



UNIVERSITY OF WISCONSIN

Population Health Institute

Translating Research into Policy and Practice

2008/2009 Study of Probation/Parole Revocation

EXECUTIVE SUMMARY

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By

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A copy of the full report “2008/2009 Study of Probation and Parole Revocation” can be downloaded from <http://www.pophealth.wisc.edu/UWPHI/about/staff/vanstellek.htm>



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STUDY OVERVIEW AND SCOPE

The University of Wisconsin Population Health Institute (PHI) collaborated with the Wisconsin Department of Corrections (DOC) to examine issues related to revocation of probation and parole. The study was conducted between April 1, 2008 and March 31, 2009. The study population included adult offenders under any form of community supervision (probation, parole, mandatory release, or extended supervision) who were admitted to prison without a new sentence between January 1, 2003 and December 31, 2007.

The primary questions of interest to the Department were: Why are offenders revoked and sent to prison when they have not been convicted of a new crime? What are the offender behaviors that lead to revocation? And what alternatives are being used in advance of pursuing revocation? To address the primary study questions PHI conducted (1) a thorough review of national best practices in the areas of policy, practice and use of graduated sanctions, (2) analysis of aggregate historical trends and patterns among 20,315 offenders who were admitted to prison with no new sentence as a violator of probation or parole between January 1, 2003 and December 31, 2007 (excluding sex offenders, temporary holds, and alternative to revocation admissions), (3) conduct a case-level review of 200 offenders randomly selected from the aggregate data to better understand the reasons for revocation and agent decision-making, (4) begin the process of setting up a means to address recommendations of the Commission on Reducing Racial Disparities in the Wisconsin Justice System related to revocation, and (5) provide information to DOC administration and policy-makers to assist in making any needed changes in policy, practices, resource allocation, staff training, and future budget decisions.

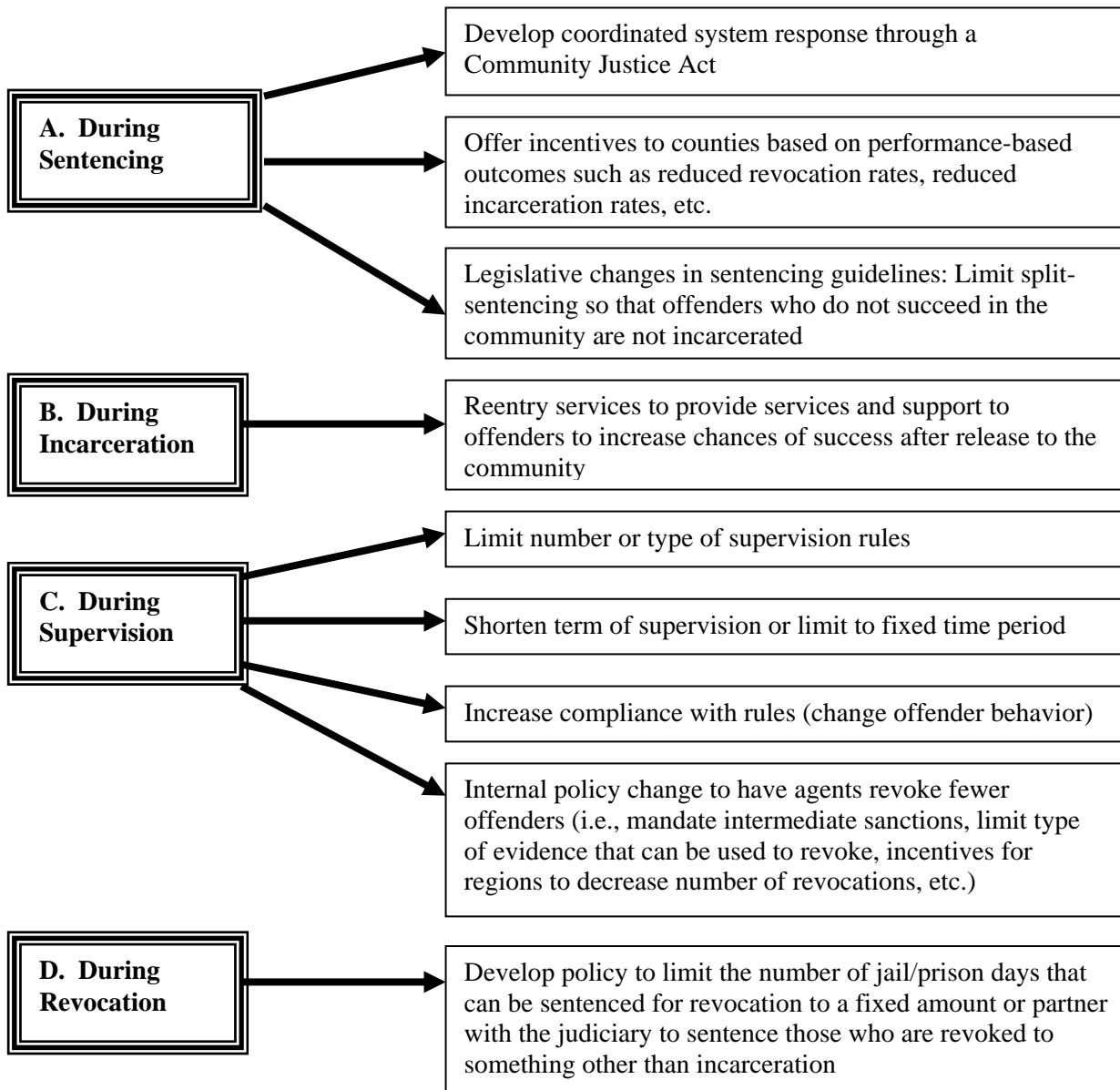
BEST PRACTICES IN REDUCING REVOCATION

In addition to conducting a comprehensive review of the available literature on evidence-based practices (EBP), PHI conducted telephone interviews with correctional department staff of six other states (Arkansas, Georgia, Iowa, Kansas, Pennsylvania, and Texas). A semi-structured telephone interview protocol was developed that gathered information about the history of revocation in their state, efforts to reduce revocation rates, policy impacts, and practice impacts. The telephone interview data was integrated with the literature review and a summary was developed that detailed changes to policy and practice implemented by other states and research groups to reduce revocation due to technical violation (Figure 1).

The findings of the best practices review suggest that the Department should consider a variety of the following options during sentencing, incarceration, and supervision that have been implemented in other states:

- 1) Develop a coordinated system response through a Community Justice Act;
- 2) Refine use of risk assessment to focus efforts on high risk offenders and customize supervision intensity and rules based on risk level;
- 3) Develop a departmental goal of reducing revocations by a specified percent for each supervision region and/or provide assistance to regions in decreasing revocations;
- 4) Consider legislative changes in sentencing guidelines to shorten the term of supervision or limit supervision to a fixed maximum time period;
- 5) Continue to develop a Departmental EBP-based reentry plan focusing on education, housing, and employment to support successful reentry; and
- 6) Impact agent decision-making and responses to offender behavior with system-level policies that encourage graduated alternatives to revocation.

Figure 1: Best Practices Responses to Revocation in Other States



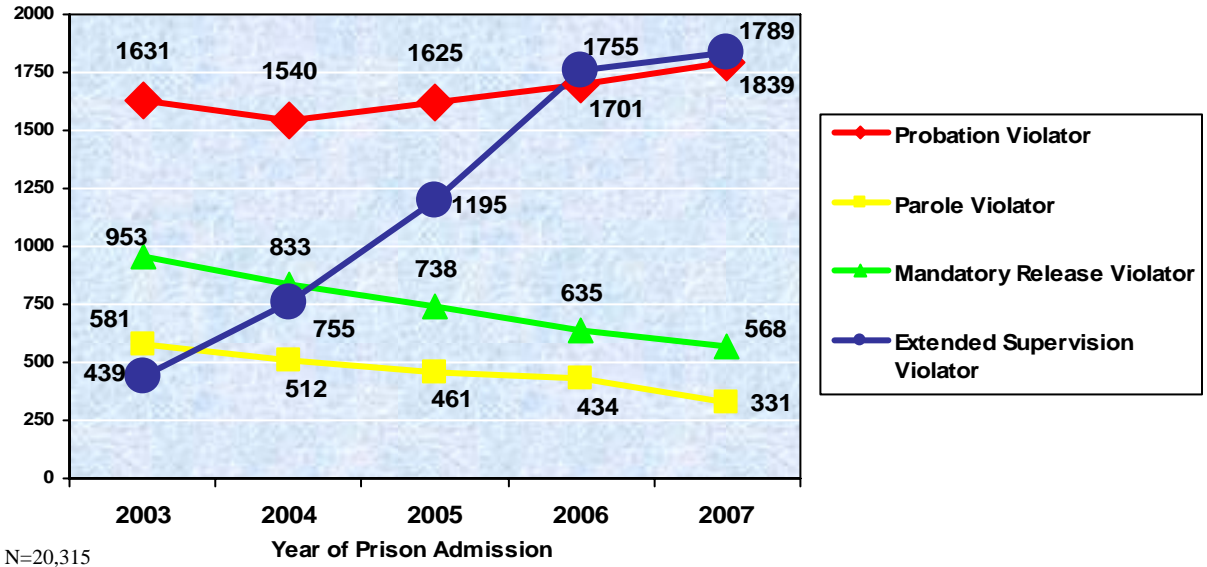
AGGREGATE HISTORICAL ANALYSES OF REVOCATION DATA

PHI analyzed the aggregate revocation data received from DOC that included all individuals admitted to prison with “no new sentence” from 1/1/2003-12/31/2007. Excluded from the dataset were sex offenders, offenders admitted to prison as temporary probation/parole admissions, and alternative to revocation admissions. Within the dataset utilized for analysis, there were 20,315 prison admissions with no new offense during the five-year period of interest.

The analyses revealed that the overall number of offenders revoked and admitted to prison with no new sentence increased each year between 2003 and 2007 in all supervision regions, with the exception of Region 3 (Milwaukee) which stayed relatively stable. Significant resources were expended in Region 3 during this timeframe (i.e., WIsErChoice, Prisoner Reentry Initiative) which may have impacted this trend.

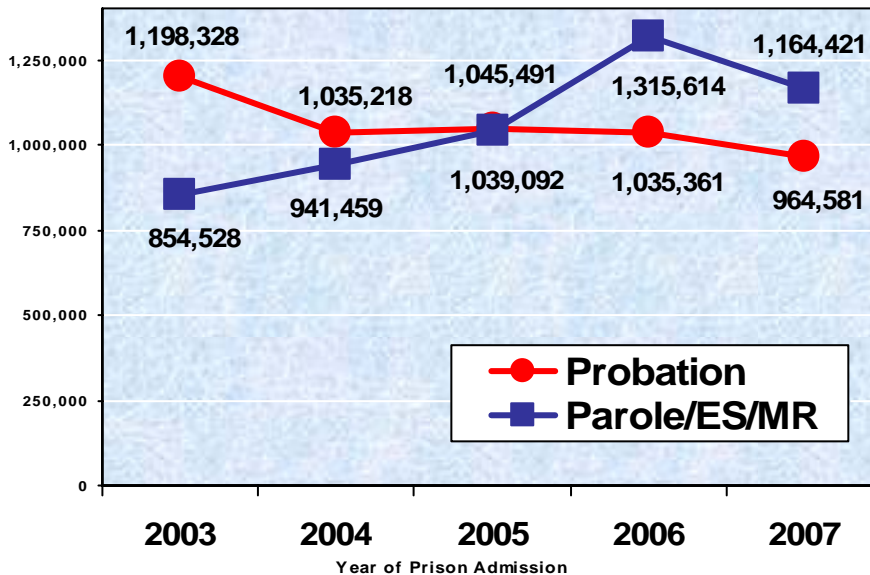
There were significant increases in the number of extended supervision (ES) violators and probation violators admitted to prison with no new sentence between 2003 and 2007 (Figure 2). In addition, 3,361 offenders were admitted to prison with no new sentence during the study timeframe. These offenders represented more than one-third (36%) of the total admissions with no new sentence, accounting for 7,281 of the 20,315 prison admissions during the timeframe.

Figure 2: Number Admitted to Prison With No New Sentence by Violator Type by Year



The number of probation violators increased over the years, but the amount of time spent in prison decreased. Thus, the total bed days used by probation violators actually decreased between 2003 and 2007 (Figure 3). Bed days used increased for parole/ES/MR violators, with a spike in 2006.

Figure 3: Total Prison Bed Days Consumed By Offenders Admitted to Prison With No New Sentence By Probation/Parole and Year



The implications of the aggregate analyses and findings included:

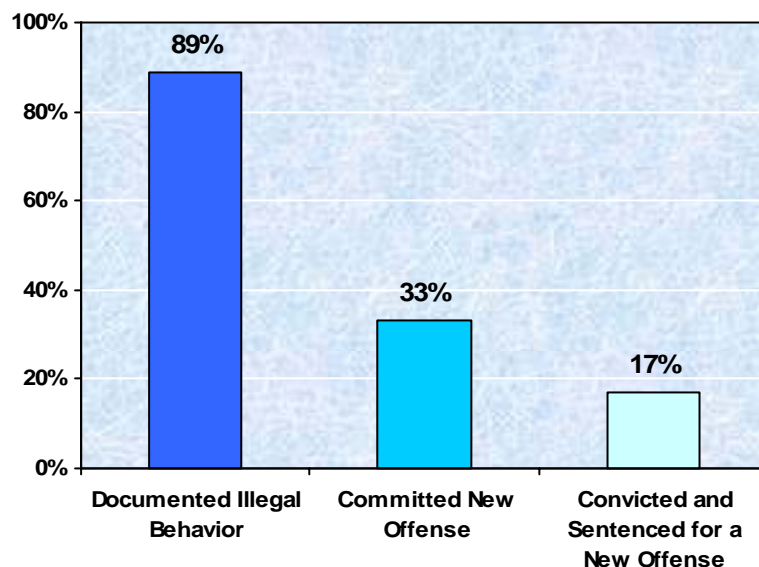
- 1) Identify approaches to address “churning” of ES violators who are repeatedly returned to prison with no new sentence;
- 2) Truth-In-Sentencing practices may have increased the length of time offenders are under supervision, increasing the likelihood of revocation; and
- 3) Uniform use of a validated criminal risk/needs assessment that accurately differentiates between offenders of varying risk levels is critical.

IN-DEPTH CASE-LEVEL ANALYSES OF REVOCATION

To gain insight into the events preceding revocation, PHI conducted in-depth case reviews of narrative and electronic data for a random sample of revocation cases. The case-level sample consisted of 200 offenders that were randomly selected by supervision region from the aggregate dataset to proportionally represent revocation by supervision region. Data related to offender behaviors, agent responses, revocation processes, and offender characteristics were abstracted from: Pre-sentence investigations, supervision violation reports, revocation summary, revocation order, risk/needs assessment results, classification summary, termination summary, supervision rules, revocation hearing disposition, chronological narrative agent contact logs, prison timeline, and Circuit Court Automated Program (CCAP) arrest, conviction, and sentencing data.

Analyses of these data revealed that the majority of offenders (89%) had a new offense or illegal act documented in the agent chronological log while on supervision. One-third of all offenders (33%) committed a new offense that was the basis for the revocation, and one-fifth (17%) of all offenders committed a new offense for which they were later convicted and sentenced (Figure 4).

Figure 4: Illegal Behavior/New Offense Prior to Revocation Based on Analysis of Case-Level Random Sample



N=200

In the majority of cases (81%) the agent responded to offender behaviors with a combination of graduated responses, community-based alternatives to revocation (ATR), repeated attempts over a period of time to encourage offender success in the community, or filing for revocation in response to a new offense. Agents used graduated responses to offender behaviors for 48% of all of the cases included in the case-level random sample.

Agents filed for revocation an average of 15 months after supervision start for all cases. Agents filed for revocation more quickly for ES violators, filing an average of eight months after supervision start. There were no significant differences in time to revocation filing by gender, race, age, year, supervision region, prior felony conviction, prior juvenile incarceration, conviction for a new crime, type of governing offense, or length of governing offense sentence.

Examination of governing offense sentences revealed that nearly one-half (44%) of the cases reviewed received a determinate sentence for their governing offense, one-third (34%) received an imposed & stayed sentence, and about one-fifth (22%) received a withheld sentence. Overall, offenders were sentenced to an average of 40 months of prison for their governing offense and ES violators received an average of 27 months of confinement and 32 months of ES supervision time for their governing offense. There was no difference in the average months of ES sentenced by year, but the average months of ES did vary by supervision region. Approximately one-half of the cases (48%) who received ES as a component of their sentence received an ES portion that was greater than the confinement portion.

Use of evidence-based practices should continue to be emphasized to reduce revocations that result in admission to prison with no new sentence. The Department should increase the consistent use of graduated responses to offender behaviors through continued implementation of the Department's *Functional Response to Violations* grid and emphasize the use of a continuum of non-incarceration intermediate sanctions such as substance abuse or mental health treatment, employment support, and electronic monitoring.

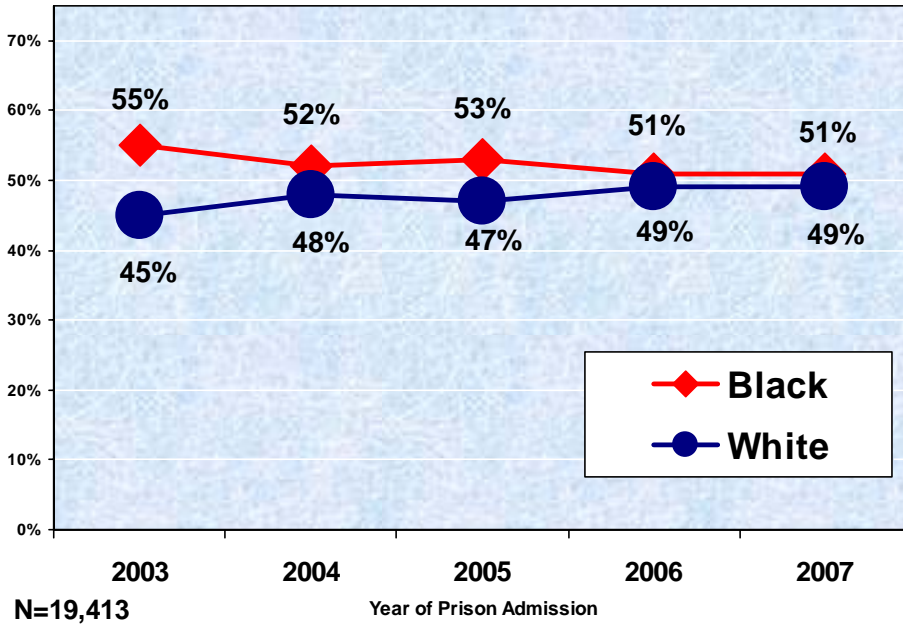
RACIAL DISPARITIES ANALYSES

An additional component of the current study was to contribute to the process of addressing recommendations of the Commission on Reducing Racial Disparities in the Wisconsin Justice System. Specifically, the study was asked to address the recommendation: “*DOC should monitor whether there is an ongoing racial disparity in revocations and whether there is any indication that such decisions are being made based upon any inappropriate considerations such as race or whether current practices are exacerbating racial disparity.*”

Both the aggregate historical data and the case-level random sample data were utilized to assess racial disparities in revocation among black and white (including Hispanic) offenders who were revoked and admitted to prison with no new sentence. Cases with a race designation of Native American, Asian, or other were excluded from the analyses. The dataset excludes sex offenders, offenders admitted to prison as temporary probation/parole admissions, and alternative to revocation admissions.

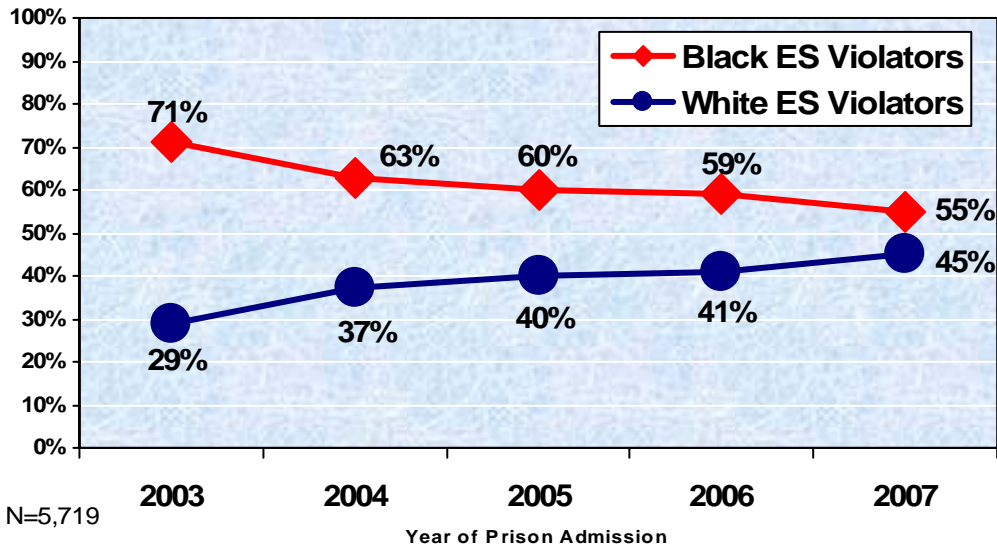
In 2007 blacks made up a smaller segment of the group of offenders admitted to prison with no new sentence than they did in 2003 (Figure 5). This is a statistically significant decrease. By 2007, approximately one-half of the violators admitted to prison with no new sentence were black and one-half were white. The results also revealed that admission to prison with no new sentence for blacks and whites did not vary significantly by supervision region, type of governing offense, or level of criminal risk or criminal need.

Figure 5: Admissions to Prison With No New Sentence By Race and Year



Further analyses by violator type (probation/parole/extended supervision/mandatory release) revealed a significant increase in the number of extended supervision (ES) violators returned to prison for both blacks and whites. However, the proportion of the ES violators admitted to prison with no new sentence who were black decreased from 71% in 2003 to 55% in 2007 (Figure 6).

Figure 6: Extended Supervision (ES) Violators Admitted to Prison with No New Sentence by Race and Year



Analyses of agent decision-making utilizing the case-level data on 200 randomly sampled cases revealed that there is no indication that agent decisions to file for revocation are being made based upon any inappropriate considerations such as race. There were no statistically significant differences between black and white offenders related to:

- 1) Whether agent responses to offender behaviors preceding revocation were consistent with the type/severity of offender behaviors and with current agency practice;
 - Determined by analysis of events in agent narrative chronological log:
 - *Agent use of graduated responses to offender behaviors*
 - *Number of contacts/events in chronological log*
 - *Length of supervision episode and time between events while on supervision*
 - *New offense(s)*
 - *Absconder status triggering revocation*
- 2) Whether agents used graduated responses to offender behaviors prior to revocation; or
- 3) How quickly agents filed for revocation (days from supervision start to agent revocation filing).

There were no statistically significant differences between black and white offenders revoked and admitted to prison with no new sentence with regard to year of prison admission, supervision region, how quickly the revocation hearing was conducted, commission of a new criminal offense, or length of governing offense sentence.

RECOMMENDATIONS FOR ACTION

The Department should utilize a multi-faceted approach to reducing revocation by choosing from options identified in the best practices review, the results of the current data analyses, and the recommendations of the Justice Reinvestment Initiative.

- 1) Emphasize use of a continuum of non-incarceration intermediate sanctions;
- 2) Increase the consistent use of graduated responses to offender behaviors through continued implementation of the *Functional Response to Violation* grid;
- 3) Improve uniform use of the DOC-502 risk/need assessment tool to focus resources on higher risk offenders and to improve the consistency of agency implementation of the assessment tool;
- 4) Collaborate with existing reentry initiatives, *Assess, Inform, Measure* (AIM) pilots, criminal justice coordinating councils, specialty treatment courts, and the *Treatment Alternatives and Diversion* (TAD) programs to facilitate a coordinated, system-wide partnership;
- 5) Enhance coordination with city/county agencies to facilitate increased use of community-based alternatives to revocation and other treatment and service options prior to revocation;
- 6) Consider changes to policies and practices which would limit the number and type of supervision rules imposed by the courts and agents;
- 7) Collaborate with the judiciary to assess the impact of Truth-In-Sentencing practices on the length of extended supervision sentences and the subsequent effect on prison populations;
- 8) Disseminate relevant study findings to agents through Division of Community Corrections unit supervisors for use in internal quality improvement processes;
- 9) Integrate these results and recommendations with those of the Justice Reinvestment Initiative and the Governor's Commission on Racial Disparities in the Criminal Justice System;
- 10) Consider and prioritize the recommendations to develop a comprehensive, evidence-based approach to reducing revocation that identifies specific areas of focus; and
- 11) Develop an internal action plan based on the approach selected that includes roles, staff responsibilities, and timelines for completion.