisconsin Are Affected by Their Parents' Incarceration for Violating Supervision Rules without Being Convicted of a New Crime?

Data from the Department of Corrections describe that for Wisconsin in 2015 alone:

- Nearly half (48%) of people incarcerated for a revocation without a new criminal conviction had at least 1 child.
- Approximately 3,010 kids under age 18 had a parent put in prison for a revocation without being convicted of a new crime.¹¹

Nationally, the Bureau of Justice Statistics reports that over half (54%) of parents in state prisons with minor children were the main financial support for their children before incarceration.⁹⁸ Research on national data finds that families have a 40% higher chance of poverty while a father is incarcerated.⁴⁸ The American Academy of Pediatrics lists childhood poverty as among the most important drivers of poor health outcomes for children.⁹⁹ Based on these studies and Department of Corrections data in 2015, this report’s authors find the following:

- **An estimated 1,625 kids in Wisconsin may have lost primary financial support when their parent was incarcerated for a revocation without a new criminal conviction.**



- **An estimated 2,739 kids in Wisconsin may be at increased risk of poverty while their father is incarcerated for a revocation without a new criminal conviction.**



¹¹This is determined by self-report when people are admitted to prison, generally in response to the question “How many children under the age of 18 do you have?” according to the Department of Corrections. However, in some cases it may be asked, “How many dependents or children are you responsible for?” It should be noted that 3,010 is a conservative estimate, because approximately 109 people admitted for a revocation without a new criminal conviction in 2015 reported “5 or more” children, and we assumed those people had only 5 children.

Effective Responses Are Part of a Rehabilitation Framework

In looking at what can be done to prevent the harms described above, effective responses to non-compliance and rewards for compliance with rules of supervision—as first introduced in an earlier section—can be used as one part of a broader rehabilitation framework to guide supervision.¹⁰⁰ The premier framework is known as risk-needs-responsivity (RNR).¹⁰⁰ It says responses should match the risk level of the person under supervision of a correctional institution, specifically:

- Focus more intensive interventions on moderate and high risk people (risk)
- Target the factors that most significantly influence criminal behavior (need)
- Tailor research-supported models to the unique characteristics of individuals (responsivity)¹⁰¹

Supervision strategies that have all 3 elements of risk, need, and responsivity are better at reducing recidivism.¹⁰² Systems that fail to follow RNR produce minimal reductions in recidivism and can even increase recidivism.¹⁰² When interventions are put in place, how closely the interventions adhere to the integrity of RNR principles matters greatly to supervision and recidivism outcomes.¹⁰¹

Related to using graduated responses, the RNR framework and relevant research describe that the most effective approach for people on supervision is to “place them in rehabilitative programs designed to address those needs in a manner consistent with their learning styles.”¹⁰³ This is in line with the framework’s responsivity principle. Also in line with that principle, the framework recently incorporated what is known as a ‘dosage’ approach. It means that instead of a fixed term of supervision for everyone, the length of time a person is on supervision should depend on how long research says it will take that person to change behaviors while minimizing risk to the public.¹⁰¹ Research suggests a dosage approach brings better supervision and recidivism outcomes.¹⁰¹ (See Appendix I for more on the RNR framework.) Following these principles of RNR can improve the rehabilitation outcomes for the justice-involved individual, potentially keep families united more by focusing intensive interventions on those with moderate- and high-risk of reoffending, and protect community safety through improved recidivism outcomes.

Growing Evidence That Effective Responses Improve Supervision Outcomes

Evidence is mounting that graduated responses effectively help people comply with community supervision and decrease recidivism. For example:

- Using effective responses to non-compliance and rewards for compliance together was more effective than using either alone in helping people succeed on supervision, with best results at a 4:1 proportion of rewards for compliance to responses to non-compliance, in a 2011 Wyoming study.¹⁰⁴
- Gradually escalating responses to non-compliance significantly improved outcomes—including fewer positive drug tests, fewer missed appointments, and less likelihood of future arrest—among people with drug convictions in a 2009 randomized control trial looking at Hawaii’s HOPE program.¹⁰⁵

Incarceration as a response to non-compliance may be no more effective than other responses. For example, research finds:

- People on supervision who got jail as a response to non-compliance were significantly more likely than people who didn’t get jail time as a response to non-compliance to be revoked for a new criminal conviction or a technical violation and have higher rates of re-arrest and reconviction, in a Multnomah County, OR, study.
- The severity of responses to non-compliance does not accurately predict if a person

completes a program, according to an evaluation of 16 drug courts by the General Accountability Office.¹⁰⁶

- Putting people in jail as a response to non-compliance was no more effective than community-based responses for influencing the frequency of violation behaviors, the number of violations, and the likelihood of completing supervision programs, in a 2015 study in Wyoming.¹⁰⁷

Profile: Colorado’s Strategies for Behavior Change

Colorado offers an example of specific ways a corrections department is shifting its approach to supervision.^{108,109}

In 2012–2013, the Colorado Division of Probation Services began implementing Strategies for Behavior Change (SBC), “a process for reinforcing pro-social behaviors and minimizing technical and law violations.” Probation officers use a “Behavior Response Grid” that considers risk for recidivism and level of positive or violation behavior in determining their response to clients.

Behavior Response Grid

Risk Level	MAX	LOW	MEDIUM	HIGH
	MED	LOW	MEDIUM	HIGH
	MIN	LOW	LOW	MEDIUM
		MINOR	MODERATE	SERIOUS/ MERITORIOUS

Behavior Level

The Division of Probation Services developed SBC to improve success in probation. The SBC re-considered their responses to violations of supervision that did not include a new criminal conviction, and achieving long-term behavior change rather than just short-term compliance with supervision. The goals of the program include:

- Increase pro-social behaviors and decrease anti-social behaviors and what are known as criminogenic needs, meaning characteristics or problems that directly relate to a person’s likelihood to commit another crime.
- Improve consistency in response to probationers’ behaviors
- Safely manage people on supervision in the community
- Better utilize tax-funded resources

The following behavior change principles guide the program, in the words of the Colorado Division:

- | | |
|-------------|--|
| Celerity | <ul style="list-style-type: none"> • Reduce time between behavior and response results in reduced violations • Respond to violations as quickly as possible |
| Certainty | <ul style="list-style-type: none"> • Increased certainty of a response results in reduced future deviance • Respond in some way to every violation |
| Consistency | <ul style="list-style-type: none"> • Similar decisions in similar circumstances results in increased compliance • Use decision instruments that produce consistent results |

- Neutrality
 - Processes that are impartial, logical, and fair see increased adherence to rules
 - Inform people on supervision how responses are determined
- Parsimony
 - Punishment should not be more intrusive or restrictive than necessary
 - Use severity of the violation as a factor in determining the appropriate level of response
- Proportion-ality
 - Level of punishment should be commensurate with the severity of the behavior
 - Match response severity to the severity of the violation
- Risk
 - Higher risk requires higher intensity of supervision and response to behaviors
 - Use risk as a criteria in determining response

According to a brief by the Colorado Division of Probation Services:

During a 3-month pilot project in 2012, SBC was tested in 7 districts. Both probation officers and people under probation supervision responded favorably. Importantly, officers reported focusing more on their clients' positive behaviors. Change in behavior is more likely to occur when reinforcements reach a ratio of 4 positives to every 1 negative. Officers also reported utilizing a greater variety of responses, and although they believed the structure of SBC to be helpful, it needed to be automated.

Probationers found SBC to be helpful in the following ways:

- Expectations were clearer.
- They were better able to work within established parameters.
- Smaller steps to behavior change were easier to accomplish.
- They were more motivated to do the right thing when it was acknowledged by their probation officer.

The Division is now fully implementing the program across the state and focusing on training and quality assurance to ensure fidelity to the model. It is currently conducting a process evaluation and expects to have outcomes-based data in 2 or more years.

How to Improve Current Practice in Wisconsin

Currently probation, parole, and extended supervision are thought of as alternatives to incarceration. In reality, under current practice, supervision prolongs eventual incarceration—at great financial cost to the state, and with harmful socioeconomic and health impacts to justice-involved individuals and their families. More than \$147 million was spent to incarcerate people admitted to Wisconsin prisons in 2015 who were not convicted of a new crime.

A way forward is to shrink the number of people incarcerated in Wisconsin, through reducing the number of people on supervision, and stopping the cycle from incarceration to supervision and back to incarceration. Wisconsin can achieve this while maintaining public safety and promoting public health. Although the Department of Corrections is the body in charge of supervision, they alone do not have the power to perform all of the action steps described here, and need the support of other agencies. It will take a number of actors across state government working together to fix a system that is not working at its best, is expensive, and can harm the health of children, families, and justice-involved people trying to rebuild their lives.

Recommendations

The recommendations below build on our findings, and identify evidence-based ways to expand Wisconsin's use of rewards for compliance and responses to non-compliance—and to more completely, transparently, and consistently use them— for people on parole, probation, or extended supervision.

The recommendations and action steps that follow are strongest when considered as a single package, not piecemeal. Some of the recommendations overlap with those from organizations such as the Council of State Governments Justice Center and from peer-reviewed literature.

1. Remove incarceration as a response to non-compliance for non-criminal violations of the rules of parole, probation, or extended supervision.
2. As an alternative measure to revocation for people on parole, probation, or extended supervision: continue to build on the partially implemented steps of the “short-term sanctions” law, by ensuring a consistent and racially equitable response to non-compliance and the granting of rewards for compliance that is transparently documented, through policy development, clear matrices, and workforce development that includes annual trainings.
3. Consistently track, evaluate at regular intervals, and annually disseminate the outcomes on the use of alternative measures to revocation for people on parole, probation or extended supervision to build community trust.
4. As an alternative to revocation, provide access and navigation into rehabilitative programs and assure successful graduation for people on parole, probation or extended supervision.
5. Reduce the number of people and length of time people across races/ethnicities are placed on probation or extended supervision, which will in turn reduce agency caseloads.
6. Apply greater due process rights for people in revocations investigations and proceedings, such as right to bail and a higher standard of evidence.

How to Take Action on Report Recommendations

Report Recommendations	Actions for the Department of Corrections
<p>1. Remove incarceration as a response to non-compliance for non-criminal violations of the rules of parole, probation, or extended supervision.</p>	<p>A. Change Department policy, practice, and tools accordingly, and educate staff about the new policies and practices.</p> <p>B. Gather and make publicly available data about the reasons people are revoked without a new criminal conviction, including the technical violation or criminal behaviors that led to revocation. Include data disaggregated by demographics, such as race/ethnicity and gender.</p>
<p>2. As an alternative measure to revocation for people on parole, probation, or extended supervision: continue to build on the partially implemented steps of the “short-term sanctions” law, by ensuring a consistent and racially equitable response to non-compliance and the granting of rewards for compliance that is transparently documented, through policy development, clear matrices, and workforce development that includes annual trainings.</p>	<p>C. Develop a clear written policy stating that staff are expected to use responses to non-compliance and rewards for compliance, and provide the policy to the staff and public.</p> <p>D. Assess the frequency and consistency of staff use of rewards for compliance and responses to non-compliance Department-wide and by geography, then develop and further train all staff in consistent use of rewards for compliance and responses to non-compliance to address any gaps identified.</p> <p>E. Work with people on parole, probation, or extended supervision to co-create rewards for compliance and responses to non-compliance that are appropriate for them. Ensure that responses to non-compliance minimize negative impacts to a person’s family and employment. Provide people on supervision with the resulting decision-making matrices about which rewards for compliance or responses to non-compliance will be used and in response to what kinds of behaviors. Also provide them with a copy of the Department’s policy on rewards for compliance and responses to non-compliance.</p> <p>F. Collect and publicly report aggregate data about the employment status of people before they are incarcerated and while on probation, parole, or extended supervision. Further break down data by demographics, particularly race/ethnicity and gender. Examples of measures to collect are:</p> <ul style="list-style-type: none"> • Whether employed • Length of time employed • Wage • If full- or part-time work • Hours worked • Shift schedule worked, if applicable

Report Recommendations	Actions for the Department of Corrections
<p>3. Consistently track, evaluate at regular intervals, and annually disseminate the outcomes on the use of alternative measures to revocation for people on parole, probation or extended supervision to build community trust.</p>	<p>G. Evaluate if the practices of responses to non-compliance and rewards for compliance are implemented as intended (process evaluation) and outcomes from the program (outcome evaluation). Disaggregate data by demographics, like race/ethnicity and gender. Publicly report results from process and outcome evaluations. Examples of outcomes can include:</p> <ul style="list-style-type: none"> • Achieving the ratio of 4 rewards for compliance to every 1 response to non-compliance • Completion of supervision programs • Decrease in violations • Decrease in recidivism <p>H. Measure if there are disparities by race/ethnicity in use of rewards for compliance and responses to non-compliance.</p> <p>I. Adopt the equivalent of a racial impact statement within the Department to assess whether proposed changes to future practices exacerbate racial disparities in parole, probation, or extended supervision decision-making, and to consider the collateral consequences of these decisions.</p>
<p>4. As an alternative to revocation, provide access and navigation into rehabilitative programs and assure successful graduation for people on parole, probation or extended supervision.</p>	<p>J. Make more of these successful rehabilitative programs available while targeting the people and places that can have the most impact on population health and current health inequities in Wisconsin.</p>
<p>5. Reduce the number of people and length of time people across races/ethnicities are placed on probation or extended supervision, which will in turn reduce agency caseloads.</p>	<p>K. Strengthen incentives to allow for early termination of probation or extended supervision if clients successfully comply with supervision goals.</p>

Report Recommendations	Actions for Department of Community Corrections
<p>4. As an alternative to revocation, provide access and navigation into rehabilitative programs and assure successful graduation for people on parole, probation or extended supervision.</p>	<p>A. Work with state, county, and tribal health departments to provide mental health and substance abuse services to meet county- and tribal-level population health needs and to address current inequities in meeting those needs in Wisconsin.</p>
Report Recommendations	Actions for the State Legislature / Office of the Governor
<p>2. As an alternative measure to revocation for people on parole, probation, or extended supervision: continue to build on the partially implemented steps of the “short-term sanctions” law, by ensuring a consistent and racially equitable response to non-compliance and the granting of rewards for compliance that is transparently documented, through policy development, clear matrices, and workforce development that includes annual trainings.</p>	<p>A. Fund the development and implementation of an even more robust while still evidence-based policy and use of responses to non-compliance and rewards for compliance that includes evaluation and additional staff training. Make necessary legislative changes to ensure program standardization and sustainability.</p>
<p>3. Consistently track, evaluate at regular intervals, and annually disseminate the outcomes on the use of alternative measures to revocation for people on parole, probation or extended supervision to build community trust.</p>	

¹² *Funding for these recommendations can come from money no longer used to incarcerate people who have been revoked without a new criminal conviction. Additionally, when crafting new policy language, directly and meaningfully involve people who will be directly affected by it, such as through a community oversight panel.*

Report Recommendations	Actions for the State Legislature / Office of the Governor
<p>4. As an alternative to revocation, provide access and navigation into rehabilitative programs and assure successful graduation for people on parole, probation or extended supervision.</p>	<p>B. Increase funding for transitional programs and rehabilitative programs that meet service needs in the state to provide the full continuum of care to adults and children—including for substance abuse programs, mental health treatment programs, and wraparound services that support housing, employment, healthcare, education, and family support. Increase availability of these programs statewide, while targeting the people and places that can impact population health the most and address current health inequities in Wisconsin and tribal lands.</p> <p>C. Fund increased screening for mental health conditions and access to mental health care for formerly incarcerated people.</p>
<p>5. Reduce the number of people and length of time people across races/ethnicities are placed on probation or extended supervision, which will in turn reduce agency caseloads.</p>	<p>D. Considering the collateral consequences to justice-involved individuals of current practices, enable DOC to use a dosage probation approach statewide—as is being tested in Milwaukee—to determine the length of supervision for people on probation and parole based on the number of hours of intervention necessary to reduce risk, rather than on fixed probation times.</p> <p>E. Abolish parole, probation, and extended supervision fees, and non-payment of them as a basis for extending supervision.</p>
<p>6. Apply greater due process rights for people in revocations investigations and proceedings, such as right to bail and a higher standard of evidence.</p>	<p>F. Make necessary changes to the administrative code to enable greater due process rights for people in revocations investigations and proceedings.</p>
Report Recommendations	Actions for Judges and Other Responsible for Sentencing
<p>5. Reduce the number of people and length of time people across races/ethnicities are placed on probation or extended supervision, which will in turn reduce agency caseloads.</p>	<p>A. Eliminate the blanket use of probation or extended supervision for every person, given the collateral consequences of long periods of time on supervision. Instead use only the length of supervision necessary to achieve rehabilitative goals. Fashion the rules of supervision to increase the likelihood of accomplishing those goals.</p> <p>B. Include as little time of extended supervision as possible when imposing sentences, so the people who are convicted can move back to the full rights of citizenship. Focus on ensuring that re-entry supports are sufficient to maximize the opportunity for successful re-entry upon returning from incarceration.</p>

Report Recommendations	Actions for Applicable County and City Law Enforcement
<p>2. As an alternative measure to revocation for people on parole, probation, or extended supervision: continue to build on the partially implemented steps of the “short-term sanctions” law, by ensuring a consistent and racially equitable response to non-compliance and the granting of rewards for compliance that is transparently documented, through policy development, clear matrices, and workforce development that includes annual trainings.</p>	<p>A. Enact legislative changes for people who have allegedly broken rules of supervision—but who do not have new criminal charges—to not be incarcerated while awaiting a hearing before the administrative law judge.</p>

Actions for Public Health and Healthcare Professionals
<p>Health practitioners can help prevent society’s over-use of law enforcement in general and specifically to care for people with mental health conditions or substance abuse. Examples of what health practitioners can do to support rehabilitation instead of revocation include:</p> <ul style="list-style-type: none"> • Support calls for additional rehabilitative programs that meet service needs in the state and on tribal lands to provide the full continuum of care to adults and children—including for substance abuse programs, mental health treatment programs, and wraparound services that support housing, employment, healthcare, education, and family support. Identify the people and places where programs, services, and other interventions can impact population health the most and address current health inequities in Wisconsin and tribal lands. • Support calls for spending funds on screening for mental health conditions and access to mental health care upon release for formerly incarcerated people, rather than re-incarceration • Support calls for Wisconsin to end the practice of eliminating medical benefit coverage when a person is incarcerated, instead following the practices of at least 12 other states in suspending benefits temporarily. <p><i>(continued on the next page)</i></p>

Actions for Public Health and Healthcare Professionals

- Look for opportunities to collaborate with the criminal justice sector in work already underway to address mental health conditions, substance abuse, and social determinants of health—such as community health needs assessments (CHNAs) and community health improvement planning (CHIP) processes.
- Collaborate with law enforcement to direct individuals to programs for mental health conditions or substance abuse, instead of incarcerating them.
- Support policy change to improve community safety, reform revocation policy, and reduce incarceration in Wisconsin and on tribal lands.

These actions reach back to core functions of public health, and a commitment it can make to address root causes of health, historical inequity, and social determinants of health. In fact, they are fundamental to the definition of public health, as published by the Institute of Medicine, which is “what we as a society do collectively to assure the conditions in which people can be healthy.”¹¹⁰

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Human Impact Partners is a national non-profit working to transform the policies and places people need to live healthy lives by increasing the consideration of health and equity in decision-making. Through research, advocacy, and capacity-building, we bring the power of public health science to campaigns and movements for a just society.

WISDOM is a statewide network of faith communities that works to promote the common good by building diverse communities and encouraging broad participation in the democratic process. WISDOM is a grassroots organization, comprised mostly of religious congregations of many denominations, from about 160 congregations, of 19 different religious traditions. Besides criminal justice reform, WISDOM and its local organizations promote Immigrant Rights, Economic Justice, Health Care availability, Public Transportation, Workforce Housing, and more.

EX-Prisoners Organizing is a program within WISDOM led by and created for formerly-incarcerated individuals, who drive the organization's criminal justice campaign in Wisconsin.

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Appendices for

Excessive Revocations: The Health Impacts of Locking People Up Without a New Conviction in Wisconsin

December 2016

By Human Impact Partners

With the partnership of:
WISDOM
EX-Prisoners Organizing



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Appendix A. Glossary

Administrative Law Judge (ALJ)

An Administrative Law Judge (ALJ) is an attorney in the Division of Hearings and Appeals¹ who typically conducts and makes final decisions in revocation hearings. The ALJ is required to be impartial and without personal connections to the case. The ALJ does not have to follow Department of Corrections guidelines about recommended periods of incarceration.^{2,3}

Client

Client is a term used by the Wisconsin Department of Corrections to refer to someone that is on parole, probation or extended supervision.

Effective responses to non-compliance

Also referred to in research as “graduated sanctions”, these broadly refer to the continuum of penalty options that supervision agents and courts can use as part of supervision arrangements.⁴ They range in type and severity (from a written assignment to jail time), and a supervising agent has the discretion to determine how many what and how many are used at any time.^{4,5}

Extended supervision

Extended supervision in Wisconsin is a period of supervision following release from prison, for all crimes committed on or after December 31, 1999.⁶ A person’s extended supervision must be at least 25% of their original prison sentence and the maximum time can range from 2 to 20 years.⁷ It was created under the Truth in Sentencing state law where a person cannot be released early from prison (effectively eliminating parole).

Jail

Jail is a facility operated by county and municipal authorities that typically is used to incarcerate a person for a year or less. In Wisconsin, people can be put in jail or prison while being investigated for a possible technical violation.

¹ The Division of Hearings and Appeals is an independent entity in the Wisconsin Department of Administration that conducts administrative hearings for adult probation and parole matters, extended supervision, and juvenile aftercare supervision.

² State of Wisconsin Division of Hearings and Appeals. Resource Handbook for Community Supervision Revocation Hearings. 2016.

³ State of Wisconsin Division of Hearings and Appeals. Resource Handbook for Community Supervision Revocation Hearings. 2016.

⁴ American Probation and Parole Association. *Effective Responses to Offender Behavior: Lessons Learned for Probation and Parole Supervision*. Williamsburg, VA: National Center for State Courts; 2013.

⁵ Juvenile Sanctions Center. A Practical Approach to Linking Graduated Sanctions with a Continuum of Effective Programs. *Training and Technical Assistance Program Bulletin*. 2004;2(1). http://www.ncjfcj.org/sites/default/files/linkinggraduatedsanctions_0.pdf.

⁶ Klingele C. Rethinking the Use of Community Supervision. *J Crim Law Criminol*. 2013;103(4). <http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=7463&context=jclc>.

⁷ Zahn M, Barton G. \$1.8 billion: The price of truth in sentencing. *Milwaukee, Wisconsin Journal Sentinel*. November 21, 2004. <http://archive.jsonline.com/news/crime/18-billion-locked-in-the-price-of-truth-in-sentencing-266780141.html>.

Justice-involved person

Justice-involved person is used instead of “offender” or “convict” to refer to a person who has spent time in jail or prison. It avoids defining people permanently by past experiences.

Parole

Parole is the early, supervised release of an incarcerated person.⁶ In Wisconsin, parole was eliminated for people convicted of a felony in 2000 or later (under the Truth in Sentencing law). This means people must serve their entire prison terms (with few exceptions). People who committed a felony before 2000 in Wisconsin can still be considered for parole.

Parole/probation agent

Used interchangeably with “supervising agent,” a parole/probation agent is an employee of the Wisconsin Department of Corrections who manages and reports on the supervision of their formerly incarcerated clients. Agents help to direct the sentencing and community re-entry decisions that arise during parole, probation or extended supervision periods.³ A parole/probation agent is also known as a parole officer or PO.

Prison

Prison is a facility run by state or federal government used to incarcerate people for more than one year. In Wisconsin, people can be put in jail or prison while being investigated for an allegations of breaking the rules of supervision. If the state confirms the violation, the person will be sentenced to time in prison or fulfill an existing sentence.

Probation

Probation is a supervision arrangement given out as part of a sentence instead of incarcerating someone for a crime.⁵ In Wisconsin, probation can be established through 2 paths:

- *Sentence withheld*, where the court cannot give a sentence. If the person is later revoked from probation, they are sent to court for sentencing.
- *Sentence imposed and stayed*, where the court sentences a person to a specific amount of time but orders them to the custody of the Department of Corrections for supervision instead of prison. If probation is revoked, a person will be put in prison to complete their probation time without first going to court.³

Revocation

For certain violations of parole, probation or extended supervision, an agent may recommend revocation, or removing a person from community supervision and incarcerating them.

Revocation without a new sentence

Used interchangeably with “incarcerated without a new criminal conviction,” revocation without a new sentence refers to an instance where a person on supervision is incarcerated for violating one or more rules of their supervision, but without a new criminal conviction.³

Technical violation

A technical violation refers to an instance where a person does not follow a specific condition of their supervision arrangement. It alone is not a criminal offense, though the state has the legal authority to revoke the person's supervision and incarcerate them. Page 15 lists the standard rules of supervision in Wisconsin. This report refers to technical violations when they were cited as such specifically in a study. Otherwise, it describes them as breaking rules of supervision without committing a new crime.

Appendix B. Stakeholder Participation

The table below illustrates the capacity in which key stakeholders participated in the process used for this project, which draws on the framework of Health Impact Assessment.

Step in the Process	Formerly-incarcerated People	Partner Organizations	Advisory Committee	Human Impact Partners
Screen project ideas		L		L
Identify the project scope				
Develop pathway	P	P	P	L
Finalize issues to focus on in the project and report		L	P	L
Collect evidence and data				
Gather existing conditions information and literature		P		L
Prepare materials, recruit participants & conduct focus groups	L	P		L
Prepare materials & conduct interviews	L	P		L
Review & discuss report findings	P	P	P	L
Craft recommendations				
Identify & review recommendations	P	P	P	L
Develop the report				
Write and finalize				L
Review	P	P	P	

L = lead, P = participant

Appendix C. Report Methods

Key Informant Interview Methods

A total of 8 key informant interviews were conducted between July and September 2016. Informants represented individuals with personal experience or professional expertise around being incarcerated for breaking rules of supervision but without new criminal convictions but for breaking rules of supervision, including those who work as community organizers/advocates, public defenders, defense attorneys, prosecutors, and parole officers. Interviews were conducted by a range of individuals, including a formerly incarcerated individual and research staff at Human Impact Partners. Interviews were conducted through a mix of in-person and on the phone. They ranged from 20 to 80 minutes, based on key informant availability. Quotes from the interviews in this report are attributed the way the person interviewed asked to be described.

Focus Group Methods

A total of 6 focus groups were held in 5 Wisconsin locations (Dane, Eau Claire, Kenosha, Menominee, Milwaukee, and counties) between July 21st and August 6th, 2016. Forty-nine individuals participated. Of those, 44 completed the anonymous participant data survey (response rate: 90%). Participants were recruited through leaders of EX-Prisoners Organizing, with guidance to recruit a range of ages, race, income, mix of people revoked and family members of those revoked. Leaders of EX-Prisoners Organizing also co-facilitated focus groups with a researcher. Participants received a gift card and facilitators received stipends.

Based on participant survey data, the characteristics of the group as a whole included:

All Focus Group Participants	
Race/Ethnicity (self-described)	
White, non-Hispanic	43%
Black	36%
Native American	9%
White, Hispanic	5%
Mixed/other	7%
Age	
Average	45.6 years
Youngest	22 years
Oldest	83 years
Sex	
Male	66%
Female	34%
Parental status	
Parent/guardian/caretaker of a child under 18 at the time of the survey	45%
Educational attainment	
Graduated from high school or received GED	95%
Attained a college degree or higher education	27%
Employment	
Under-employed or unemployed in previous year (reported 0 months of full-time employment)	30%
Average length of full-time employment in previous year	5 months

Experience with Incarceration	
Family member or the individual had been incarcerated in Wisconsin (including tribal lands/through federal system)	100%
Individual experienced probation, parole or supervision in Wisconsin	89%
Individual was revoked for breaking rules of supervision without a new criminal conviction	45%
Family member was revoked for breaking rules of supervision without a new criminal conviction	55%
Individual ever participated in Treatment Alternatives & Diversion program	45%

Of those who reported being revoked for breaking rules of supervision without a new criminal conviction (n=20/44; 45%):

- Average age was 43 years (youngest 22 to oldest 68); majority male (75%); majority individuals of color (65%); half were parents/guardians/caretakers of children under 18;
- Nearly all had graduated high school (95%); but only 20% had graduated college or more. Nearly a third were under/unemployed in the past year (30%); on average employed 4 months full time.

Please contact report authors if interested in a sample version of the focus group guide or interview guide.

Appendix D. Department of Corrections' Definition of Mental Health Condition

Note: These materials remain in the language used by Wisconsin Department of Corrections.

Mental health codes are first assigned at an initial screening within 2 working days of arrival in a Department of Corrections facility, but can be updated at any subsequent visit with a clinician, who is a psychologist. Below are categories of mental health conditions. A serious mental health condition is one that falls into the MH-2a and MH-2b categories.

MH-0 – There is no current mental health need. The person does not need a scheduled follow-up visit with PSU and is not seeing a psychiatrist for any reason.

MH-1 – The person is receiving mental health services but does not suffer from a serious mental illness. This code is not appropriate for people who are receiving only program services, such as substance abuse or sex offender treatment, and have no other mental health needs.

MH-2a – A current diagnosis of, or being in remission from, the following conditions: Schizophrenia, Delusional Disorder, Schizophreniform Disorder, Schizoaffective Disorder, Other Specified (and Unspecified) Schizophrenia Spectrum and Other Psychotic Disorder, Major Depressive Disorder, Bipolar I Disorder, and Bipolar II Disorder. MH2-a also includes inmates with current or recent symptoms of the following conditions: Brief Psychotic Disorder, Substance / Medication-Induced Psychotic Disorder, head injury or other neurological impairments that result in behavioral or emotional dyscontrol, chronic and persistent mood or anxiety disorders, and other conditions that lead to significant functional disability.

MH-2b – Person with a primary personality disorder that is severe, accompanied by significant functional impairment, and subject to periodic decompensation; i.e., psychosis, depression, or suicidality. If a person has stable behavior for two years, the code may be reassessed.

Excluded from MH-2B classification are people who have a primary diagnosis of Antisocial Personality Disorder and whose behavior is primarily the result of targeted goals rather than impairment from diagnosed mental illness.

Appendix E. Examples of Resources in Other States about Rewards for Compliance and Responses to Non-Compliance

Below are resources developed and used in other states that are revising their practices around rewards for compliance and responses to non-compliance. They includes examples of matrices for rewards for compliance and responses to non-compliance, templates to track their use, examples of how information about them is shared with the public and ideas about incentives used elsewhere that Wisconsin may consider. This is not meant to be a comprehensive list, but to offer up examples.

Geographic level	Author	What it includes + links
California (state)	Chief Probation Officers of California	“Graduated sanctions matrix”: Rewards and sanctions tracking template: http://www.cpoc.org/assets/Data/graduated%20sanctions%20tracking.xlsx
Napa County, California	Crime and Justice Institute at Community Resources for Justice	“Violation Response Grid”, “Positive Response Grid”, “Response Tracking Form”, all at: http://www.crj.org/page/-/cjifiles/CAWorkSession_SanctionsIncentives_Presentation_Oct11.pdf
Utah (state)	Utah Sentencing Commission	Public presentation about “Response & Incentive Matrix”: http://www.sentencing.utah.gov/JRI/RIM%20(Response%20&%20Incentive%20Matrix)%20%20Training%20for%20Stakeholders.pptx
Yolo County, California	Yolo County Probation Department	“Graduated Sanctions Policy and Procedure manual”: http://www.crj.org/page/-/cjifiles/CAWorkSession_YoloCo_GradSanctions_PolicyProcedure.pdf
National	National Drug Court Resource Center	Lists of incentives and responses to non-compliance used by hundreds of Drug Courts around the U.S.: http://www.ndcrc.org/content/list-incentives-and-sanctions

Appendix F. Responses to Non-Compliant Behavior for People on Supervision in Wisconsin

Note: These materials remain in the language used by Wisconsin Department of Corrections.

Accountability Responses to Violations

<p>Level 1 – LOW Responses</p> <ul style="list-style-type: none"> • Activity log requirement • Apology Letter (Approved by Agent) • Budget Worksheet • Community Impact Statement • Community Service Hours (up to 8 hours) • Expense Log • Garnishment of wages • House Arrest (1 to 3 days) • Job log requirement • Local geographic restrictions • Loss of privileges • Other no contact order • Restrict contact with peers • Restricted schedule/Curfew (Verbal, Short-Term and Non-EMP/GPS) • Rule amendment • Social Media Restriction • Verbal warning/reprimand from Agent 	<p>Level 2 – MEDIUM Responses</p> <ul style="list-style-type: none"> • Amend existing GPS schedule • Behavioral Contract – signed by offender • Call-Ins after hours required per set schedule • Community Service Hours (>8 hours) • Conference with Agent and Supervisor • Electronic Monitoring (< 60 days) • House arrest (4 to 7 days) • Increased reporting frequency for temporary time frame (1 to 2 weeks) • Increased UA's and/or BA's • Letter of reprimand from Supervisor or Chief • Payment of extradition costs • Electronic Monitoring (< 60 days) (UA, BA, Sobrietor, TAD, Soberlink) • Require removal or disposal of unapproved possessions • Require sale of certain items • Residence change required • Travel restrictions • Short term jail hold (1 to 4 calendar days) • Start time with time tolled • Written warning – signed by offender
<p>Level 3 – HIGH Responses</p> <ul style="list-style-type: none"> • Conditional jail time (<60 days) • Court Review • Electronic Monitoring (> 60 days) (UA, BA, Sobrietor, TAD, Soberlink) • Extension of probation 	<p>Level 4 – VERY HIGH Responses</p> <ul style="list-style-type: none"> • Conditional jail time (60 days or >) • Extended jail hold (60 calendar days or > with appropriate Regional Office approvals) Other unique circumstance

<ul style="list-style-type: none"> • Increase Supervision Level • Jail hold (5 to 59 calendar days with Regional approval) • Placement on GPS • Revocation one case and leave other(s) active (if multiple cases) • Short-Term Sanction (<60 days) • TLP non-treatment (containment only) 	<ul style="list-style-type: none"> • Extended jail hold (60 calendar days or > with Regional approval) Pending ATR placement • Extended jail hold (60 calendar days or > with Regional approval) Pending IC decision • Revocation • Short-Term Sanction (60 to 90 days)
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VIOLATIONS AND SEVERITY LEVELS
No Violation (NV)
<ul style="list-style-type: none"> • Unsubstantiated violation behavior • GPS Equipment Issue – No Violation
Low Severity Violation (L)
<ul style="list-style-type: none"> • Curfew violation • EMP schedule violation (<60 minutes) • Entering prohibited establishments (non-sex offender) • Failure to comply with agent intervention requirements (i.e. homework) • Failure to comply with community service • Failure to comply with court-ordered condition not otherwise specified • Failure to comply with court-ordered EMP enrollment • Failure to comply with court-ordered IID installation • Failure to comply with educational or employment requirements • Failure to meet financial obligations (including child support orders) • Failure to notify agent of police contact • Failure to report as scheduled, including office appointments and home visits (<30 days and NOT excused by agent) • Failure to take medications as prescribed • Huber violations or violations of any detention facility in which confined (non-escape) • Inappropriate dress during office visit (i.e. gang related, drug related, or as deemed inappropriate by agent) • Leaving state without a travel permit, or other travel restriction violations • Lying to agent • Minor traffic violations (i.e. driving with a suspended or revoked license) • Missed required programming or treatment appointment (NOT excused by agent or treatment provider) • Non-assaultive municipal or ordinance violations • Other non-criminal rules violations approved by supervisor to be low severity • Possession of items not approved by agent (i.e. drug paraphernalia, contraband) • Residence change without prior approval or notice (non-registered sex offender) • Use of alcohol
Medium Severity Violation (M)

- Absconding (>30 days, but <6 months)
- Bribery or Extortion
- Crimes Against Government (Misconduct of Public Office, Giving a False Name to Law Enforcement, Obstructing an Investigation, Perjury, Unlawful Assembly)
- Criminal Drug Behavior – simple possession for personal use
- Disorderly Conduct Non-Assaultive
- EMP/GPS schedule violations (>60 minutes)
- Failure to comply with testing (Sobriotor, UA, PBT, Soberlink)
- Other minor assaultive, municipal or ordinance type violations
- Other as discussed and approved by supervisor
- Prescribed medication – excessive use
- Property Crimes (Misdemeanor level behavior) – Issuance of Worthless Checks, Theft, Damage to Property, Graffiti, Trespassing, etc.
- Sex Offender rules violations (non-criminal)
- Sexual Criminal Behavior – Unforced sexual act with someone between the ages of 16 and 18 (if meets statutory sex offense criteria), Lewd and Lascivious, Prostitution)
- Tamper with Monitoring Equipment (EMP, Sobriotor, TAD, Soberlink)
- Tamper with or falsify UA
- Termination from community-based programming (non ATR)
- Unauthorized consensual sexual contact or relationship with an adult, if required to have prior approval
- Unauthorized possession of legal firearm (including ammunition) by a non-violent misdemeanant (non DV)
- Unauthorized possession of legal weapon (non-firearm) (i.e. Bow)
- Use of any controlled, non-prescription, or mood altering substance (Positive test result or offender admittance)
- Verbally threatening behavior, including harassment (non DV) (Note - Mandatory detention requirements apply)
- Violation of non-victim related no contact orders (i.e. co-defendants, negative influences, etc.)

High Severity Violation (H)

- Absconding (>6 months)
- Absolute refusal to comply with Treatment/Programming (after unsuccessful attempts have been made through Motivational Interviewing and/or Pre-Contemplative groups to bring offender into compliance)
- Crimes Against Animals (Felony Level behavior) – Mistreatment or Neglect
- Crimes Against Persons (Misdemeanor Level behavior)– Battery, Resist or Obstruct with Law Enforcement, Child Neglect, etc.
- Drug Possession related conduct (Felony Level behavior) – Prescription Fraud, Possess Schedule I or II Level Narcotics, etc. (Not positive test or admission to use)
- Fail Formal ATR (community based, outpatient)
- Failure to report to jail (non-Escape)
- Flee/Elude (Felony Level behavior - non-vehicle)
- Illegal possession of weapon or firearm (including ammunition)

- Keeping a Place of Prostitution
- Operating a Motor Vehicle Under the Influence of Alcohol or Other Drugs (Non Felony)
- Other as discussed and approved by supervisor
- Possession of firearm or ammunition by DV offender or Felon
- Property Crimes (Felony Level behavior) – Burglary, Forgery, Operate Motor Vehicle Without Owner’s Consent, Arson, etc.
- Removal of Monitoring Equipment (EMP/TAD equipment/Sobriator/Soberlink)
- Tampering or removal of GPS equipment
- Termination from Specialty Court, Inpatient or Residential Treatment program (non-ATR)
- Violation of no contact order with victim(s) if prohibited

Very High Severity Violation (VH)

- Absolute refusal to comply with Supervision (after unsuccessful attempts have been made to bring offender into compliance through Motivational Interviewing, Professional Alliance building, etc.)
- Crimes against Government – threats or acts of violence – treason, sabotage, sedition, etc.
- Crimes Against Persons (Other Felony Level behavior)– Homicide, Reckless Endangerment, Substantial Battery, False Imprisonment, Strangulation, Suffocation, Robbery, Armed Robbery, Child Abuse/Neglect, Kidnapping, Hate Crimes, etc.
- Drug Manufacture and/or Possession with Intent to Deliver
- Escape from jail/Huber Walk-Away
- Fail Formal ATR (Institution, Halfway House, Inpatient Treatment, Treatment Court)
- Human Trafficking
- Operate Motor Vehicle Under the Influence of Alcohol or Other Drugs (Felony level)
- Other as discussed with and approved by supervisor
- Possession of firearm by offender with active restraining order
- Serious Sexual criminal behavior (Sexual Assault, Child Sexual Assault, Child Pornography, Failure to Comply with SORP, Exposing Genitals to a Child, etc.)
- Serious threatening behavior (substantiated plan for harm has been verified, victim/witness intimidation, documented history of assaultive behavior, etc.)
- Stalking and/or Violation of a Restraining Order
- Traffic (Other Felony Level) – Vehicular Homicide, Injury by OWI, Hit and Run resulting in injury, Flee/Elude with use of vehicle, OWI with child in vehicle, etc.

Appendix G. Positive Behaviors and Suggested Responses for People on Supervision in Wisconsin

Behavior	Suggested Incentives/Rewards
<p>Level I – Promising Positive Behavior</p> <ul style="list-style-type: none"> • Acceptance of responsibility • Clean urine / alcohol tests (last 30 days) • Completing a homework assignment • Compliant with expectations (up to 90 days) • Demonstrated search for employment • Demonstration of honesty • EMP/GPS/Sobriator compliance (up to 90 days) • Enrolled in mandated program/activity/CS • Positive attitude • Resist or avoid high risk situation or negative peer influence • Routine attendance at school/work (up to 90 days) • Established new pro-social relationships with family Improve communication skills • Improved physical health/hygiene • Improved social skills • Keeping appt's (up to 90 days) • No violations (up to 90 days) • Obtain FT school/job • Obtain residence • Participation in restorative activities • Consistent payments (up to 90 days) • Positive response to case plan • Positive report from collateral • Routine attendance and participation in group (up to 90 days) 	<p>Level I – Promising Positive Behavior</p> <ul style="list-style-type: none"> • Acknowledgment regarding length of clean time • Coins/tokens • Letter/Praise to parent/significant other • Travel permit • Extended curfew • Reduction of restriction(s) • Stickers on folders/playbook/case plan • Verbal affirmation/recognition by Agent/OOA/CFS

Level 2 – Consistent Positive Behavior	Level 2 – Consistent Positive Rewards
<ul style="list-style-type: none"> • Applied skill learned to a real life situation • Appropriate pro-social mentoring of another • Case plan task/activity – significant progress or complete • Compliant with expectations (90 – 180 days) • Continued reporting after violation • Demonstrates positive parenting • Multiple positive reports • No violations (90 – 180 days) • Obtain High School Diploma / GED • Obtain stable, pro-social housing • Demonstrates positive problem solving/coping skills • EMP/GPS/Sobriety compliance (90 – 180 days) • Enrolled in pro-social, non-mandated program/activity • Keep appts as scheduled (90 – 180 days) • Maintain contact w/ sponsor/mentor (90 – 180 days) • Maintain stable school/job (90 – 180 days) • Medication compliance • Motivation shift – increase • Ongoing positive engagement w/ family/significant other 	<ul style="list-style-type: none"> • Increase in privileges • Permission to travel • Reduction in requirements • Referrals for additional support services • Written praise/affirmation to significant other • Written recognition from Agent

Level 3 – Extended Positive Behaviors	Level 3 – Extended Positive Rewards
<ul style="list-style-type: none"> • Apology letter (appropriate and approved) after completion of treatment • Case plan goal completed • Changed peer group • Clean urine/alcohol tests (180 – 360 days) • Completion of a program • Compliant with expectations (180 – 360 days) • EMP/GPS/Sobrieter compliance (180 – 360 days) • Routine socialization with pro-social peers (180 – 360 days) Maintain FT school/job (180 – 360 days) • Maintain stable, pro-social housing • Motivation shift • No violations (180 – 360 days) • Passed polygraph • Financial obs paid in full/full effort made for 180 – 360 days • Routine attendance in tx (180 – 360 days) 	<ul style="list-style-type: none"> • Certificate of attendance • Certificate of commitment to lifestyle change • Certificate of completion • Certificate of special accomplishment • Increased privileges • Reduced restrictions • Reduce substance abuse testing • Reduction in non-court-ordered or agent imposed CS work • Written or verbal recognition from CFS • Reduction in supervision level / reporting
Level 4 - Distinguished Positive Behavior	Level 4 - Distinguished Positive Rewards
<ul style="list-style-type: none"> • Clean urine / alcohol tests (more than 1 year) • Completion of college or vocational program • Maintain FT school / work (more than 1 year) • No unexcused / missed appts (more than 1 year) • No violations (more than 1 year) • Successful completion of multiple case plan goals • Successful completion of Specialty Court program 	<ul style="list-style-type: none"> • Court recognition (i.e. Specialty Court graduation) • Recommendation to court for early discharge • Reduction in supervision level • Support of expungement • Written recognition from Regional Chief

Appendix H. Payable Holds in Fiscal Years 2014 and 2015

COUNTY	Payable Holds 7/1/13-6/30/14			Payable Holds 7/1/14-6/30/15			FY14 vs FY15 Inc/(Dec)	
	# of Holds	# of Hold Days	Avg Hold	# of Holds	# of Hold Days	Avg Hold	# of Hold Days	% Change
ADAMS	84	1,268	15	70	730	10	(538)	-42%
ASHLAND	57	316	6	38	519	14	203	64%
BARRON	213	2,465	12	219	1,900	9	(565)	-23%
BAYFIELD	17	110	6	19	124	7	14	13%
BROWN	626	12,714	20	574	9,073	16	(3,641)	-29%
BUFFALO	17	438	26	15	196	13	(242)	-55%
BURNETT	78	757	10	46	452	10	(305)	-40%
CALUMET	43	503	12	29	238	8	(265)	-53%
CHIPPEWA	153	1,695	11	155	1,392	9	(303)	-18%
CLARK	52	762	15	54	1,003	19	241	32%
COLUMBIA	134	2,603	19	126	1,606	13	(997)	-38%
CRAWFORD	42	463	11	46	852	19	389	84%
DANE	746	7,261	10	738	8,253	11	992	14%
DODGE	169	3,201	19	195	4,374	22	1,173	37%
DOOR	71	999	14	78	901	12	(98)	-10%
DOUGLAS	194	2,442	13	159	2,188	14	(254)	-10%
DUNN	77	843	11	86	1,053	12	210	25%
EAU CLAIRE	407	5,491	13	407	4,456	11	(1,035)	-19%
FLORENCE	5	17	3	5	32	6	15	88%
FOND DU LAC	373	5,466	15	389	7,110	18	1,644	30%
FOREST	57	592	10	45	292	6	(300)	-51%
GRANT	70	944	13	73	913	13	(31)	-3%
GREEN	48	924	19	29	129	4	(795)	-86%
GREEN LAKE	74	1,261	17	84	2,047	24	786	62%
IOWA	35	582	17	35	380	11	(202)	-35%
IRON	4	12	3	6	21	4	9	75%
JACKSON	94	1,151	12	69	1,241	18	90	8%
JEFFERSON	173	2,616	15	137	1,967	14	(649)	-25%
JUNEAU	48	586	12	92	960	10	374	64%
KENOSHA	461	6,186	13	464	7,028	15	842	14%
KEWAUNEE	18	405	23	17	157	9	(248)	-61%
LA CROSSE	423	6,468	15	379	6,297	17	(171)	-3%
LAFAYETTE	36	162	5	23	119	5	(43)	-27%
LANGLADE	78	637	8	64	287	4	(350)	-55%
LINCOLN	45	262	6	70	341	5	79	30%
MANITOWOC	204	1,862	9	197	2,172	11	310	17%
MARATHON	351	3,387	10	260	1,773	7	(1,614)	-48%
MARINETTE	87	1,131	13	99	1,083	11	(48)	-4%
MARQUETTE	29	430	15	33	114	3	(316)	-73%
MENOMINEE	2	10	5	2	4	2	(6)	-60%
MILWAUKEE	544	2,487	5	517	2,858	6	371	15%
MONROE	169	2,319	14	128	1,979	15	(340)	-15%
OCONTO	59	690	12	58	485	8	(205)	-30%
ONEIDA	83	473	6	89	411	5	(62)	-13%
OUTAGAMIE	489	6,003	12	391	4,941	13	(1,062)	-18%
OZAUKEE	69	1,577	23	81	2,172	27	595	38%
PEPIN	13	367	28	13	185	14	(182)	-50%
PIERCE	85	1,533	18	71	966	14	(567)	-37%
POLK	142	2,698	19	144	2,398	17	(300)	-11%
PORTAGE	162	2,013	12	150	2,157	14	144	7%
PRICE	17	210	12	10	64	6	(146)	-70%
RACINE	458	6,974	15	428	4,591	11	(2,383)	-34%
RICHLAND	43	557	13	45	275	6	(282)	-51%
ROCK	330	4,786	15	329	4,346	13	(440)	-9%
RUSK	53	516	10	41	265	6	(251)	-49%
SAUK	160	2,231	14	159	2,281	14	50	2%
SAWYER	63	648	10	104	835	8	187	29%
SHAWANO	124	1,054	9	115	450	4	(604)	-57%
SHEBOYGAN	237	4,356	18	227	3,862	17	(494)	-11%
ST CROIX	146	1,561	11	157	1,978	13	417	27%
TAYLOR	31	198	6	18	167	9	(31)	-16%
TREMPEALEAU	54	804	15	55	742	13	(62)	-8%
VERNON	37	630	17	47	616	13	(14)	-2%
VILAS	95	798	8	84	396	5	(402)	-50%
WALWORTH	226	3,211	14	295	6,026	20	2,815	88%
WASHBURN	31	231	7	21	312	15	81	35%
WASHINGTON	180	4,024	22	172	2,391	14	(1,633)	-41%
WAUKESHA	277	3,835	14	336	4,301	13	466	12%
WAUPACA	124	1,697	14	95	904	10	(793)	-47%
WAUSHARA	85	1,668	20	97	1,191	12	(477)	-29%
WINNEBAGO	612	6,665	11	526	6,595	13	(70)	-1%
WOOD	169	2,505	15	186	1,402	8	(1,103)	-44%
TOTALS	11,262	148,741	13	10,815	136,319	13	(12,422)	-8%

Note: This report excludes misdemeanants, and holds for conduct which constitutes a new criminal offense.

Appendix I. Additional Information about the RNR Framework

How Risk-Needs-Responsivity Works

RNR uses assessment instruments, or “actuarial-based tools”, to classify people according to low, medium, or high risk and to identify targeted interventions to address specific needs (e.g., substance abuse, employment instability, low self-control, antisocial behaviors, anger management) that may increase the odds of recidivism. Key to the success of this process is the collection of information about and from people under supervision to guide the determinations of risk, need, and responsivity. Notably, “an RNA does not indicate whether a particular [person] will actually recidivate; rather it identifies the “risk” or probability that the [person] will recidivate.” In implementing graduated responses, conducting a risk/need assessment is essential to developing a matrix about responses to non-compliance / rewards for compliance that matches the needs of the person under supervision.

Supervision Models as Behavioral Strategies

Cognitive behavioral strategies are intended to change harmful thinking patterns and attitudes as well as to work on the development of prosocial skills. A National Institute of Corrections report states that: “Studies show that well-implemented cognitive behavioral interventions can reduce recidivism by as much as 30 percent on average, particularly with moderate to high risk offenders.” In contrast, “Other strategies are not as effective, in particular traditional surveillance- and enforcement-oriented approaches to supervision, designed primarily around imposing, monitoring, and enforcing conditions of supervision, and sanctioning noncompliance . . . Multiple meta-analyses demonstrate that such strategies fail to reduce recidivism and, in some instances, are associated with increases in recidivism.”⁸

A review of effective rehabilitative approaches is beyond the scope of this report. However, the National Academy of Sciences states, “The available research indicates that, when carried out properly, certain forms of cognitive-behavioral therapy, drug treatment, academic programs, and vocational training appear to reduce recidivism.”⁹

Use of effective responses to non-compliance and rewards for compliance is considered a *behavioral strategy*, which, “seek[s] to both sanction violation behavior and reinforce compliant or desired behavior.” By contrast, deterrent strategies focus exclusively on punishing nonconforming acts.¹⁰⁴ Increasingly, community supervision models as a whole also are thought of as “behavioral strategies” and are grounded in theory and evidence from the field of psychology.

⁸ Center for Effective Public Policy. *Dosage Probation: Rethinking the Structure of Probation Sentences*. National Institute of Corrections; 2014. <https://s3.amazonaws.com/static.nicic.gov/Library/027940.pdf>. Accessed October 28, 2016.

⁹ National Research Council. *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. Washington, DC: The National Academies Press; 2014. <http://www.nap.edu/catalog/18613/the-growth-of-incarceration-in-the-united-states-exploring-causes>.

Appendix J. Monitoring Plan

Project Goals

Initial project goals that were agreed on by the Advisory Committee and can inform evaluations of the project included:

1. Develop evidence-based, specific, actionable recommendations about ways to change Department of Corrections (DOC) practice and Wisconsin law, which currently revokes supervision for technical violations, in ways that protect and promote health.
2. Expand the current discourse on people incarcerated without new criminal convictions but for breaking rules of supervision, with an evidence-based HIA that captures the public health impact and addresses racial inequities of current policy.
3. Inform Department of Corrections staff, state-level policymakers and their staff in Wisconsin, and the public about health and equity effects of making these changes to current DOC practice and state law.
4. Bring together criminal justice reform advocates, researchers, public health professionals, and students interested in understanding and addressing how policy on people incarcerated without new criminal convictions but for breaking rules of supervision can protect, promote or harm health.
5. Contribute to building a productive working relationship and information sharing between Department of Corrections and criminal justice reform advocates.

Process Evaluation Plan

The project team can develop and implement an internal evaluation to assess the process of conducting this project. The evaluation would focus on understanding whether the project met its intended goals, whether it adhered to the project workplan, ways in which stakeholders were engaged, challenges, opportunities for improvement, and lessons learned. The evaluation will be conducted with the input of project partners and stakeholders to assess their experience of participating in it. Participants may include: Human Impact Partners, WISDOM, EX-Prisoners Organizing, Advisory Committee members, as available.

Example measures of the report process could include:

Process item or project goal	Example measures
Complete evidence-based HIA report	Completion of report
Develop recommendations	Number of recommendations developed
Inform Department of Corrections staff, state-level policymakers and their staff in Wisconsin	Number of conversations with relevant parties
Bring together criminal justice reform advocates, researchers, public health professionals, students	Number of people from each perspective who participated in Advisory Committee meetings and conversations
Contribute to building productive working relationship between DOC and advocates	Number of conversations held between DOC and advocates, number of data requests completed
Expand current discourse	Increase in numbers of articles, blogs, social media posts about the topic
Engage stakeholders	Number of methods to engage stakeholders, number of stakeholders engaged, depth of engagement, increase in engagement of justice-involved individuals

Impact Evaluation Plan

The project team also can decide whether to develop an impact evaluation. An impact evaluation plan looks at how the report affects subsequent decisions and related events. The potential to collect this data often rests with those who regularly track this information or have the ability to do so. Additionally, much of this data can rely on conversations with decisionmakers themselves.

Example measures of report impact could include:

Report recommendation	Example measures	Example of who collects the data	Example of who publicly reports the data	Example due date(s)
Responses to non-compliance should not include incarceration	Number of bills introduced to change law or Administrative Code	Legislator, WISDOM	WISDOM	June 2017
Ensure consistent use of responses to non-compliance and rewards for compliance	Increase in staff training, circulation of written policy statement	DOC, WISDOM	DOC, WISDOM	June 2017
Evaluate the current use of responses to non-compliance and rewards for compliance within DOC	Evaluation plan established + shared publicly; assess current use and consistency of responses to non-compliance and rewards department-wide	DOC	DOC, WISDOM	Jan 2018

Outcome Evaluation Plan

Outcome evaluations focus on answering questions related to how a specific decision may impact health determinants and health outcomes. They happen over long periods of time and take additional cost. As information from this report is shared with various decision-makers, the project team will consider whether it is appropriate to develop an outcome evaluation plan.