

Improving Outcomes and Safely Reducing Revocations from Community Supervision in Montana

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About the Crime and Justice Institute

The Crime and Justice Institute (CJI), a division of Community Resources for Justice, bridges the gap between research and practice with data-driven solutions that drive bold, transformative improvements in adult and youth justice systems. With a reputation built over many decades for innovative thinking, a client-centered approach, and impartial analysis, CJI assists agency leaders and practitioners in developing and implementing effective policies that achieve better outcomes and build stronger, safer communities. CJI works with local, state, tribal, and national justice organizations, providing nonpartisan policy analysis, implementation consulting, capacity-building assistance, and research services to advance evidence-based practices and create systems-level change. For more information, please visit: www.cj institute.org.

Table of Contents

Executive Summary.....	4
Background	5
Community Supervision in Montana	6
Key Findings	7
Revocation Trends: Parole	7
Revocation Trends: Probation	9
Revocation Trends: Conditional Release	10
CONDITION-SETTING AND MODIFICATION PROCESS	11
Condition Trends: Parole	12
Condition Trends: Probation.....	14
Condition Trends: Conditional Release.....	16
VIOLATION TRENDS.....	17
Violation Trends: Parole.....	18
Violation Trends: Probation	19
Violation Trends: Conditional Release	20
RESPONSES TO BEHAVIORS AND REVOCATION PROCEDURES.....	24
USE OF EVIDENCE-BASED SUPERVISION PRACTICES	28
BARRIERS TO SUPERVISION SUCCESS	29
ORGANIZATIONAL CULTURE AND SUSTAINABILITY OF REFORMS.....	34
Opportunities to Strengthen Community Supervision in Montana.....	36
FOCUS RESOURCES ON THE HIGHEST-RISK POPULATION	36
ENSURE SUPERVISION PRACTICES INTENDED TO REDUCE RECIDIVISM ARE IMPLEMENTED WITH FIDELITY.....	37
ADDRESS BARRIERS TO SUPERVISION SUCCESS	39
ENSURE SUSTAINABILITY OF POLICY AND PRACTICE CHANGES INTENDED TO IMPROVE OUTCOMES	40
Appendix: Methodology	42

Executive Summary

Across the United States, the majority of people under correctional supervision serve their sentence on probation or parole. As of 2020, data show that while just under 2 million people are incarcerated in either prison or jail, about 3.9 million individuals are on probation or parole.¹ Of the 1.8 million individuals who exit probation or parole annually, almost half do not successfully complete supervision. Of those who do not complete their supervision, 211,000 will return to prison or jail.² This has made revocation from probation or parole a leading driver of incarceration in the United States.³

Most individuals on community supervision in Montana are on probation, with nearly 9,300 individuals on probation as of 2019, compared to around 1,600 on parole and 1,700 on conditional release. Montana's rates of individuals on parole and probation per 100,000 people are lower than the national average (parole by 40 percent, probation by 16 percent), but both have been slowly growing over the past several years. While most individuals in Montana successfully complete probation supervision, revocation rates are consistently higher than success rates for individuals on parole and conditional release; in 2020, 54 percent of parole terminations and 64 percent of conditional release terminations were revocations.

In January 2020, the Montana Department of Corrections (DOC) requested assistance from the Crime and Justice Institute (CJI) in analyzing the factors driving unsuccessful supervision outcomes to help strengthen practices and expand efforts to reduce recidivism. Over the course of 18 months, CJI assessed Montana's community supervision system, analyzing individual-level and case-level data, reviewing the administrative and legal frameworks governing community supervision, conducting interviews with staff and stakeholders involved in community supervision, and administering a staff survey to better understand the drivers of revocations in Montana.

CJI found that:

- Revocation rates are lowest for individuals on probation and highest for individuals on conditional release;
- Revocation rates are highest for men, Native American individuals, younger individuals, individuals on supervision for a violent offense, and individuals assessed as high-risk across all types of supervision;
- For all types of supervision, the number of conditions that individuals receive has grown over time, and individuals who are revoked received a higher number of conditions than those who successfully complete;
- For all types of supervision, compliance violations are more common than noncompliance violations, but individuals are rarely revoked without at least one noncompliance violation;
 - For all types of supervision, drug use violations are the most common and amphetamines/methamphetamine are the most frequently used substance;
 - For individuals on parole and conditional release, new criminal offenses are the second most frequent violation, while failing to report is the second most common for individuals on probation;
 - For all types of supervision, drug use is the most common compliance violation, and new offenses and absconding are the most frequent noncompliance violations;
- Individuals revoked from supervision are more likely to be identified as experiencing housing instability and to have higher financial obligations than individuals who successfully complete, while substance use is a problem experienced by the majority of the supervised population;
 - Transportation and lack of mental health treatment are additional barriers to success;

- While incentives for compliance on community supervision exist, such as conditional discharge from supervision (CDFS) and early termination, barriers limit their use.

Based on these findings, CJI identified 11 opportunities to safely reduce revocations and improve community supervision outcomes in Montana. These opportunities include focusing resources on the highest-risk population, ensuring evidence-based supervision practices intended to reduce recidivism are implemented with fidelity, addressing barriers to success, and ensuring the sustainability of policy and practice changes to improve outcomes.

The findings and recommendations outlined in this report are meant to provide policymakers, local government officials, supervision administrators, and other relevant stakeholders with the information necessary to improve their current practices through the implementation of data-driven reforms that will help promote long-term success for justice-involved individuals and their families.

Background

Although revocation of probation or parole is now a leading driver of incarceration in the United States, there remains little research to identify what is driving revocations.⁴ To fill this gap and help states understand what is leading to high rates of failure, the Crime and Justice Institute (CJI), with support from Arnold Ventures, worked with supervision agencies in four states to understand the factors driving revocations and identify strategies to safely reduce revocations while improving public safety. CJI selected supervision agencies as partners in Colorado, Florida, Mississippi, and Montana based on a variety of criteria such as availability of data, state interest in and willingness to entertain change, and access to agency personnel.

In all four states, CJI completed an analysis focused on several key areas:

- Who is being revoked on community supervision and for what?
- How are supervision conditions set, modified, and monitored, and how do those conditions affect an individual's success on supervision?
- What kinds of tools are available to help probation or parole officers respond to violations of supervision conditions?
- To what extent are policies and practices focused on reducing recidivism and assisting the individual in successfully completing supervision?
- What programming and resources are available in the community to address the supervised population's criminogenic needs and responsiveness factors?⁵
- What are the attitudes, values, and beliefs shared among stakeholders in regard to the purpose of community supervision and use of evidence-based practices to reduce recidivism?

To answer these questions and develop a comprehensive understanding of the factors driving unsuccessful supervision outcomes, CJI analyzed individual-level data in each state to assess the supervision population and understand supervision outcome trends. In addition to this quantitative analysis, CJI conducted a qualitative assessment that included reviewing state statutes, court rules, and administrative policies and procedures to understand the legal framework, as well as interviewing key stakeholders such as agency leadership, line staff and supervisors, judges, prosecutors, defense attorneys, and people at advocacy organizations. CJI also conducted a staff survey and a detailed review of case files to provide additional context to the findings. CJI's full methodology for the assessment can be found in the Appendix.

This report summarizes the quantitative and qualitative findings and makes recommendations to improve community supervision outcomes and enhance public safety in Montana. A separate national report summarizes the findings from all four states.

Community Supervision in Montana

In Montana, the Department of Corrections (DOC) supervises individuals who have been convicted of a felony and placed on community supervision. The state is divided into six supervision regions, each of which contains three or four local offices. The Central Office, located in Helena, is responsible for statewide training coordination, data evaluation, policy and program development and implementation, legislative and budget coordination, and interagency collaboration.

Montana has three types of community supervision: probation, parole, and conditional release. Individuals can be placed on probation as part of a deferred or a suspended sentence, although a deferred sentence is limited to those convicted of their first felony offense. Individuals placed on probation through a deferred sentence have a chance to avoid a prison sentence if they successfully complete a set period of supervision, and if they do so, they can petition the court to have the record sealed and the sentence expunged. If an individual is placed on probation as part of a suspended sentence, the sentencing judge will impose a sentence but suspend the execution of all or part of that sentence and order the individual to a period of probation.⁶

The second type of community supervision under the authority of Montana's DOC is parole. All people who have received a prison sentence in Montana become eligible for parole after serving one-fourth of their sentence, minus any jail credit,⁷ unless they have committed a crime that incurs a life sentence without the possibility of release. The court may also restrict a person's eligibility for parole at sentencing. In all other cases, once the person becomes parole eligible, the Parole Board can grant parole after convening a hearing on their case.

The third and final supervision type under the authority of Montana's DOC is conditional release, which is considered a release option separate from parole. To be eligible for conditional release, a judge must order, at sentencing, that the individual be committed to the DOC for the purposes of placement in an appropriate program as determined by DOC. In these cases, DOC can conditionally release them from custody before their sentence expires, whereupon they can serve out the rest of their sentence under community supervision.⁸

Over the past decade, the number of individuals on community supervision in Montana has grown by 22 percent. This growth is reflected in each of the three types of community supervision; the probation population has grown by 13 percent, the parole population by 43 percent, and the conditional release population by 78 percent. As of 2019, Montana's parole rate was 182 individuals on parole per 100,000, 40 percent lower than the national average of 301, while the probation rate was 1,136 individuals on probation per 100,000, which is 16 percent lower than the national average of 1,358.

In 2019, there were over 12,500 individuals on community supervision in Montana, with nearly 9,300 individuals on probation, nearly 1,600 on parole, and nearly 1,700 on conditional release. The typical person on community supervision was male, white, between 25 and 44 years old, supervised for a drug or violent offense as their most serious offense, and supervised in Region II (Helena). Most men on supervision were assessed as low-risk for recidivism, while most women were assessed as moderate-risk.

Some key differences exist between the three community supervision populations in Montana. There are proportionately more men on parole than on probation or conditional release (87 percent compared to 73 percent and 74 percent, respectively), and the parole population is older (75 percent are 35 and older, as compared to 63 percent of the probation population and 59 percent of the conditional release population). More individuals are supervised for drug offenses on conditional release (48 percent compared to 28 percent on parole and 34 percent on probation) and more individuals are supervised for violent offenses on parole (34 percent compared to 15 percent on probation and 17 percent on conditional release). While a plurality of individuals on all three types of supervision are supervised in Region II (Helena), the proportion is greatest for individuals on parole (35 percent compared to 26 percent of the probation and conditional release populations).

There were also notable differences in the risk levels of the community supervision population. In Montana, men and women are assessed using different risk assessment tools. Both sexes can be assessed as low risk or moderate risk. However, where the second-highest and highest risk levels for women are medium risk and high risk, respectively, the second-highest risk level for men is high risk, and the highest risk level is very high risk. Fewer men on probation are assessed as moderate-risk than on parole or conditional release (25 percent compared to 31 and 34 percent, respectively), and women on probation tend to be assessed as lower risk than on parole or conditional release (28 percent of women on probation are assessed as low risk, as compared to 18 percent of women on parole and 11 percent of women on conditional release). With this context in mind, the following section includes the findings from CJI’s qualitative and quantitative assessment.

Key Findings

This first section outlines CJI’s findings related to community supervision revocation trends in Montana. The data provided were drawn from cohorts of individuals who terminated supervision between 2012 and 2020; given the significant impact of the COVID-19 pandemic on the justice system throughout the country, when examining trends over time, the years 2012 and 2019 are used as points of comparison to better assess the regular practices of the Montana DOC under less extraordinary circumstances.

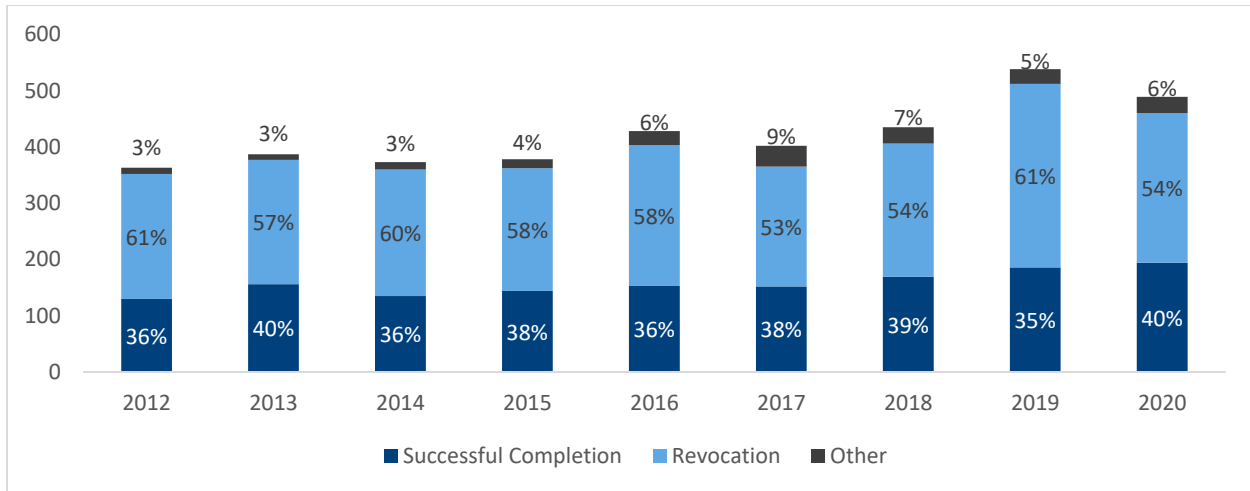
Across all three types of community supervision in Montana, revocation rates are highest for men, Native American individuals, younger individuals, individuals with violent offenses, and individuals assessed at the highest risk level. Revocation rates are consistently highest for individuals on conditional release and lowest for individuals on probation; individuals on conditional release also spend the least amount of time on supervision prior to revocation, while individuals on probation spend the most amount of time on supervision prior to revocation. The following sections will discuss the specific findings for each type of supervision in greater detail.

Revocation Trends: Parole

More than half of individuals terminating parole are revoked

Since 2012, more individuals have been revoked from parole than successfully completed their term of supervision. Trends have been inconsistent throughout the decade, as reflected in Figure 1, but overall revocations dropped from comprising 61 percent of parole terminations in 2012 to 54 percent in 2020.

Figure 1. Parole Terminations, 2012-2020⁹



Revocation rates vary by demographic and geographic factors, including underlying offense and risk level

While revocation rates remain high across the entirety of Montana’s parole population, certain demographic groups are less likely to successfully complete parole supervision than others. In particular, in 2019, men had a revocation rate of 60 percent (compared to 52 percent for women), Native American individuals had a revocation rate of 71 percent (compared to 54 percent for white individuals), and individuals aged 25 to 34 and 35 to 44 had revocation rates of 65 percent and 62 percent, respectively (compared to 55 percent for individuals aged 45 to 54 and 44 percent for individuals aged 55 and older).

Additionally, individuals supervised for a violent, drug, sex, or influence offense (such as driving under the influence or negligent vehicular assault) as their most serious offense had revocation rates higher than the overall 2019 parole revocation rate of 54 percent, while individuals supervised for a person or property offense had lower revocation rates. Individuals supervised in Region IV (Billings) had the highest revocation rates in 2019 (66 percent), while individuals supervised in Region VI (Glendive) had the lowest (50 percent).

Revocation rates also varied by risk level. While too few women assessed as low risk and high risk terminated parole in 2019 for accurate comparisons, revocation rates in 2019 were highest for men assessed as moderate risk (70 percent, as compared to 62 percent for men assessed as high risk and 45 percent for men assessed as low risk). However, in 2020, revocation rates for men increased as risk level increased, with 45 percent of men assessed as low risk being revoked from parole, 54 percent of men assessed moderate risk being revoked, and 76 percent of men assessed high risk being revoked.

Time to revocation for individuals on parole peaks at three to four months, and half of parole revocations occur within a year

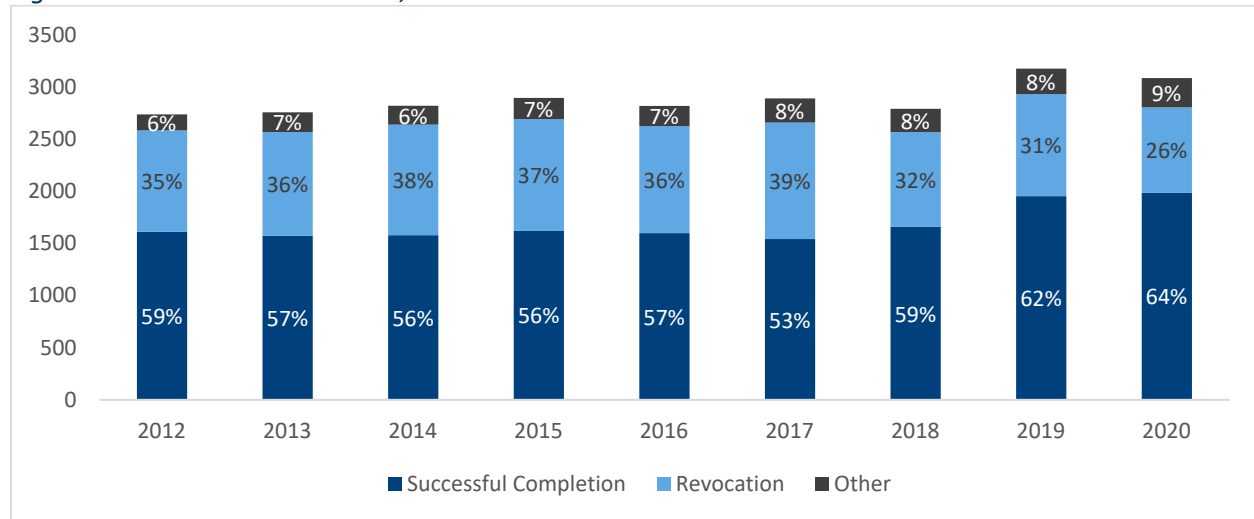
Individuals revoked from parole in 2020 spent a median time of just under a year on parole supervision, as compared to just over a year-and-a-half for individuals who successfully completed parole. The highest number of revocations occurred at either three or four months; approximately a quarter of individuals were revoked after six months or less, and 55 percent of individuals were revoked after being on supervision for a year or less. Compared to 2019, individuals are spending more time on parole before being revoked; 64 percent of individuals revoked from parole in 2019 were revoked after a year or less.

Revocation Trends: Probation

Probation revocation rates are relatively low, but men, Native American individuals, younger individuals, and individuals assessed as high risk are more likely to be revoked

Since 2012, revocations have comprised fewer than 40 percent of probation terminations, declining from a high of 39 percent in 2017 to a low of 26 percent in 2020, as illustrated in Figure 2 below.

Figure 2. Probation Terminations, 2012-2020



Similar to the parole population, revocation rates for the probation population in 2019 were higher for men than for women (33 percent compared to 25 percent), higher for Native American individuals than for white individuals (43 percent compared to 28 percent), and highest for the youngest age group of 18- to 24-year-olds (43 percent compared to a maximum revocation rate of 38 percent for individuals over 25, declining further for each subsequent age group). Also, individuals supervised in Region IV (Billings) had the highest revocation rates in 2019 (37 percent), while individuals supervised in Region VI (Glendive) had the lowest (23 percent).

Individuals supervised for a sex offense or violent offense as their most serious offense had the highest probation revocation rates in 2019 (37 and 39 percent, respectively); individuals supervised for an influence offense or a person offense had the lowest revocation rates (18 percent and 21 percent, respectively). For both men and women, revocation rates increased as risk level increased. Men assessed as low risk in 2019 had a revocation rate of 18 percent, while men assessed as very high risk had a revocation rate of 94 percent. Women assessed as low risk had a revocation rate of 9 percent, while women assessed as high risk had a revocation rate of 52 percent. The same trend held true in 2020, though revocation rates for every group have gone down.

Time to revocation for those on probation peaks at 11 months, and most individuals on probation are revoked within two years

Individuals revoked from probation in 2020 spent less than half the time on probation supervision as those who successfully completed (a median number of 16 months compared to 34). The largest number of individuals were revoked from probation at 11 months, with 38 percent of individuals revoked after a year or less and 71 percent revoked after two years or less. For both men and women, individuals assessed as low risk spent the most time on probation prior to being revoked (around two

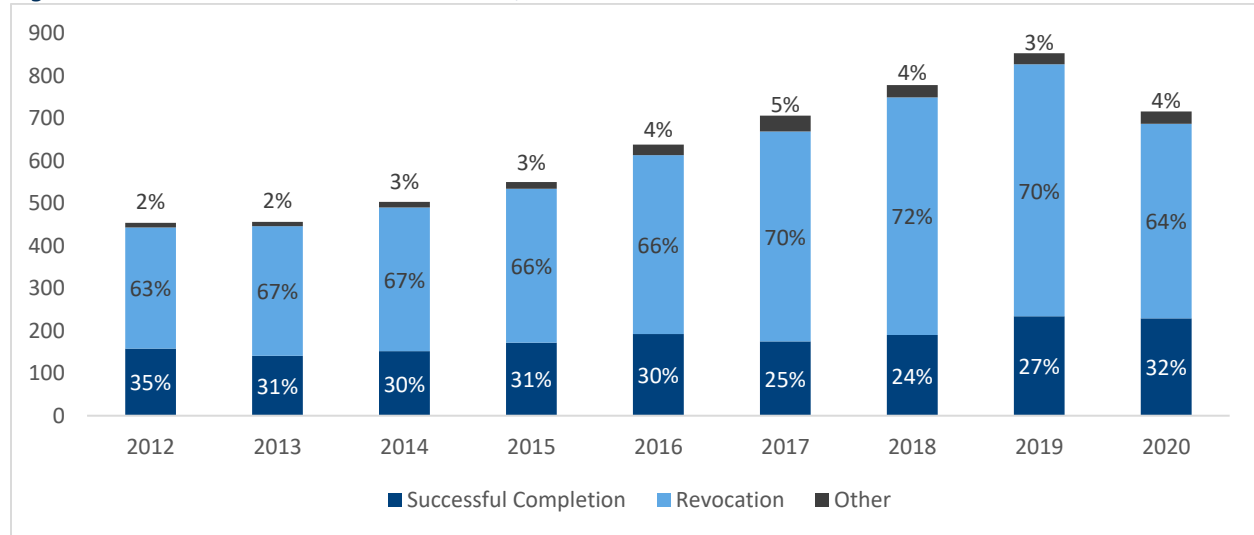
years for both), and men assessed as very high risk and women assessed as high risk were revoked earliest.

Revocation Trends: Conditional Release

Conditional release has the highest revocation rate of all community supervision types

Since 2012, revocations have comprised close to or over two-thirds of all terminations from conditional release. Revocations dropped from comprising 70 percent of terminations in 2019 to 64 percent in 2020, the second lowest proportion of the decade. Figure 3 illustrates these trends.

Figure 3. Conditional Release Terminations, 2012-2020¹⁰



Revocation rates vary by demographic and geographic factors, as well as underlying offense and risk level

As with the parole and probation populations, revocation rates for the conditional release population in 2019 were higher for men than for women (71 percent compared to 64 percent), higher for Native American individuals than for white individuals (77 percent compared to 67 percent), and highest for the youngest age group of 18- to 24-year-olds (89 percent compared to a maximum revocation rate of 70 percent for individuals over 25).

Individuals supervised for a drug or violent offense as their most serious offense had the highest revocation rates in 2019 (71 and 78 percent, respectively), while individuals supervised for a person offense had the lowest (53 percent). Individuals supervised in Regions II and VI (Helena and Glendive) had the highest revocation rates in 2019 (75 percent), while individuals supervised in Region V (Kalispell) had the lowest (64 percent).

In 2019, revocation rates increased as risk level increased for both men and women, with individuals assessed as low risk having the lowest revocation rates and individuals assessed as high risk having the highest. However, in 2020, while men assessed as high risk still had the highest revocation rate (72 percent), men assessed as low risk or moderate risk had the same likelihood of revocation (66 percent). Women assessed as high risk in 2020, on the other hand, had the second lowest revocation rate (42 percent compared to 29 percent for women assessed as low risk), with women assessed as moderate risk having the highest revocation rate (56 percent) and women assessed as medium risk having the second highest (50 percent).

Time to revocation for individuals on conditional release peaks at three months and most individuals are revoked within a year

Individuals revoked from conditional release spent less than half as much time on supervision as individuals who successfully completed (nine-and-a-half months compared to 21 months). In 2020, time on conditional release prior to revocation peaked at three months, with about two-thirds of revocations occurring within an individual’s first year. While time spent on conditional release prior to revocation decreased as risk level increased for men in 2020, risk level was inconsistently related to time on supervision for women, with women assessed as high risk spending the most time on conditional release prior to revocation (nearly 20 months, compared to women assessed as low risk being revoked after just under 14 months).

CONDITION-SETTING AND MODIFICATION PROCESS

Conditions of supervision set the foundation for, and directly influence, the compliance monitoring aspects of community supervision. Studies show that conditions should be realistic, relevant, and supported by research. Realistic conditions are ones that an individual has the ability to follow and that supervision officers have the capacity to monitor; relevant conditions address an individual’s criminogenic needs and take into account individual strengths and responsivity factors; and research-supported conditions focus on conditions that lead to long-term behavior change.¹¹

In Montana, conditions of supervision for people on probation, parole, and conditional release are assigned at sentencing by the judge. However, for people on parole, the Parole Board can add additional conditions during the parole process. Similarly, the DOC may add additional conditions for those placed on conditional release. The Montana Supreme Court has consistently held that court-imposed conditions of supervision must be related to the crime for which the person was convicted, known as a “nexus to the crime,” or to their unique background and characteristics.¹² Under the Administrative Rules of Montana (ARM), there are 12 standard conditions that are typically assigned to people on probation, parole, and conditional release.¹³ In addition to these conditions, under Montana law, some conditions are automatically assigned to individuals who commit certain crimes, such as sex offenses. These are known as statutory conditions. Finally, additional individualized conditions known as “special conditions” can be ordered by a judge, the DOC, or the Parole Board for individuals placed on the supervision type under their authority.

Montana’s standard conditions include:

- Not changing residence without permission, and making the residence open for officer visits
- Not leaving the district without permission
- Seeking and maintaining employment or an approved program
- Submitting written monthly reports
- Not owning weapons
- Receiving permission before engaging in a business, making significant purchases, or incurring debt
- Submitting to officer searches
- Complying with all relevant laws and reporting any law enforcement contact
- Not using or possessing drugs or alcohol
- Not gambling
- Paying all court-ordered fines, fees, and restitution
- Abiding by additional conditions as ordered by the Court or Parole Board

Terms and conditions of supervision are not focused on criminogenic risk

In addition to the 12 standard conditions, CJI’s review of case files revealed that individuals on supervision can be assigned as many as 20 special and statutory conditions. Interviews with DOC staff and practitioners revealed that conditions set at the time of sentencing may not align with the person’s criminogenic needs, which limits DOC’s ability to supervise individuals based on their risk to reoffend. Some standard conditions may be unnecessary for all individuals on supervision and can create barriers to success. For example, all people on supervision are prohibited from drinking alcohol and must submit to random drug testing, whether or not they have a history of substance use.

These types of conditions create more opportunities for the person to violate their supervision conditions by missing an appointment or drug test, even though the conditions are not related to their specific offense. Judges can approve or modify these conditions, but they are recommended by default in the Administrative Rules of Montana (ARM) and are therefore always included in the Pre-Sentence Investigations (PSIs) that form the basis for the plea agreement.

CJI conducted an analysis of conditions for each type of community supervision using cohorts of individuals who terminated supervision between 2012 and 2020; given the significant impact of the COVID-19 pandemic on the justice system throughout the country, when examining trends over time, CJI’s analysis used the years 2012 and 2019 as points of comparison to better assess the regular practices of the Montana Department of Corrections under less extraordinary circumstances.

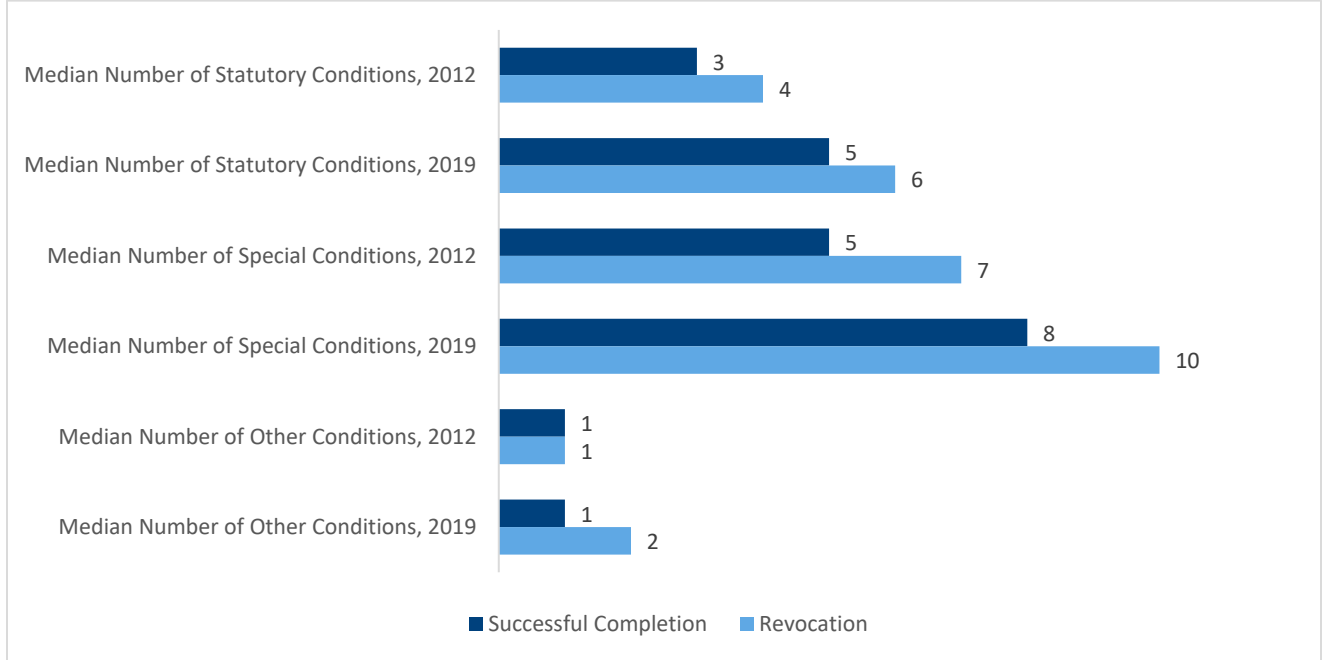
For all types of supervision, the number of conditions that individuals receive has grown over time, and individuals who are revoked receive a higher number of conditions than those who successfully complete. In addition, individuals who are revoked from parole and probation are more likely to receive most types of special conditions. The following subsections take a closer look at trends in condition setting across each type of community supervision.

Condition Trends: Parole

The number of conditions assigned to individuals on parole has grown over time, and individuals revoked from parole typically receive more conditions

In 2012, individuals who successfully completed parole were assigned a median number of 21 total conditions, and individuals who were revoked from parole were assigned a median number of 27 total conditions. By 2019, these numbers had grown to 26 and 34, respectively, due primarily to growth in the number of statutory and special conditions ordered. Figure 4 illustrates the growth in number of conditions assigned beyond the standard conditions of parole over time; all individuals on parole received more statutory and special conditions in 2012 than in 2019, but individuals revoked from parole consistently received more of both types of conditions.

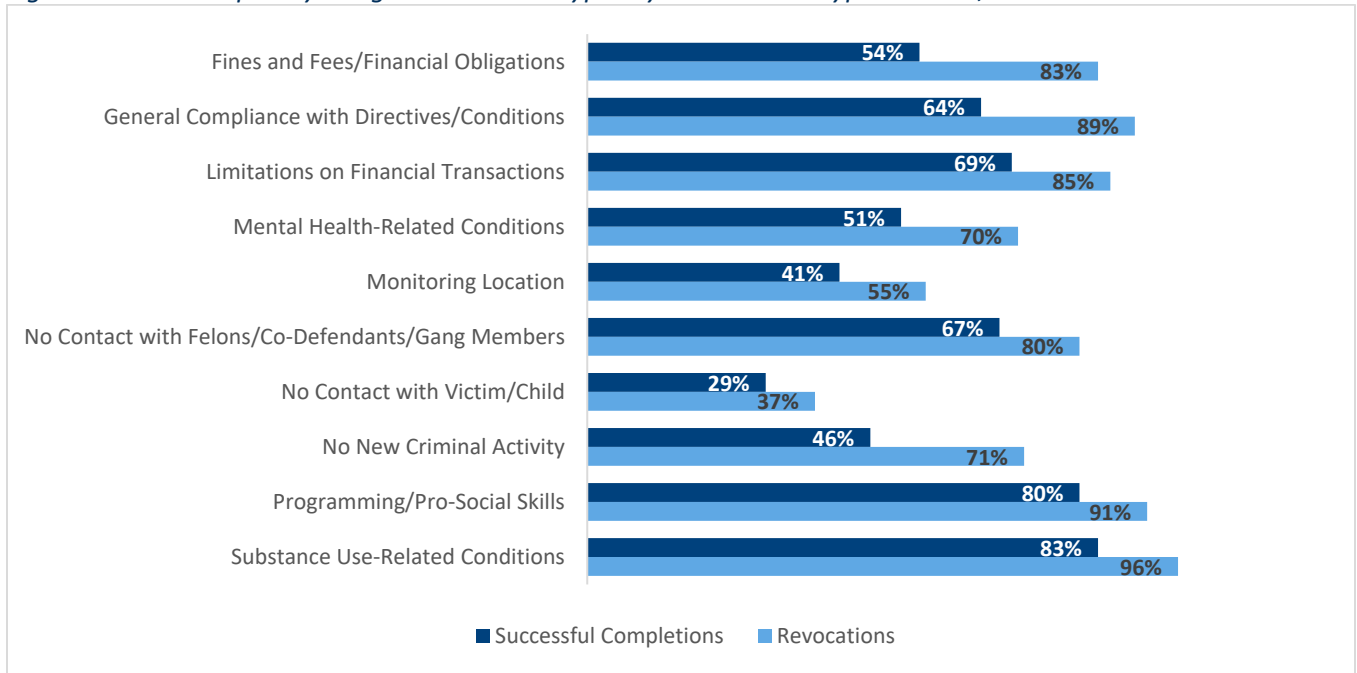
Figure 4. Median Number of Statutory, Special, and Other Parole Conditions by Type of Termination, 2012 and 2019



Individuals revoked from parole are more likely to receive every type of parole condition

The higher number of conditions assigned to individuals who were eventually revoked also did not correspond to a specific type of condition; rather, individuals who were revoked from parole were more likely to receive every type of condition. Figure 5 illustrates that in 2019, individuals revoked from parole were especially more likely to receive conditions related to financial obligations, general compliance, mental health, and prohibiting new criminal activity, but every type of condition was assigned more frequently to individuals who were revoked than those who successfully completed parole.

Figure 5. Most Frequently Assigned Condition Types by Termination Type – Parole, 2019

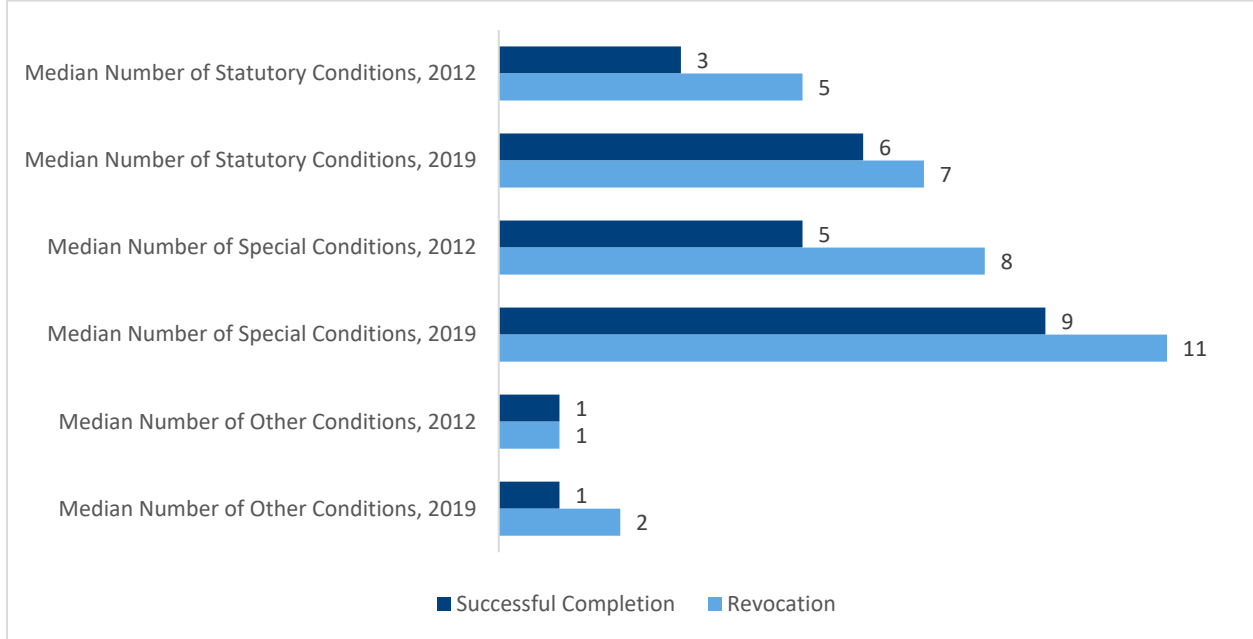


Condition Trends: Probation

The number of conditions assigned to individuals on probation has grown over time, and individuals revoked from probation receive more conditions

In 2012, individuals who successfully completed probation were assigned a median number of 24 total conditions, and individuals who were revoked from probation were assigned a median number of 27 total conditions. By 2019, these numbers had grown to 33 and 35, respectively, due primarily to growth in the number of statutory and special conditions ordered. Figure 6 illustrates the growth in number of conditions total conditions ordered for individuals on probation between 2012 and 2019; all individuals on probation received more statutory and special conditions in 2012 than in 2019, but individuals revoked from probation consistently received more of both types of conditions.

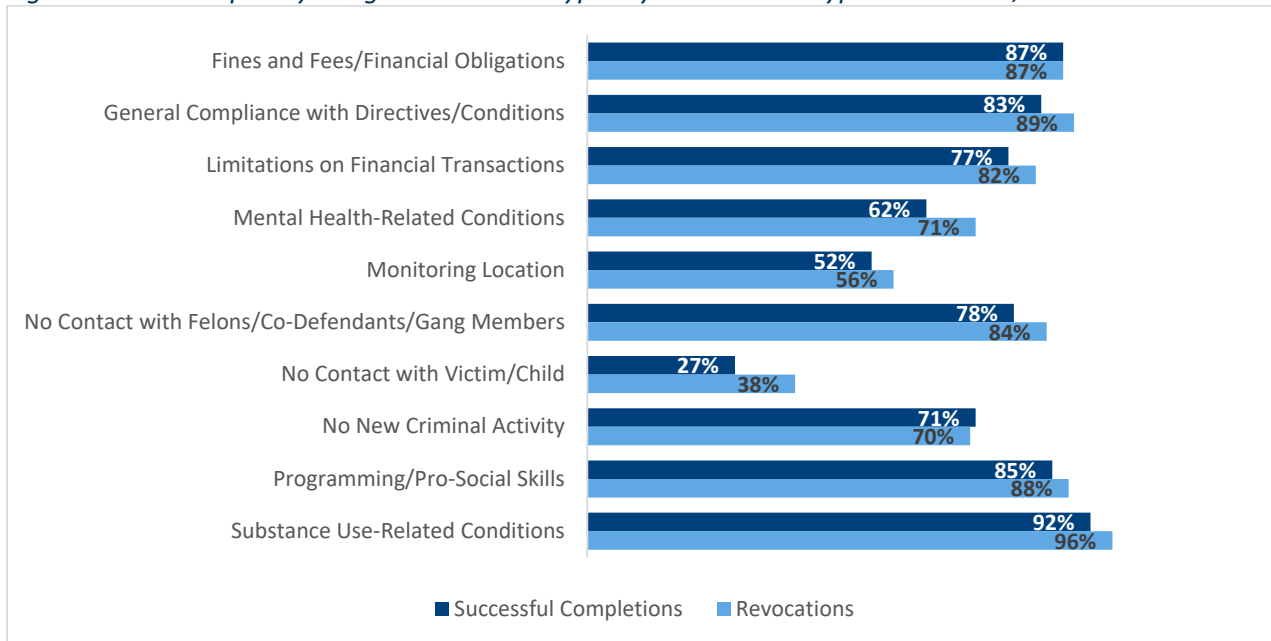
Figure 6. Median Number of Statutory, Special, and Other Probation Conditions by Type of Termination, 2012 and 2019



Individuals revoked from probation are more likely to receive most types of probation conditions

The higher number of conditions assigned to individuals who were eventually revoked did not correspond to a specific type of condition; rather, individuals who were revoked from probation were more likely to receive most types of conditions. Figure 7 shows that the gap was widest in 2019 for conditions prohibiting contact with victims or children; conditions prohibiting contact with felons, co-defendants, or individuals in a gang; conditions relating to mental health; and conditions relating to general compliance.

Figure 7. Most Frequently Assigned Condition Types by Termination Type – Probation, 2019

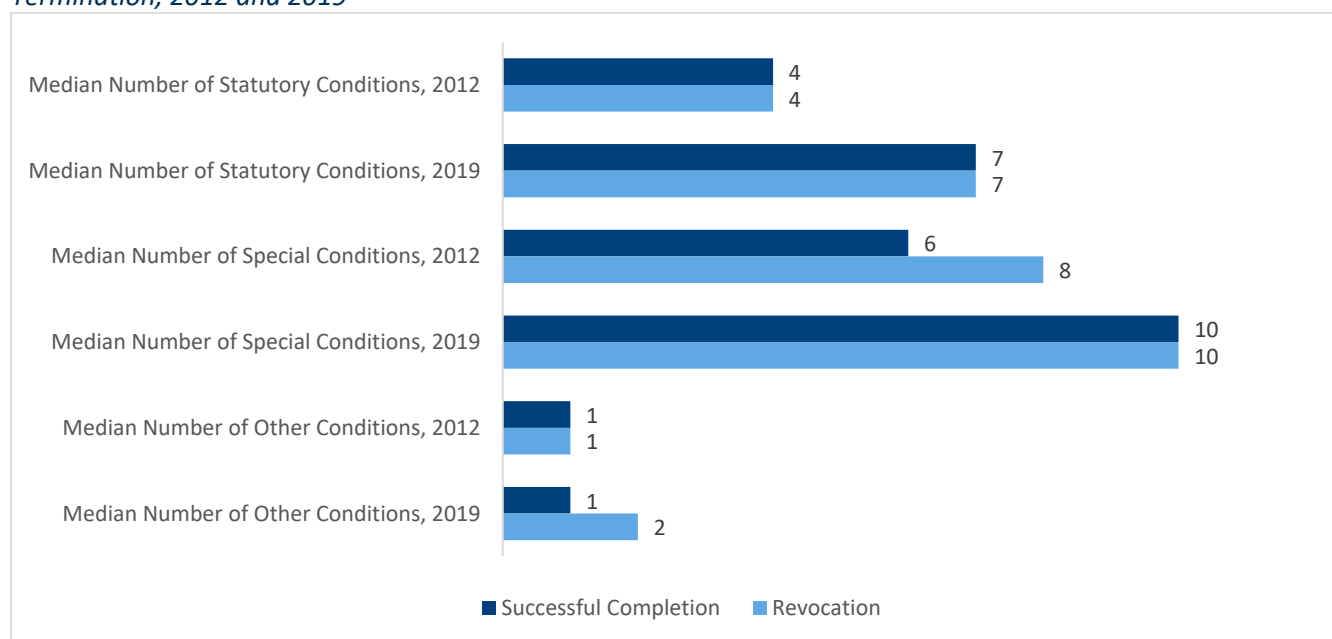


Condition Trends: Conditional Release

The number of conditions assigned to individuals on conditional release has grown over time, and individuals revoked from conditional release receive slightly more conditions

In 2012, individuals who successfully completed conditional release were assigned a median number of 23 total conditions, and individuals who were revoked from conditional release were assigned a median number of 27 total conditions. By 2019, these numbers had grown to 33 and 34, respectively, due primarily to growth in the number of statutory and special conditions ordered. Figure 8 illustrates the growth in number of conditions ordered for individuals on conditional release between 2012 and 2019; all individuals on conditional release received more statutory and special conditions in 2019 than in 2012, and individuals revoked from conditional release received more special conditions than individuals who successfully completed in 2012. By 2019, however, individuals received the same number of statutory and special conditions regardless of termination type, with individuals revoked from conditional release only receiving an additional “other” condition.

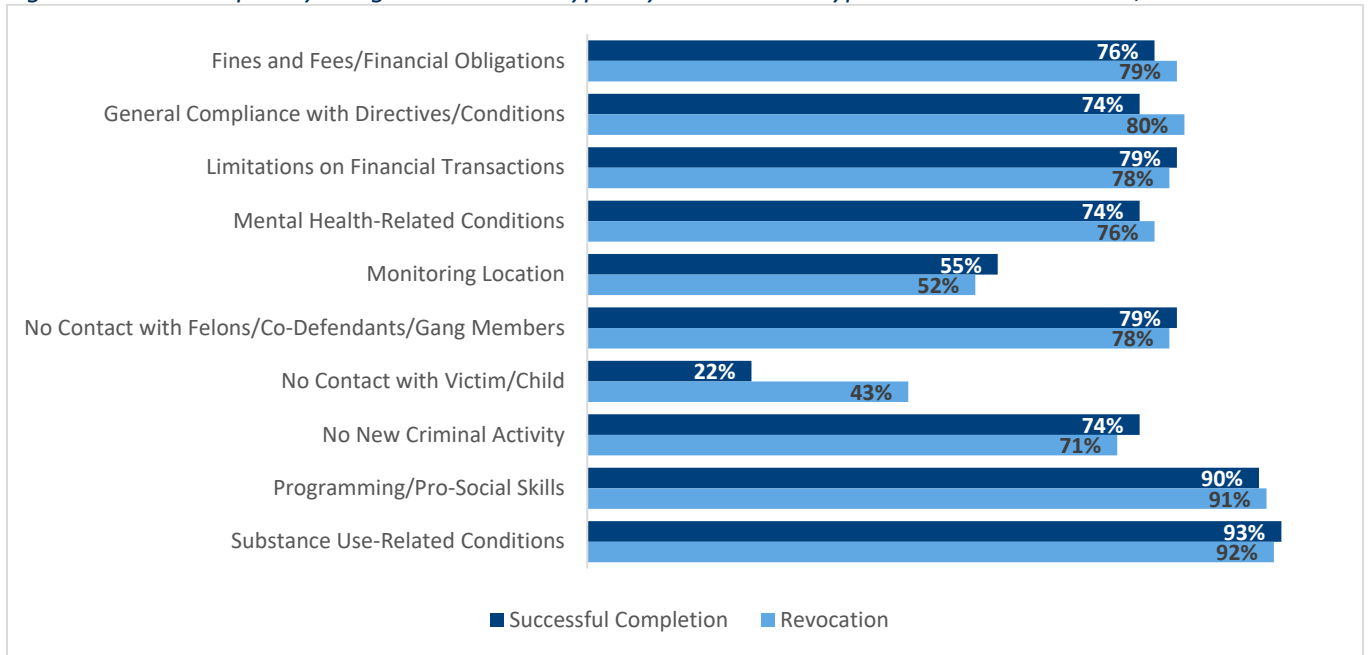
Figure 8. Median Number of Statutory, Special, and Other Conditional Release Conditions by Type of Termination, 2012 and 2019



Differences in types of conditions received by type of termination are minimal

There were minimal differences between the types of conditions received by individuals who successfully completed conditional release and those who were revoked. Figure 9 shows that in 2019, individuals who were revoked from conditional release were more likely to receive only five of the 10 most frequently assigned types of conditions, and at a rate only slightly greater than those who successfully completed. The exception was conditions relating to prohibiting contact with a victim or a child, which individuals revoked from conditional release were almost twice as likely to receive.

Figure 9. Most Frequently Assigned Condition Types by Termination Type – Conditional Release, 2019



VIOLATION TRENDS

To better understand the drivers of community supervision revocation rates in Montana, CJI conducted an analysis of data pertaining to violations committed by individuals on supervision. This section outlines the findings from this analysis, which include a case file review of probation and parole violations and individual-level violation data from the conditional release population.

In Montana, supervision violations are divided into two types: compliance and noncompliance violations. Compliance violations occur when a person fails to comply with their conditions of supervision, such as by failing a drug test or missing a meeting with their probation or parole officer. These are often referred to in other states as technical violations. Noncompliance violations reflect more serious infractions, including a new criminal offense; possessing a firearm in violation of supervision conditions; stalking, harassing, or threatening the victim, their family, or a member of their support network; absconding; or failing to enroll in or complete a sex offender or violent offender treatment program.¹⁴

When a probation or parole officer decides that a person should be revoked from supervision, they file a Report of Violation (ROV) containing a description of the person’s alleged violations, the officer’s responses, and their recommended disposition. If the person is on probation, the officer sends the ROV to the sentencing court, and if they are on parole, the ROV is sent to the Parole Board. For compliance violations, DOC policy requires the officer to utilize and exhaust all appropriate responses to violations before recommending that the person be revoked.^{15,16} If the court or the Parole Board finds that the officer has not exhausted the other available options, they may refer the case back to the department. In the case of individuals on conditional release, the supervising officer convenes a disciplinary hearing with the person and a hearing officer, and the hearing officer recommends a disposition to the DOC.

CJI analyzed a sample of ROVs from 2019 community supervision terminations, as well as violation reports from OMIS, the state’s data management system, to track trends in violation behaviors among

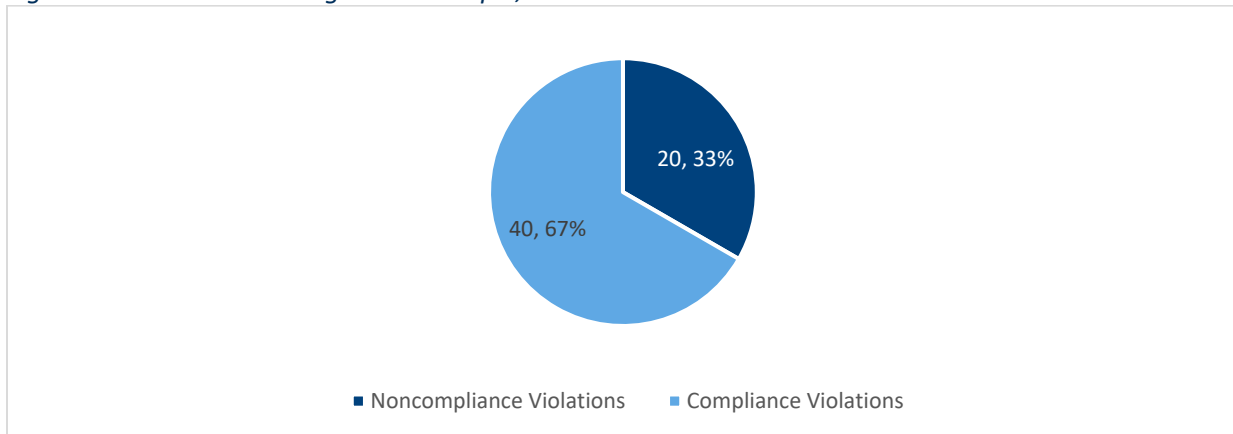
individuals on supervision. For all types of supervision, compliance violations were more common than noncompliance violations, but individuals were rarely revoked without at least one noncompliance violation. Across the entire community supervision population, drug use violations were the most common and amphetamines/methamphetamine were the most frequently used drug. For individuals on parole and conditional release, new offenses were the second most frequent violation; for individuals on probation, failure to report was the second most common violation. The following subsections take a closer look at trends in violations for each type of community supervision.

Violation Trends: Parole

Compliance violations are more common, but individuals are more often revoked from parole for noncompliance violations

When analyzing a sample of 39 ROVs filed with intent to revoke from 2019 parole terminations, CJI found that the majority of individuals in the sample who were revoked from parole had multiple violations cited on their ROVs, with compliance violations cited about twice as frequently as noncompliance violations. However, nearly every ROV had at least one noncompliance violation cited, with only four individuals in the sample having only compliance violations. Additionally, two of those individuals had an overlap of employment violations, residence violations, and failure to report; those three violations together are often used as a proxy for absconding behavior, which is a noncompliance violation. The distribution of all cited violations from individuals in the sample that were revoked from parole in 2019 is illustrated in Figure 10.

Figure 10. Violations among Parole Sample, 2019

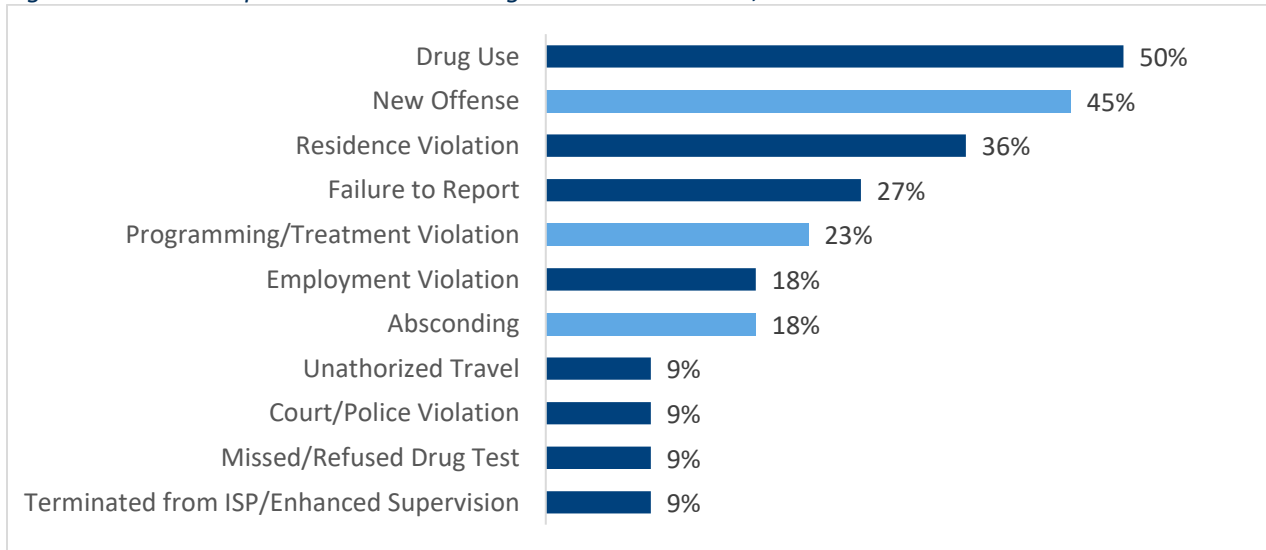


Source: MDOC File Review, 2019 parole terminations

The most frequently occurring compliance violation is drug use, while the most frequent noncompliance violations are new offenses and absconding

Figure 11 shows the most frequently cited violation behaviors among individuals revoked from parole in the 2019 sample. Half the sample had at least one instance of drug use; nearly three-quarters of individuals with these violations used amphetamines or methamphetamine, over half used alcohol, and over a quarter used marijuana. Nearly half of the sample had a new offense, with about equal numbers of new felonies and new misdemeanors; the most frequent offenses were criminal endangerment and driving under the influence (both felonies). In addition to 18 percent of the sample having at least one absconding violation, 14 percent of the sample had an overlap of employment violations, residence violations (primarily changing residence without permission or notice), and failure to report, which, according to DOC staff, is used as a proxy for absconding, meaning the true proportion of absconding behavior in the sample was closer to 32 percent.

Figure 11. Most Frequent Violations among Parole Revocations, 2019



Dark blue bars indicate compliance violations; light blue bars indicate noncompliance violations.

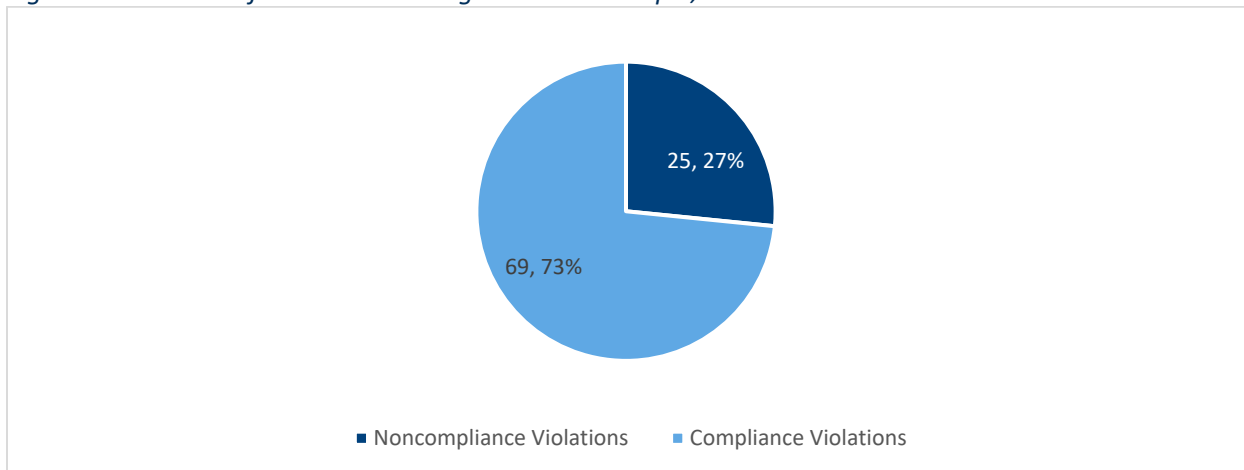
Source: MDOC File Review, 2019 parole terminations

Violation Trends: Probation

Compliance violations are more common, but individuals are revoked from probation for noncompliance violations

When analyzing a sample of 88 ROVs filed with intent to revoke from 2019 probation terminations, CJI found that most individuals revoked from probation had multiple violations cited on their ROVs, and compliance violations were cited nearly three times as frequently as noncompliance violations. The distribution of all cited violations from individuals in the sample that were revoked from probation in 2019 is illustrated in Figure 12. However, most ROVs had at least one noncompliance violation cited, with 13 individuals in the sample having only compliance violations. Of those with only compliance violations, nine of the individuals had some degree of overlap between employment violations, residence violations, and failure to report; these violations are often used as a proxy for absconding behavior, which is a noncompliance violation.

Figure 12. Number of Violations among Probation Sample, 2019

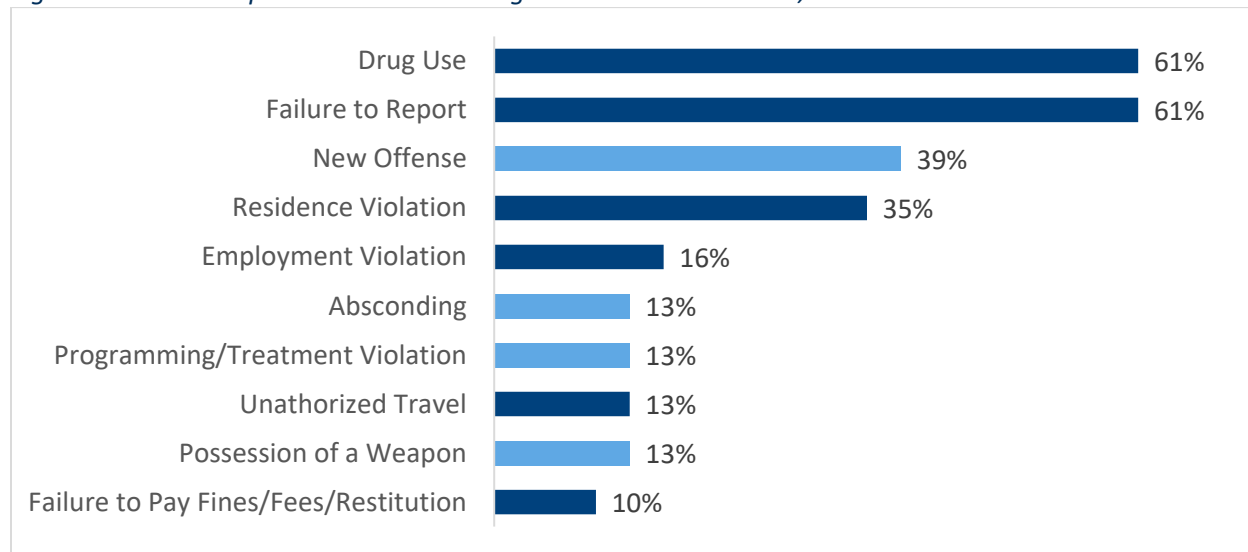


Source: MDOC File Review, 2019 probation terminations

The most frequently occurring compliance violations are drug use and failure to report, while the most frequent noncompliance violations are new offenses and absconding

Figure 13 shows the most frequently cited violation behaviors among individuals revoked from probation in the 2019 sample. More than half of the sample had at least one instance of drug use; over two-thirds of individuals with these violations used amphetamines or methamphetamine, over half used alcohol, and over a quarter each used marijuana or prescription drugs. Failure to report was as prevalent as drug use among the probation sample, occurring more frequently in this population than for individuals on parole. Nearly 40 percent of the sample had a new offense, with new felonies about twice as common as new misdemeanors; the most frequent offenses were driving under the influence, theft, criminal possession of drug paraphernalia, violation of a no-contact order, and criminal mischief. In addition to 13 percent of the sample having at least one absconding violation, 10 percent had an overlap of employment violations, residence violations, and failure to report used as a proxy for absconding, meaning the true proportion of absconding behavior in the sample was closer to 23 percent.

Figure 13. Most Frequent Violations among Probation Revocations, 2019



*Dark blue bars indicate compliance violations; light blue bars indicate noncompliance violations.
Source: MDOC File Review, 2019 probation terminations*

Violation Trends: Conditional Release

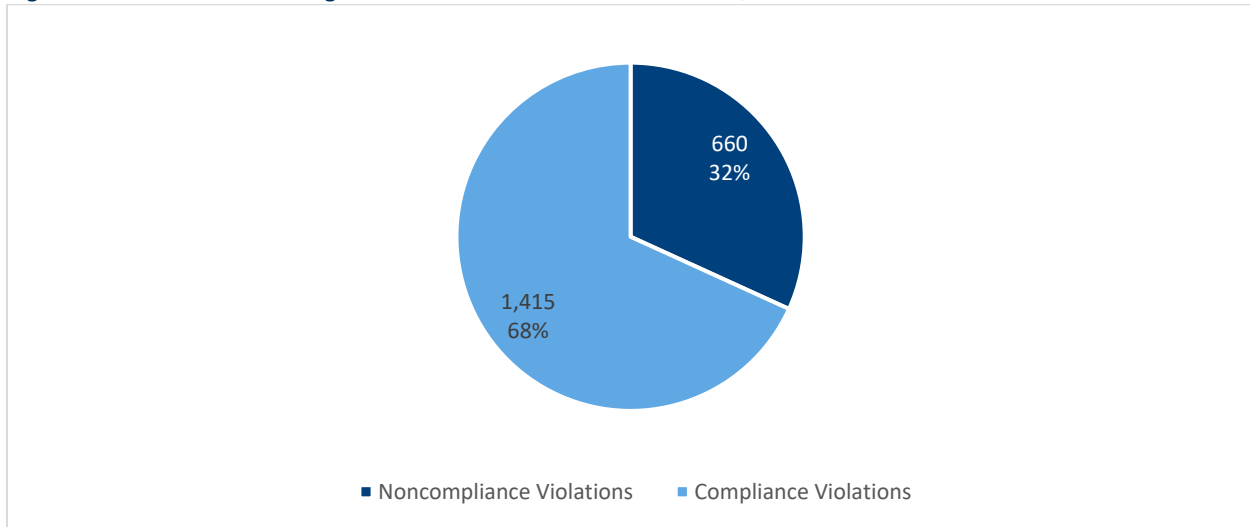
Due to violations incurred by individuals on conditional release being entered into a dedicated module in OMIS, which was not available to be used for violations incurred by individuals on parole or probation, CJI analyzed the full set of violation behaviors from individuals terminating conditional release in 2019 rather than a smaller sample of reports of violation. Most of the time, officers filing violations for individuals on conditional release will do so for the purpose of seeking revocation; subsequently, only 3 percent of the individuals terminating conditional release in 2019 with violations successfully completed supervision. These violations, therefore, also speak to which violation behaviors lead to revocation.

Compliance violations are more common, but individuals are predominantly revoked from conditional release for noncompliance violations

Among violations filed in OMIS for individuals terminating conditional release in 2019, CJI found that compliance violations were filed about twice as frequently as noncompliance violations (illustrated in Figure 14). However, the majority of individuals had at least one noncompliance violation cited; only 22

percent of the sample had only compliance violations. Of that number, 20 percent had an overlap of at least two of the following violations: employment violations, residence violations, and failure to report. These three violations together are often used as a proxy for absconding behavior, which is a noncompliance violation. Of the others, the most frequently co-occurring violations were substance use-related violations and missed reporting (33 percent), substance use violations and status offense violations (20 percent), status offense violations and missed reporting (17 percent), and substance use violations and location monitoring violations (16 percent).

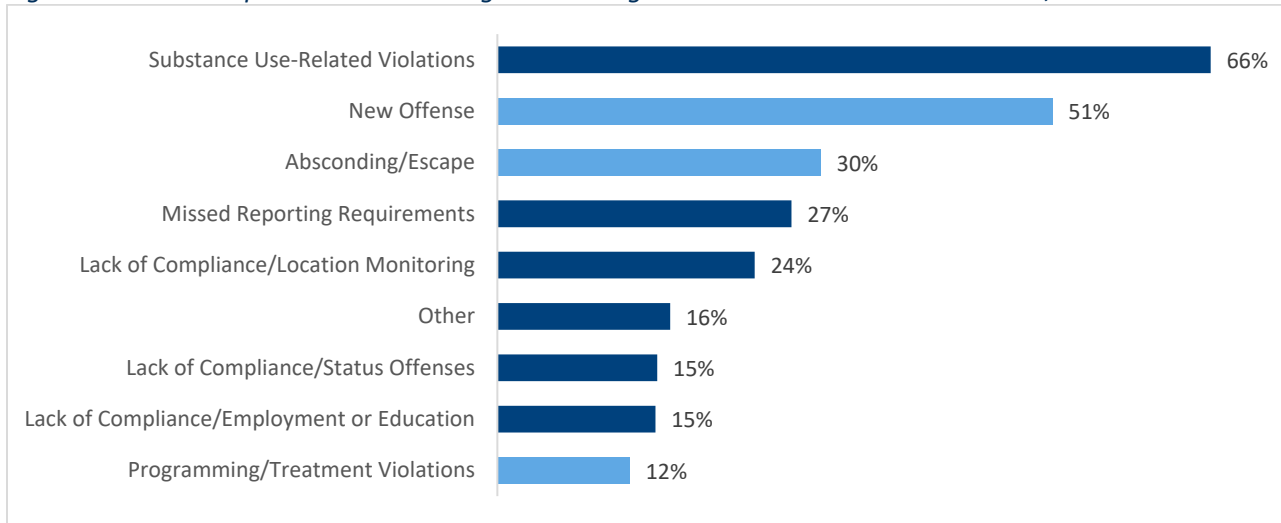
Figure 14. Violations among Conditional Release Terminations, 2019



The most frequently occurring compliance violations are substance use-related, while the most frequent noncompliance violations are new offenses and absconding

Figure 15 shows the most frequently cited categories of violation behavior among individuals terminating conditional release in 2019. (These categories were created by CJI as a way of analyzing trends in types of violation behavior, as the individual violations entered into OMIS are often very specific. See Appendix A for a full list of violation categories.) Two-thirds of the sample had at least one substance use-related violation, predominantly for use of drugs or alcohol; of individuals with those violations, 69 percent tested positive for, or admitted to, using amphetamine or methamphetamine, with just under a quarter each using alcohol or marijuana. Over half of individuals terminating conditional release in 2019 had a new offense, with new felonies and new misdemeanors occurring approximately equally. In addition to 30 percent of the sample having at least one absconding violation, 9 percent of the sample had an overlap of employment violations, residence violations, and failure to report used as a proxy for absconding, meaning the true proportion of absconding behavior in the sample is closer to 39 percent.

Figure 15. Most Frequent Violation Categories among Conditional Release Terminations, 2019



Dark blue bars indicate compliance violations; light blue bars indicate noncompliance violations.

Of the 18 individuals with violations who successfully completed conditional release in 2019, two-thirds had a substance use-related violation and just over a quarter had an absconding or missed reporting violation.

Figure 16 shows the change in frequency of the most common types of violation behavior from individuals terminating conditional release between 2012 and 2019. Several types of violation behavior (including substance use-related violations and location monitoring) have become less common, but the two most frequent noncompliance violations – new offenses and absconding – have both grown, new offenses by 14 percentage points and absconding more than doubling. Both have also become more frequent between 2019 and 2020, with new offenses growing by 10 percentage points and absconding by 5 percentage points.

Figure 16. Most Frequent Violation Categories among Conditional Release Terminations, 2012-2019

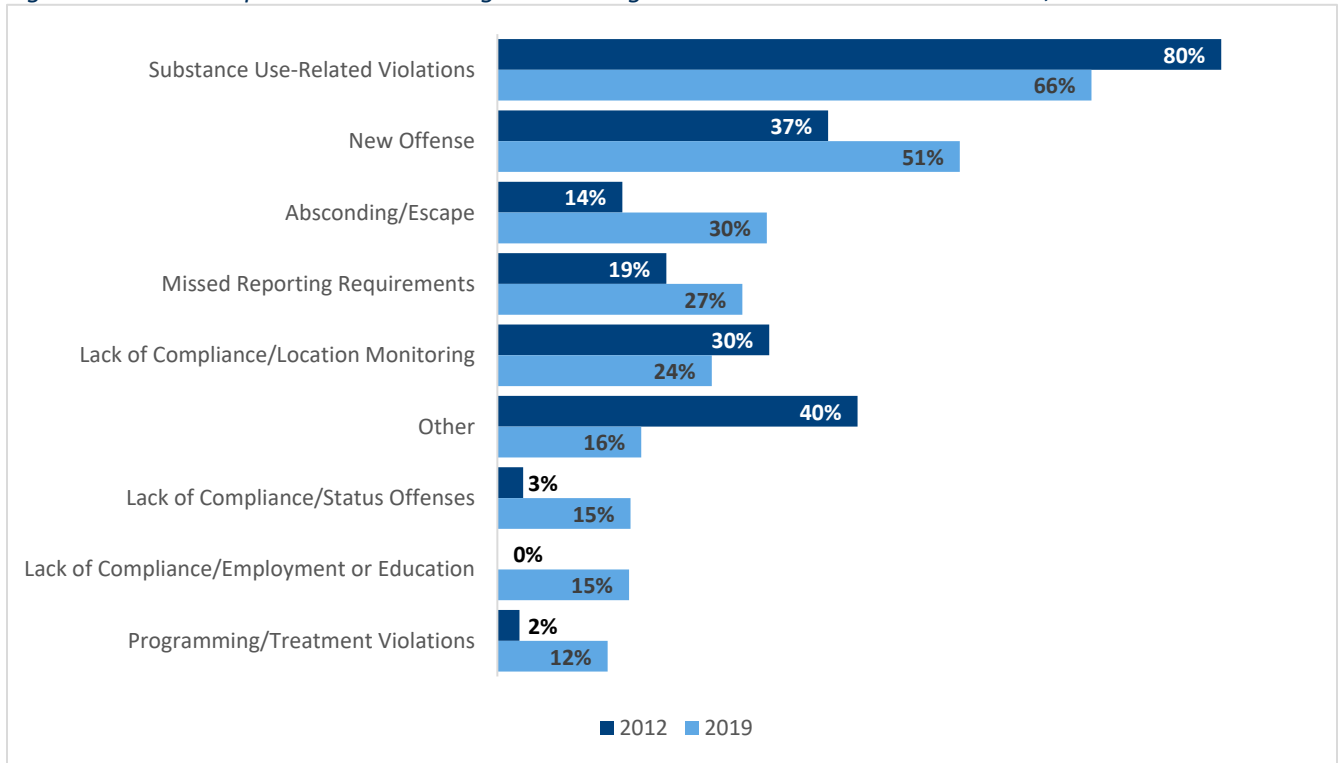
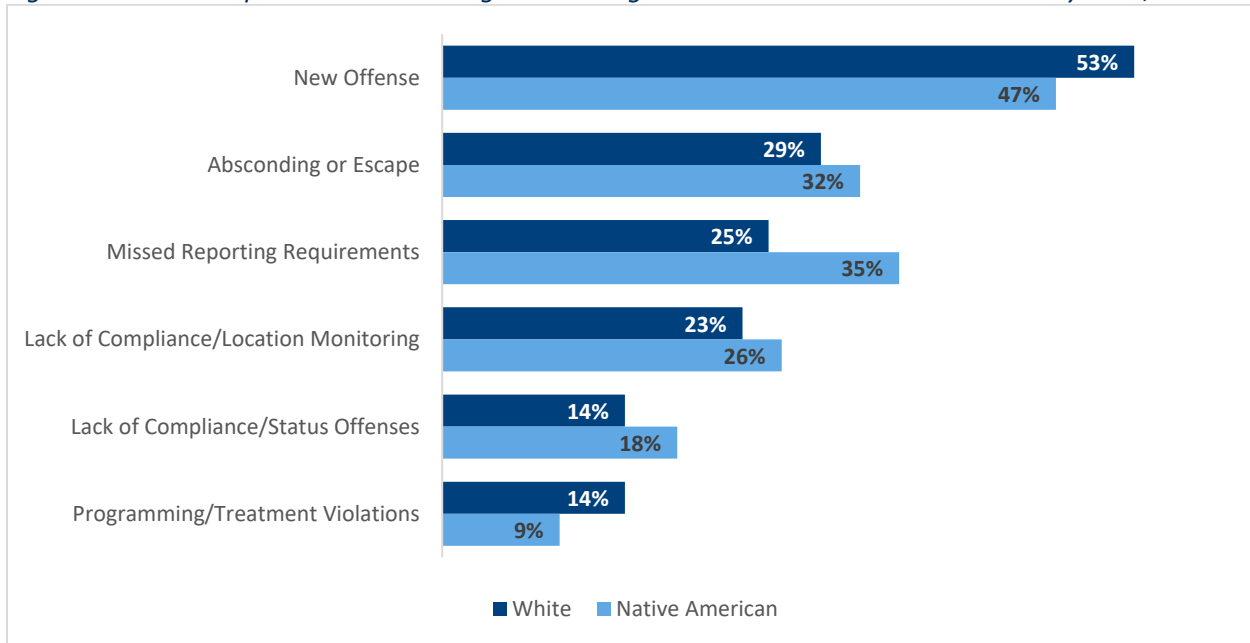


Figure 17 separates some of the most common types of violations by race, displaying the differences between white and Native American individuals' violation behaviors.¹⁷ Absconding, missed reporting, and location monitoring violations were all more frequent among Native American individuals terminating conditional release, potentially linked to the difficulty posed by restrictions on officers entering reservations and transportation challenges for individuals living there. Officers cannot legally enter a reservation to arrest someone who has absconded, and according to officers in some CJI focus groups, people sometimes stay on the reservation until their term of supervision has expired. People on reservations who are required to do in-person interviews may face serious difficulties in keeping their appointments, especially in more remote areas of the state. For example, the Northern Cheyenne Indian Reservation in southern Montana is over an hour away by car from either of the two offices in Region IV.

Figure 17. Most Frequent Violation Categories among Conditional Release Terminations by Race, 2019



In addition to examining trends in conditions and violations, CJI’s assessment of Montana’s community supervision system included an examination of the various decision points and systemic factors that may contribute to supervision outcomes. In the key findings sections that follow, CJI outlines findings related to responses to behavior, adherence to evidence-based supervision practices, access to programming and services, and organizational culture.

RESPONSES TO BEHAVIORS AND REVOCATION PROCEDURES

To inform its findings related to responses to behavior, CJI examined current policies and practices, analyzed data provided by DOC on the use of their current graduated sanctions tool and available incentives, and conducted a review of case files for individuals who terminated supervision in 2019 to understand to what extent sanctions aligned with policy and research. CJI examined administrative and statutory responses to violations, factors that influence an officer’s decision-making regarding violation responses, the officer’s level of autonomy, and the use of incentives across the state. Research shows that to effectively change behavior, responses to violations should be proportional to the violation committed, delivered objectively, and focused on the behavior instead of the person. Similarly, incentives should be delivered impartially, focused on the behavior, and used to reinforce continued behavior. Incentives should be used four times more often than sanctions to effectively change behavior.¹⁸

Decisions around when to seek revocation are inconsistent; staff report a lack of clarity

DOC implemented the Montana Incentives and Interventions Grid (MIIG) in 2017 to provide structure and guidance to staff in responding to the behaviors of individuals on supervision. Officers are statutorily authorized to use the MIIG to sanction individuals who violate supervision conditions.¹⁹ The MIIG enables probation and parole officers to respond to supervision violations in a swift, certain, and proportional manner, based on the type of violation and the level of intervention required for the supervisee’s risk level. This approach is intended to remove the ambiguity inherent in a large, decentralized supervision system, where different officers may otherwise treat people in similar circumstances in very different ways.

The MIIG was also intended to standardize officers' decisions to seek revocation of a person on supervision. Before initiating the revocation process for compliance violations, probation and parole officers are statutorily required to exhaust all other appropriate graduated responses that could be used to intervene and change the individuals behavior, which is informally known as "exhausting the MIIG."^{20,21} Supervisors must approve an officer's revocation request before it can be filed, creating a level of quality control, but judges or the Parole Board ultimately decide whether the MIIG has been exhausted in any individual case. Officers are not required to exhaust the MIIG when someone commits a noncompliance violation.

The statute authorizing the MIIG required DOC to create guidance on the process of exhausting the MIIG and documenting the graduated responses that had been used.²² However, DOC's existing policy does not clearly define exhaustion of the MIIG;²³ instead, it says only that the exhaustion of appropriate interventions is "individualized," which leaves room for interpretation among different officers. Some officers said that courts sometimes reject their revocation requests because in the opinion of the court, the officers had not done enough to exhaust the MIIG. This apparent difference between officers' and courts' interpretations of what constitutes exhaustion of the MIIG has resulted in confusion and frustration among some officers.

In addition, staff reported during interviews that the MIIG is used differently in different regions, depending on the resources that are available in those areas. For example, places such as Yellowstone or Butte rarely use jail sanctions because there tend to be few jail beds available, while Missoula and Miles City tend to use them more often.

Response to absconding behavior is inconsistent

Montana statute and DOC policy define absconding as when an individual deliberately makes their whereabouts unknown or fails to report for the purposes of avoiding supervision, and reasonable efforts to locate them have been unsuccessful.²⁴ DOC policy further defines "reasonable efforts" as phone calls, text messages, emails, and/or visits to the person's home, workplace, or family members.²⁵ If an officer determines that a person has absconded, they can file a warrant for that person's arrest, and must submit a revocation form within 10 days after filing the warrant (5 days for sexual/violent offenders).

However, DOC's absconding policy does not provide guidance on how officers should determine what intentional and deliberate avoidance looks like. For example, the policy does not specify for how long the officer must try to contact a missing person, how many attempts the officer must make, nor how many different methods the officer should use. Interviews with officers revealed that different officers make different levels of effort to contact individuals who have absconded; this was substantiated in interviews with public defenders. Public defenders also reported that some officers do not exhaust the available methods of contacting a person before filing a revocation.

Warrants versus notices to appear are used inconsistently in response to violations

Taking a closer look at what happens when someone on supervision commits a violation, CJI examined the process for issuing notices or warrants across each type of supervision. When a person on probation has allegedly committed a violation, statute allows a court to issue a warrant for an individual's arrest, county attorneys to issue a notice to appear, or an officer to simply arrest the person without a warrant or deputize another officer to do so.²⁶ Officers may also arrest people on parole or conditional release without a warrant, or ask for a warrant or a summons to be issued when filing the Report of Violation (ROV) form.^{27,28}

Officers reported that use of warrants can vary by region. Some officers reported requesting a warrant for every violation, while others reported that their office usually requested summonses rather than warrants. Others reported that their office’s use of warrants depended on how full the jail was. According to statute, the MIIG should contain guidance on when to issue a warrant or a notice to appear, but this is not outlined in DOC policy.²⁹

Individuals can be ordered to serve lengthy sentences for revocation due to non-criminal violations

Under Montana law, individuals on supervision can serve multiple concurrent or consecutive suspended sentences.³⁰ Long suspended sentences tend to keep lower-risk people on supervision after the point where they no longer pose a threat to public safety. Research has found that longer terms of probation are not correlated with lower rates of re-offending and are more likely than shorter terms to result in technical violations.³¹ The conditions imposed as part of an individual’s supervision sentence may impede people’s reintegration into society or lead to discipline or revocation even after several years of good behavior. Probation and parole officers – who frequently expressed in interviews that they had large caseloads – must also spend time and resources on people who do not need their supervision, diluting their ability to effectively supervise the people who would most benefit from supervision. Finally, if a person with a suspended sentence is revoked from supervision, they may serve the entirety of their suspended sentence in prison.³²

Public defenders stated in interviews that in some counties, if a person is charged with a new crime, it is county policy to initiate revocation proceedings before the original offense has been adjudicated. In other words, a person may ultimately be found not guilty of the crime they were charged with, but face revocation anyway. Additionally, when a person is serving multiple concurrent suspended sentences, a single status offense or minor traffic violation can lead to that person being revoked on all of those sentences. Two of the judges interviewed by CJI found long suspended sentences to be unnecessary and counterproductive for these reasons.

In response to these concerns, in 2021 the Montana Legislature passed House Bill 553.³³ This bill limited the length of time that most people convicted of a felony could spend on supervision to five years, with longer maximum sentences allowed for people who committed serious crimes, such as sex offenses or deliberate homicide.³⁴ HB 553 has the potential to reduce the number of people on probation in Montana, improving their outcomes and easing the burden on probation officers. However, the bill was not retroactive, so it will take time before HB 553’s effects become apparent.

Conditional discharge from supervision is an available incentive, but complicated eligibility and process limits use

In 2017, Montana adopted conditional discharge from supervision (CDFS) to both reduce caseloads and reward people for fulfilling their supervision obligations. Eligible individuals on probation for a suspended sentence or those on parole are eligible for CDFS. Individuals who receive a CDFS remain under the jurisdiction of the District Court or Parole Board but are no longer under active supervision. Interviews with practitioners indicate that the process for placing someone on CDFS can be rather complicated, and it is up to the individual on supervision to apply for CDFS.

People on probation for a suspended sentence may be eligible for CDFS after completing a period of time on supervision as determined by the individual’s assessed risk level. For female supervisees, as determined by the Women’s Risk and Needs Assessment (WRNA), low-risk individuals must serve a minimum of nine months on supervision before requesting CDFS, moderate-risk individuals must serve

12 months, medium-risk individuals must serve 18 months, and high-risk individuals must serve 24 months. Males who are assessed as low risk using the Montana Offender Reentry and Risk Assessment (MORRA) must serve nine months before requesting CDFS, 12 months if they are medium risk, 18 months if they are high risk, and 24 months if they are very high risk. If the person’s petition is successful, they are removed from active supervision, but are still considered to be under the jurisdiction of the court. If an individual is convicted of a new crime while on CDFS status, DOC may petition the court for a revocation of probation.

A similar process exists for people on parole. Individuals on parole can petition the Parole Board after one year on supervision.³⁵ However, some individuals on parole are required to serve a suspended probation sentence after the completion of their parole term, as originally ordered by the sentencing court, and must then meet the statutory time-served requirement appropriate to their risk level while on probation. This creates a situation where people may already have served multiple years on parole without issue and may even have been granted CDFS during their parole but are required to serve an additional nine to 24 months on probation before they become eligible for CDFS.

DOC policy states that to qualify for CDFS, individuals must meet all terms and conditions of their court order, complete all required treatment programs, have stable housing, pay off all debts and be current on supervision fees, and have no recorded noncompliance violations.³⁶ Officers and supervisors said in focus group interviews that many people are unable to pay off their fines and fees, and because of this, CDFS is rarely granted. However, several judges said that financial conditions can be waived or modified, which is a relatively common occurrence. Individuals are also responsible for applying for CDFS themselves, which can create another barrier, although probation officers may guide them.

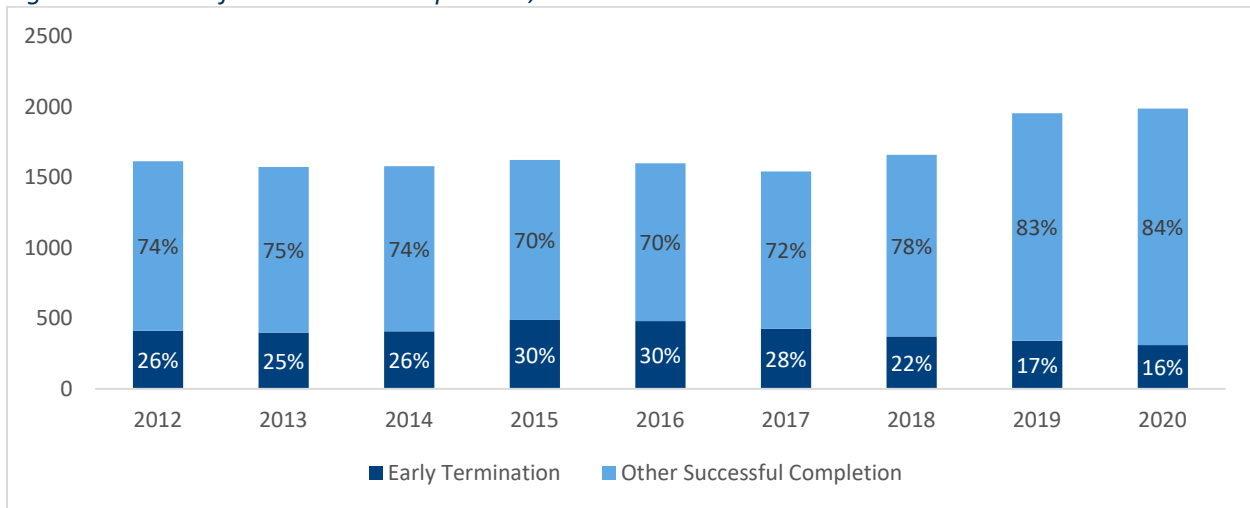
People on conditional release are ineligible to receive CDFS.³⁷ CJI examined the use of CDFS and found that it is rarely granted for individuals on parole, although its use has grown (no one on parole was granted CDFS in 2012, but 6 percent of parole releases in 2020 were terminated to CDFS). However, the use of CDFS for individuals on probation has grown considerably over the past few years, rising from 5 percent of probation terminations between 2012 and 2017 to 17 percent in 2020.

Barriers limit the use of early termination as an incentive

Early termination is available to individuals on probation, but is not available for those on parole or conditional release supervision.^{38,39} To be granted early termination, individuals with a deferred sentence who meet the eligibility criteria may apply after two years of supervision or after serving half of their deferred sentence, whichever is less.⁴⁰ Individuals with a suspended sentence may apply after 3 years of supervision or after serving two-thirds of their suspended sentence, whichever is less, and been granted and complied with CDFS for at least one year.⁴¹ In addition to the time served requirements, to be eligible for early termination, individuals must have paid all fines and fees in full and must not have incurred any violations. These requirements and barriers limit the number of people who can make use of early termination.

Figure 18 shows that the use of early termination has steadily decreased over the past few years, comprising only 16 percent of successful probation completions in 2020. In addition to its declining use across the probation population, early termination is used more rarely for Native American individuals than for white individuals; in 2020, 16 percent of white individuals who successfully completed probation were granted early termination compared to only 11 percent of Native American individuals.

Figure 18. Successful Probation Completions, 2012-2020



USE OF EVIDENCE-BASED SUPERVISION PRACTICES

CJI’s assessment examined Montana’s use of evidence-based supervision practices – examining overall adherence to the Principles of Effective Intervention (PEI) – including the use of risk and needs assessments, targeting programming and services for those assessed as high-risk, use of effective case planning, and fidelity monitoring. Research demonstrates the need to utilize the risk, need, and responsivity principles to guide supervision decision-making. The risk principle is based on the idea that treatment should correspond to each individual’s risk of recidivism; a high-risk individual should receive a different supervision response than someone with a low risk of recidivism. The needs principle states that conditions should target an individual’s criminogenic needs, such as substance use or interaction with people who contribute to their antisocial behavior. The responsivity principle shows the importance of identifying and overcoming barriers for treatment to be effective.⁴²

Opportunities exist to improve the use of risk and needs assessments

In 2016, DOC implemented evidence-based risk assessments for men (MORRA) and women (WRNA) who are placed on supervision. These assessments are intended to objectively evaluate the individual risk and needs of people entering supervision. The DOC uses the results of the assessment to guide supervision practices, including the development of a case plan for individuals on community supervision.⁴³ DOC has successfully implemented the MORRA and the WRNA risk and needs assessments, but there are some areas that could be strengthened to better align those practices with addressing individual criminogenic needs.

First, although staff receive initial training on the current risk and needs assessments, refresher training is not required and does not regularly occur. Without regular refresher training, staff may be prone to scoring errors over time due to natural drift. Second, the existing audits of case plans do not include quality assurance for the risk and needs assessments themselves, although they do ensure that the assessments were completed at the appropriate times. This is important because the MORRA and WRNA are completed on paper forms before being entered into OMIS (the state’s supervision data management system), and although there are benefits to this arrangement, it also represents a potential source of scoring error. Finally, neither risk and needs assessment has been validated against the Montana population. DOC is aware of this issue and is engaged in a validation process. Officers expressed concern about classification levels during focus group interviews, including that there are few opportunities to override risk classification.

Case plans are used but additional training and QA processes are needed to ensure policy is fully implemented

Another critical evidence-based practice used by many states to proactively address and respond to criminogenic needs is the development of case plans that are guided by the results of a risk and needs assessment. Evidence-based case plans should include steps to address each individual’s responsivity factors, such as their learning style, transportation or childcare needs, and language or communication barriers.⁴⁴ Case planning should be ongoing, comprehensive, and dynamic. Officers should reshape case plans to reflect any changes in an individual’s life or risk level.

According to DOC policy, Montana probation and parole officers should use the results of the MORRA or WRNA risk assessments to develop an individualized case plan for people on supervision, which should proactively address their criminogenic needs and responsivity factors.⁴⁵ This case plan should then be used throughout the duration of supervision, with the officer and client frequently reviewing the plan to track the person’s progress.

Since 2017, officers have received formalized case planning training at the Academy, but there is no refresher training in the field. In focus group interviews with CJI, supervisors described their field trainings as informal, top-down trainings conducted by supervisors. However, some supervisors also stated that the case plan training was not well-received, and that there is a notable lack of buy-in among staff regarding the use and value of case plans. In CJI’s officer survey, 44 percent of officers reported that they did not find case planning useful, with some describing it as a “box to check” rather than as a proactive supervision tool. In interviews, some officers told CJI that they considered the formal case planning system to be redundant, saying that their normal interactions with clients constituted sufficient case planning. Montana policy does lay out a quality assurance process to determine whether officers are completing their case planning requirements with fidelity, but supervisors stated that formal evaluations were a rare occurrence in practice.

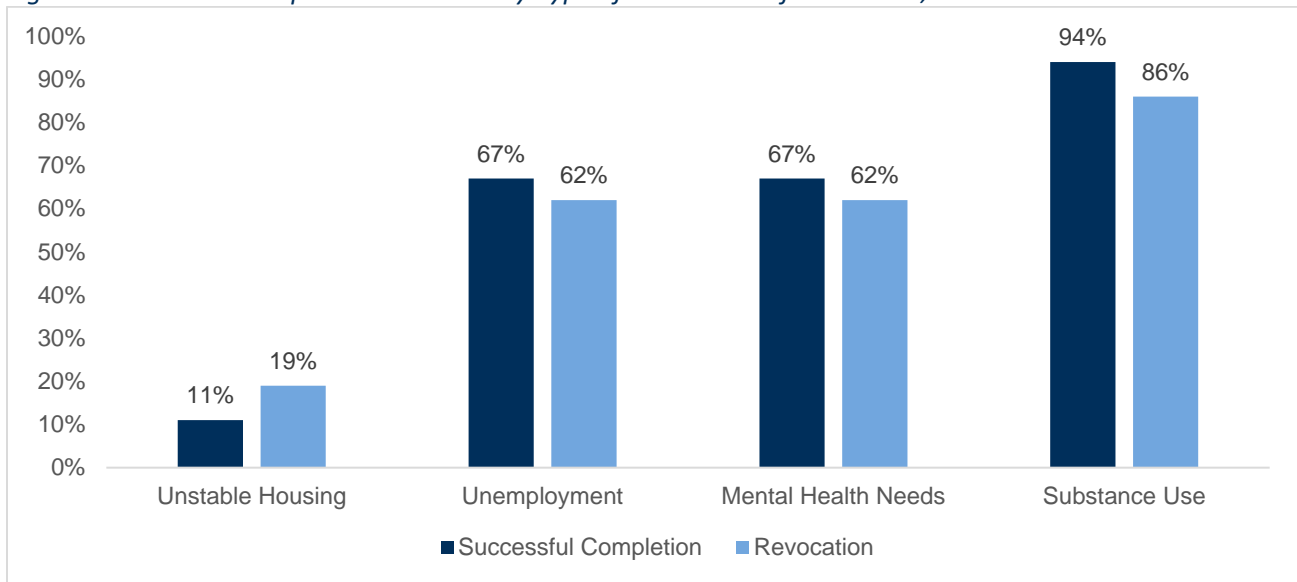
BARRIERS TO SUPERVISION SUCCESS

Many people on supervision suffer from mental illness, substance use disorders, or co-occurring disorders.⁴⁶ People on supervision may also have difficulty finding or retaining employment and housing, particularly when reentering the community after a prolonged period of incarceration.^{47,48} As part of its statewide assessment, CJI examined the tools and resources available in the community to address the supervised population’s criminogenic needs and responsivity factors.

Barriers are common across all three types of supervision, and financial obligations are often higher among individuals revoked from supervision

As part of the file review process, CJI collected data on barriers to supervision success and responsivity factors from Pre-Sentence Investigation forms for a randomly selected sample of 164 individuals terminating parole, probation, and conditional release in 2019. Figure 19 shows that while unstable housing was more common among individuals revoked from parole than those who successfully completed, rates of unemployment, mental health needs, and substance use were high across the whole parole population, with more than half of individuals in the sample lacking employment or having mental health needs and nearly all individuals experiencing substance use issues.

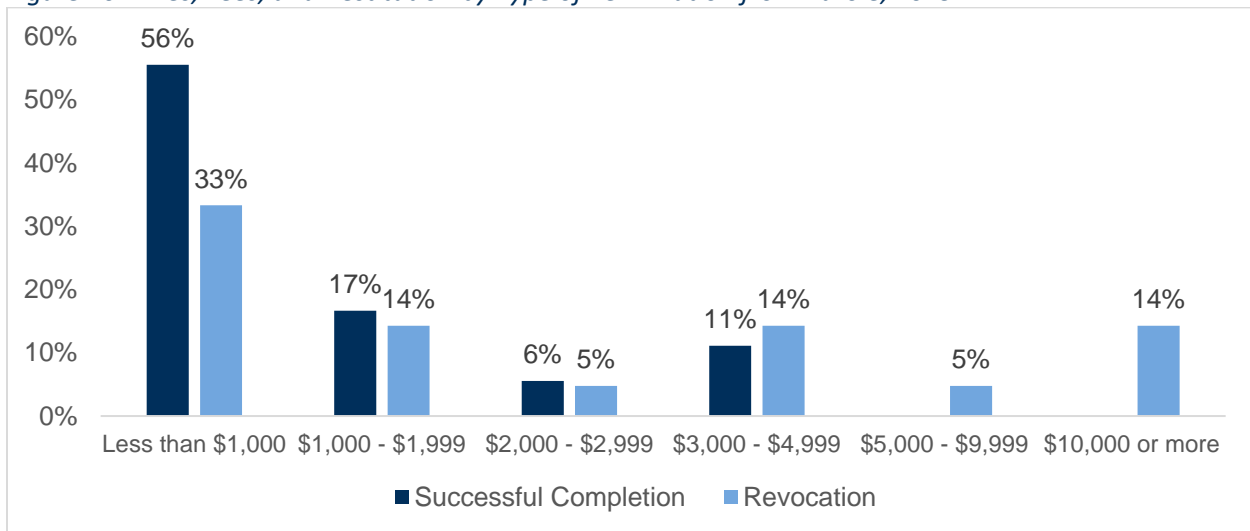
Figure 19. Barriers to Supervision Success by Type of Termination from Parole, 2019



Source: MDOC File Review, 2019 parole terminations

Figure 20 shows that higher financial obligations were more common among individuals revoked from parole than those who successfully completed. Nearly 80 percent of individuals in the sample who successfully completed parole had financial obligations (not including monthly costs of supervision) under \$3,000, as compared to 52 percent of individuals revoked from parole. Meanwhile, 33 percent of individuals revoked from parole had financial obligations of \$3,000 or more, as compared to 11 percent of individuals who successfully completed parole.

Figure 20. Fines, Fees, and Restitution by Type of Termination from Parole, 2019

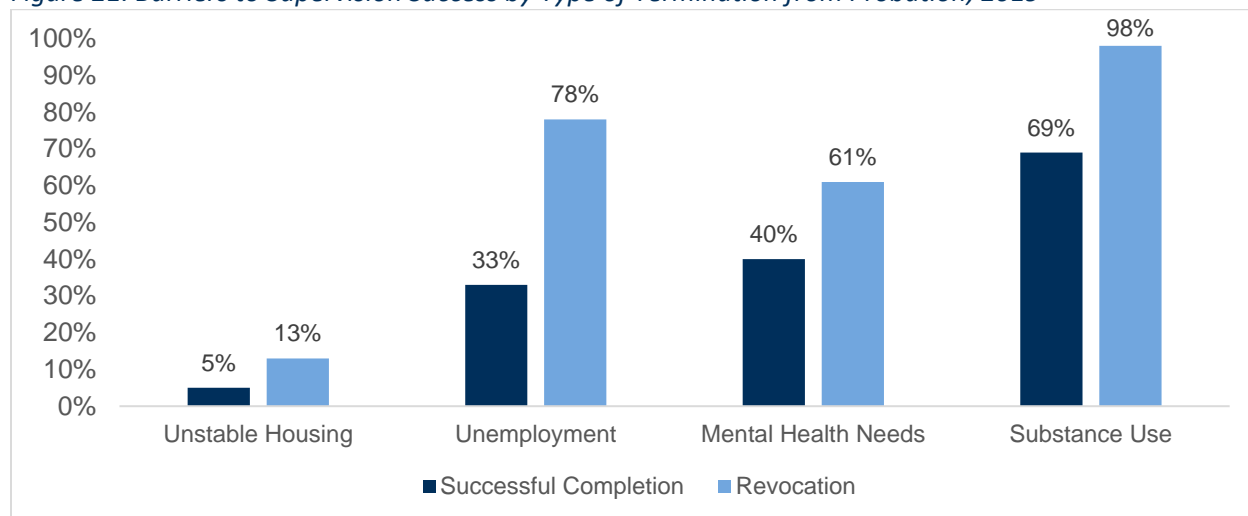


Source: MDOC File Review, 2019 parole terminations

Contrary to the sample population of individuals terminating parole, those within the sample of individuals terminating probation who were revoked were considerably more likely to experience every type of barrier. Figure 21 shows that individuals revoked from probation were more than twice as likely

to have unstable housing or lack employment, 50 percent more likely to have mental health needs, and 42 percent more likely to have substance-use-related needs.

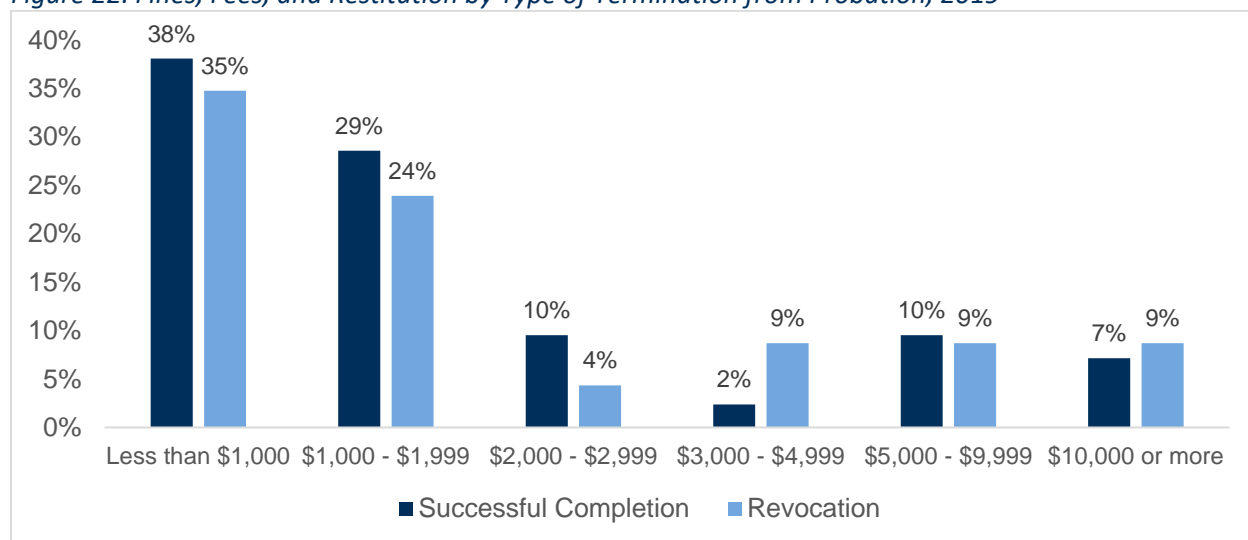
Figure 21. Barriers to Supervision Success by Type of Termination from Probation, 2019



Source: MDOC File Review, 2019 probation terminations

Similar to the parole population, however, the sample of individuals revoked from probation was more likely to have higher financial obligations than those who successfully completed. As illustrated in Figure 22, three-quarters of individuals who successfully completed probation had financial obligations totaling under \$3,000, as compared to less than two-thirds of individuals who were revoked; meanwhile, 27 percent of individuals who were revoked had financial obligations of over \$3,000, as compared to 19 percent of those who successfully completed.

Figure 22. Fines, Fees, and Restitution by Type of Termination from Probation, 2019

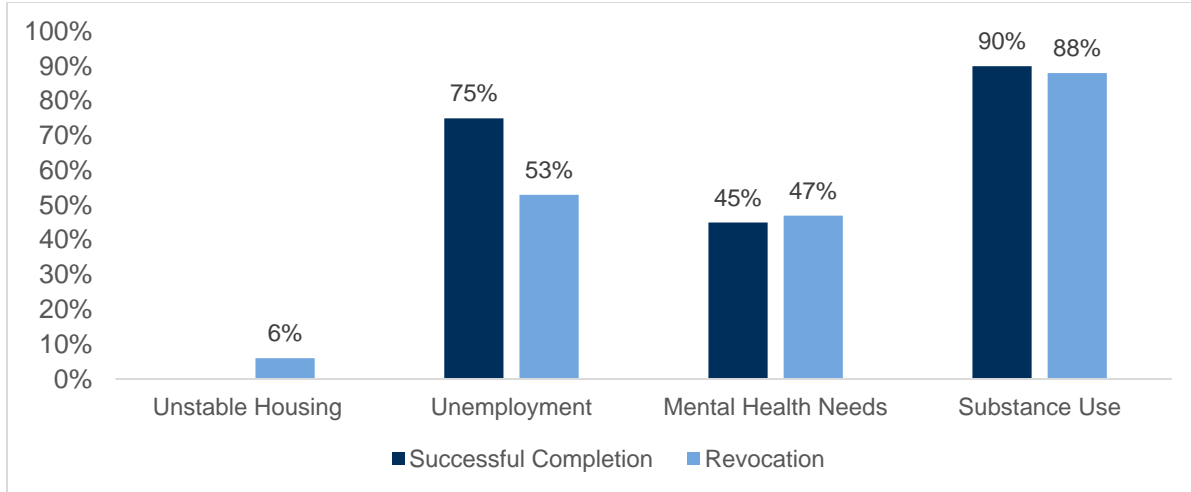


Source: MDOC File Review, 2019 probation terminations

The conditional release sample resembled the parole sample in that, while unstable housing was more common among individuals revoked from conditional release, other factors were a common barrier across the whole sample. Figure 23 illustrates that three-quarters of individuals who successfully

completed conditional release and over half who were revoked were unemployed, nearly half of individuals in the sample, regardless of termination type, had mental health needs, and nearly everyone in the sample experienced substance use-related needs.

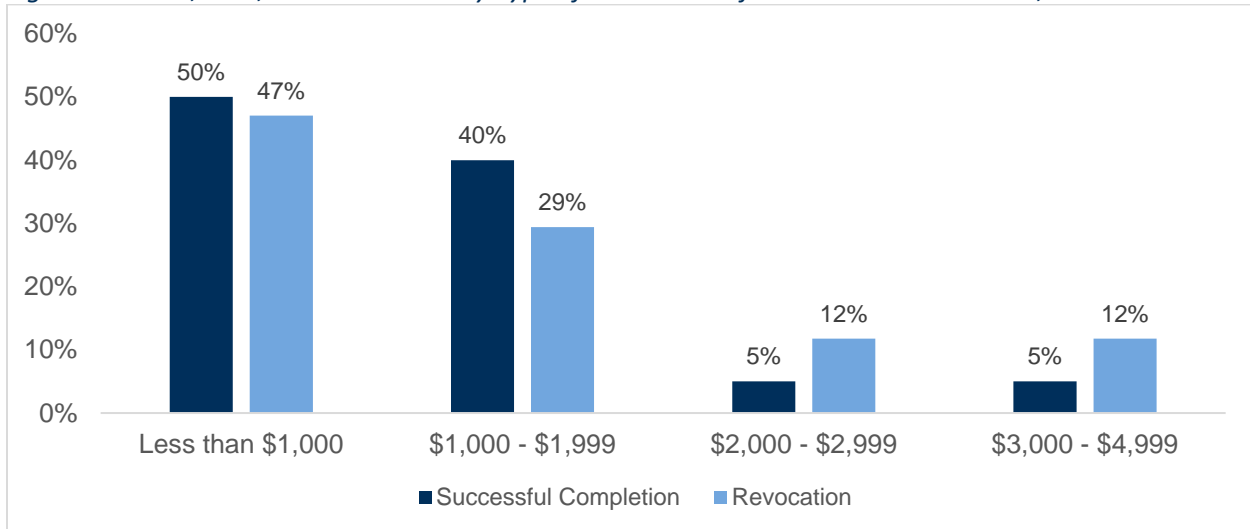
Figure 23. Barriers to Supervision Success by Type of Termination from Conditional Release, 2019



Source: MDOC File Review, 2019 conditional release terminations

Financial obligations for individuals on conditional release were lower than those for individuals on parole or probation, but like both populations, individuals revoked from conditional release had higher financial obligations than those who successfully completed. Figure 24 shows that 90 percent of individuals in the sample who successfully completed conditional release had financial obligations totaling under \$2,000, as compared to 76 percent of individuals who were revoked; nearly 25 percent of individuals who were revoked had financial obligations of over \$2,000, as compared to 10 percent of individuals who successfully completed conditional release.

Figure 24. Fines, Fees, and Restitution by Type of Termination from Conditional Release, 2019



Source: MDOC File Review, 2019 conditional release terminations

Mental health treatment is substantially lacking

According to the Principles of Effective Intervention (PEI), interventions must address individuals' unique responsivity factors to be effective at reducing recidivism. Responsivity factors, such as mental health, transportation, childcare, and the ability to access programming and treatment services, may impede an individual's ability to comply with conditions of their supervision.⁴⁹

The lack of mental health programming and resources in Montana is a substantial barrier to individuals successfully completing supervision. According to the Montana Department of Public Health and Human Services, 47 of Montana's 56 counties have at least one Substance Use Disorder (SUD) treatment provider,⁵⁰ but only 38 have at least one mental healthcare provider,⁵¹ and only 18 counties have a sex offender treatment provider.⁵² While some of these service providers serve multiple counties, certain services may not be readily available in sparsely populated areas, and the state's large size makes it difficult for people to travel to services outside their immediate area.

Major cities like Billings, Helena, and Missoula tend to have access to mental health, SUD, and sex offender treatments. However, smaller towns and more remote areas have fewer resources and longer waits for the resources that do exist. Supervisors cited up to a three-month wait for medication management services in parts of the state. Although chemical dependency programs are relatively widespread, smaller areas do not have a wide variety of options; according to public defenders interviewed by CJI, Great Falls, a city of 50,000 people, has only two chemical dependency outpatient programs and no inpatient programs. Smaller towns rely on community hospitals and addiction counselors. This variation in available resources is a major reason for the variable definition of "exhausting the MIIG," since part of the exhaustion process involves trying different treatment approaches within the limits of available resources.

When surveyed about their most common challenge, a plurality (22 percent) of officers cited a lack of treatment resources, and 43 percent said that their area did not have enough treatment providers to serve their clients. Additionally, officers, judges, and public defenders all said that mental health resources were a major need. Judges agreed that people with mental health issues made up a substantial proportion of the supervision population, as well as the proportion of people who were revoked, and cited problems with the process of transferring people to treatment facilities during 2020. One judge also stated that the Montana State Hospital rarely takes people with mental health issues, and that the alternative to the hospital is often to keep the person in jail.

Housing and transportation are significant barriers to compliance on supervision

Mental health is not the only treatment area where services are lacking, as 60 percent of officers surveyed reported that they lacked the resources necessary to assist supervisees with specialized needs such as housing, transportation, and childcare. The problem is particularly acute with housing, where people on supervision face serious difficulties in finding both permanent and temporary housing. Part of the housing barriers stem from the federal housing restrictions for justice-involved individuals. Many federal housing assistance programs ban individuals convicted of drug-related offenses or sex offenses, or those with violent criminal histories, and private landlords frequently use criminal background checks to disqualify individuals with prior criminal histories.

According to DOC supervisors and public defenders, homelessness is a major contributor to people absconding from supervision, either because they stop contacting officers or because they have no means of making contact. Even if a person is not living on the street, but instead staying with family members or friends, they run the risk of incurring violations for changing housing without permission,

associating with other people on supervision, or being around drugs or alcohol. When responsivity factors such as these are removed through state or agency intervention, individuals can focus on addressing their criminogenic needs.

DOC provides several different short-term housing options for people transitioning onto supervision. The department provides 10 pre-release centers,⁵³ including six for men and four for women, as well as residential substance use disorder facilities and assessment/sanction centers.⁵⁴ DOC is also authorized to provide rental vouchers, which can cover up to three months of housing assistance for people returning from prison, as well as transitional assistance funds, which can be used for housing, transportation, or other qualified expenses.⁵⁵ The vast majority of these requests are approved. Some officers also reported that they provided people on supervision with bus passes, vouchers, or gas cards.

However, officers and supervisors said that despite these resources, there is still a shortage of transitional housing and sober living facilities in Montana. There are also relatively few homeless shelters, and some of the existing shelters require their clients to stay sober, which can be difficult for people on supervision who struggle with substance use or co-occurring disorders.

Permanent housing is also difficult to secure. Public defenders and judges overwhelmingly stated that affordable housing was scarce in many areas, both large urban areas and small towns or rural areas, and that few rentals were available. This is due both to the lack of available units and to low wages, which leave people unable to afford the units that exist. Montana has a minimum wage of \$8.65 per hour, which translates to \$1,384 per month for a person working 40 hours per week. According to the National Low Income Housing Coalition (NLIHC), affordable housing for a person making that much money should cost no more than \$450 per month.⁵⁶ However, the NLIHC’s estimated fair market rent in Montana is \$604 for a studio apartment and \$684 for a one-bedroom apartment, a gap of \$154 and \$234 respectively.⁵⁷ Statewide, there are only 39 affordable housing units available for every 100 households earning an extremely low income, defined as below 30 percent of the area median income.⁵⁸

Transportation is also a major need, especially for people living in small towns or on reservations which lack treatment services. For example, inpatient substance abuse treatment is usually unavailable outside of Montana’s major cities, and people without a car or a driver’s license may struggle to access those services. Transportation is a particularly serious issue for people living on reservations, especially people without a car or a driver’s license. Some reservations have their own transportation services that take people to and from nearby towns, such as North Central Montana Transit, but these routes may run only once per day in each direction.⁵⁹ Some of these routes have also been affected or temporarily shut down by COVID-19, further isolating people on reservations.

ORGANIZATIONAL CULTURE AND SUSTAINABILITY OF REFORMS

CJI partnered with The Moss Group, a criminal justice and public safety consulting firm, to conduct an assessment of organizational culture. In particular, CJI and The Moss Group focused this portion of the assessment on examining attitudes, values, and beliefs among agency and system stakeholders – including judges, prosecutors, and the parole boards – as they relate to supervision approaches, strategies to engage and motivate supervised individuals, and methods to influence behavior change.

Staff are not aligned with leadership on organizational goals and objectives

DOC leadership is dedicated to changing the department’s culture around community supervision to focus on the use of evidence-based supervision practices intended to reduce recidivism. Over the past

few years, the department has introduced several evidence-based policy and practice changes, including implementing the use of risk and needs assessments, instituting case plans based on those assessments, and developing the MIIG to support officers’ decisions around responses to behavior. However, some staff expressed frustration with these changes. In CJI’s survey, 59 percent of staff said that they were not encouraged to provide criticism of well-established ideas and approaches, and 72 percent either disagreed or strongly disagreed with the statement of “staff are encouraged to participate in generating ideas to make policy changes.” Leadership has acknowledged this feedback and has expressed a commitment to addressing this perspective. Increased appreciation and recognition for officers can benefit the department in multiple ways, including but not limited to preventing or reducing the risk of burnout early in their careers.⁶⁰

Staff members reported good communication and relationships between officers, as well as between officers and their immediate supervisors. Seventy-five percent of survey respondents agreed that staff treat each other with respect. However, some officers reported a lack of clear communication with DOC leadership.

Resource limitations and inconsistency among decision-makers impact MIIG sustainability

The MIIG was introduced to standardize probation and parole supervision techniques and responses to violations across Montana. In many respects, it has succeeded in bringing consistency across the state’s different regions. However, there are differences in cultures and circumstances across the state that make consistency difficult to maintain.

The availability of treatment resources across the state also affects how officers in different regions apply the MIIG. Several officers reported that their areas of the state have limited resources that are insufficient to address the needs of people on supervision. This problem is particularly acute in rural areas of the state. Some officers expressed the challenges they encounter if they cannot complete all possible interventions that are described in the MIIG due to resource limitations. DOC policy does not include a definition of exactly how many interventions are required to demonstrate that the standard has been met prior to seeking revocation, which creates difficulty in achieving “exhaustion.”

Staff report limited opportunities to advance their careers

Through focus group interviews, some staff report that there is still an unmet need for trainings or programs to help officers avoid burnout, because after four years or more in DOC, many officers “grow adversarial, jaded, or unappreciated.” According to some officers, promotions and professional advancements are limited in the Probation and Parole Division, with only a small percentage of officers earning promotions. Additionally, although there is a formal distinction between senior and junior officers, it is unclear to officers how those roles are different from each other. While the DOC has tried to address this issue in the past, it has been unsuccessful in fully addressing staff concerns about advancement and burnout.

Violation data are not routinely entered into the case management system in a reliable format

Challenges exist with the collection and reporting of data necessary to fully understand what is leading to supervision outcomes in Montana. The collection of key data on the type of violations committed by those under community supervision is vital to understanding what is driving supervision failures. Currently, data on compliance and noncompliance violations are entered into OMIS but no process exists to ensure these data are accurately reported. Both risk assessments and reports of violations are initially entered on paper forms and then manually entered into OMIS. This practice raises the possibility of transcription errors during the data entry process. The paper copies of risk assessments are also

scanned and uploaded into the system, giving users a way to check that the data has been correctly entered. However, no such practice exists for violations data, including whether violations are considered compliance or noncompliance violations. As a result, data staff are not confident that the violation data are usable, and report that there is no way of knowing how much of it is accurately reflected in OMIS. However, DOC recently implemented an intervention module in OMIS, which will allow for the tracking of all violations and their responses.

Opportunities to Strengthen Community Supervision in Montana

Based on the findings included in the sections above, CJI has outlined the following opportunities to safely reduce revocations while strengthening supervision outcomes. Please note that the following recommendations are made for Montana as a whole. Some changes could be made unilaterally by DOC, while others would require legislative action. These recommendations are meant to provide policymakers, local government officials, supervision administrators, and all other relevant stakeholders with a list of opportunities to improve their current policies and practices through the implementation of data-driven reforms that will help promote long-term success for justice-involved individuals and their families.

Based on the findings included in the sections above, CJI has outlined 11 recommendations to safely reduce revocations while improving community supervision outcomes in Montana, organized in four overarching themes:

- Focusing resources on the highest-risk population;
- Ensuring supervising practices intended to reduce recidivism are implemented with fidelity;
- Addressing barriers to supervision success; and
- Ensuring the sustainability of policy and practice changes to improve outcomes.

FOCUS RESOURCES ON THE HIGHEST-RISK POPULATION

RECOMMENDATION 1: Revise practices for setting terms and conditions with the goals of individualization and removal of barriers to success.

Some of Montana’s standard conditions do not have a clear relationship to public safety or to the individual’s risk of reoffending. Research has shown that an excessive number of conditions can set people on supervision up to fail.⁶¹ DOC has made progress over the past five years in working with courts and county attorneys to reduce the number of standard conditions and in empowering PSI writers to weed out boilerplate conditions during the review process, but there are additional opportunities to fine-tune conditions to ensure that they remain focused on public safety and do not create unnecessary barriers to supervision success.

CJI recommends:

- Limiting standard conditions to ones that most closely relate to public safety, risk of reoffending, and individuals’ criminogenic needs
- Convening a workgroup to determine opportunities for the reduction of existing standard, statutory and special conditions

RECOMMENDATION 2: Expand the use of and eligibility for conditional discharge from supervision

In 2017, Montana adopted CDFS as a way to both reduce caseloads and reward people for fulfilling their supervision obligations. However, CJI found that CDFS is not currently used as frequently as it could be. Substantial barriers prevent people on supervision from accessing CDFS, such as the statutory requirement to pay off all financial obligations prior to eligibility. Because of these barriers, CDFS is not being used to its full potential as an incentive for people on supervision.

CJI recommends:

- Expanding eligibility for CDFS by amending the definition of compliance with conditions to focus on factors linked only to public safety
- Allowing courts and officers to assess individuals' ability to meet financial obligations prior to requiring full payment as a condition for eligibility, and to waive or modify this requirement as appropriate
- Streamlining the process for identifying individuals eligible for CDFS by fully implementing an automatic review process that occurs at regular intervals throughout the year
- Allowing individuals on CDFS to be granted a true discharge after six months of good behavior

RECOMMENDATION 3: Align supervision lengths with public safety risk

Expanding the use of CDFS can benefit officers by allowing them to focus on supervising the highest-risk individuals, who require more time and attention while on supervision to succeed.⁶² The courts could take another step in this direction by making it easier to consolidate the supervision terms of people with multiple concurrent supervision terms, and by expanding the use of early termination.

Under current Montana law, unless a judge orders otherwise, multiple suspended sentences must be served consecutively rather than concurrently and may not be merged into a single sentence.⁶³ When judges do allow sentences to be served concurrently, they are allowed to merge them; however, the two sentences may have different conditions of supervision, making mergers difficult. Reducing time on supervision for individuals determined to be less of a public safety risk through a combination of case consolidation, sentencing changes, and expanded eligibility for early termination would allow officers to focus their efforts on the people who need the most assistance to successfully complete supervision.

CJI recommends:

- Allowing special hearings to be requested to consolidate concurrent supervision sentences
- Amending existing statute to allow sentences to be served concurrently unless ordered by a judge
- Expanding eligibility for early termination to individuals on parole and conditional release

ENSURE SUPERVISION PRACTICES INTENDED TO REDUCE RECIDIVISM ARE IMPLEMENTED WITH FIDELITY

RECOMMENDATION 4: Provide administrative guidance around the use of revocation due to “exhaustion” of the Montana Incentives and Interventions Grid (MIIG)

In conjunction with tailoring conditions more appropriately, Montana should also consider providing more guidance for officers on how best to respond to violations. The introduction and implementation

of the MIIG was a positive step forward for DOC's supervision practices, and CJI encourages DOC to continue to build on that success. While there are inherent differences in the circumstances of individuals on supervision, and in the resources available in any given area of the state, both officers and people on supervision may benefit from more explicit guidance on what it means to exhaust the MIIG, including guidelines around when revocation due to exhaustion cannot be used.

CJI recommends:

- Creating statewide standards that clarify what exhaustion of interventions looks like for individuals and the circumstances under which revocation is appropriate or should not be requested (e.g., a required intervention is not available)
- Improving staff training, skill development, and quality assurance around consistent use of the MIIG
- Providing initial and continuing training to stakeholders such as judges and Parole Board members on the use and exhaustion of the MIIG
- Establishing standards for the use of a notice to appear for non-compliance violations

RECOMMENDATION 5: Enhance effective implementation of risk and needs assessments

While expanding CDFS and early termination will allow officers to focus on the highest-risk individuals, it is important that the tool being used to identify the risk classification of individuals on supervision is implemented with fidelity. The first major step in this process has already been taken, as Montana is currently in the process of validating the MORRA and WRNA assessments against the supervision population. However, DOC should take further steps to ensure that probation and parole officers are using the tool as designed.

CJI recommends:

- Instituting periodic refresher training on the MORRA and WRNA for DOC employees
- Promoting on-the-job skill development for DOC employees to ensure interviews and scoring of tools are completed as designed
- Introducing a quality assurance process to ensure that the tools are being used as designed

RECOMMENDATION 6: Provide formal training on case management and fully implement quality assurance processes

Since 2017, newly hired officers have received trainings on case planning and case management at the DOC Academy. However, ongoing training appears to be optional, and in CJI's survey a large percentage of current officers reported that they do not see the need for a formalized case planning process, indicating a need for additional training on the benefits of case planning. DOC should take steps to provide ongoing training for officers on case planning and management, as well as to ensure that officers are making use of the case planning process. Officers who receive ongoing coaching have a better understanding of how to use Core Correctional Practices (CCP), which are cognitive-behavioral approaches that can be used to help clients succeed on supervision and assist in long-term behavior change by integrating these skills in daily practices. Officers can also use their case management skills to help proactively address challenges faced by individuals, such as helping individuals identify the steps necessary to secure stable housing. However, training alone will not ensure fidelity; staff must practice new skills over time to successfully transfer these skills to their day-to-day practice.

CJI recommends:

- Developing refresher trainings on case planning and case management, including guidance on how case planning should be a collaborative process between the supervisee, the officer, and other criminal justice and community agencies
- Reevaluating DOC’s existing audit structure for case management, and developing a more effective mechanism for quality control; reviews of case planning should be included in internal job descriptions and expectations for promotions
- Training staff on Core Correctional Practices to support effective case management practices

ADDRESS BARRIERS TO SUPERVISION SUCCESS

RECOMMENDATION 7: Expand community-based services and resources and address financial barriers that are impacting success on supervision

CJI acknowledges that there are many barriers to individuals succeeding while on supervision, only some of which are within DOC’s purview. For example, there is only so much that DOC can do to alleviate the high cost of housing in Montana, although DOC has attempted to address this problem with housing vouchers and transitional assistance for people leaving prison and coming on supervision. CJI encourages DOC to continue working with other departments and outside experts to connect people on supervision with housing and transportation resources, as well as with mental health and employment resources that will enable them to succeed. Additionally, it may be possible for DOC to reduce in-person reporting requirements, which can be difficult for individuals in remote locations to meet. Finally, DOC may be able to encourage courts to consider individuals’ ability to pay when setting financial conditions.

CJI recommends:

- Increasing supervisees’ access to employment specialists and mental health services; if possible, the state should also partner with affordable housing organizations to establish a program that connects those who need housing with a 30-day voucher or affordable option to live in the partner companies’ housing units
- Identifying and offering interventions to individuals with mental health needs as early as possible
- Ensuring that there are enough amphetamine and methamphetamine treatment resources available to meet current needs
- Expanding the use of mental health specialty courts across the state
- Considering making pandemic-era reporting requirements permanent, reserving in-person reporting for high-risk individuals
- Implementing an ability-to-pay assessment that can be made available to the court before the person is ordered to pay any financial obligation to identify an appropriate amount for the defendant to pay that will not create an insuperable barrier to their success

RECOMMENDATION 8: Identify and address barriers specific to Native American supervisees

During the interview process, officers and supervisors reported both geographic and jurisdictional barriers to effective supervision of Native American individuals on their caseloads. Native American individuals who live on a reservation tend to be far removed from many types of treatment resources, which can lead to people struggling to fulfill their court- or Parole Board-ordered conditions of

supervision, as well as to attend in-person check-ins with officers. Additionally, DOC employees have no jurisdiction on reservations themselves, so there have been problems with people absconding by staying on the reservation where officers cannot reach them.

CJI recommends:

- Working with members of tribal justice systems to see if there are opportunities to cooperate in the supervision of tribal members who are on DOC supervision
- Adjusting supervision practices as necessary to accommodate the needs of geographically isolated people on supervision

RECOMMENDATION 9: Conduct a deeper analysis around certain findings to further examine drivers and develop solutions

CJI identified several areas it could not examine during its assessment. However, these areas are nonetheless important so DOC can understand the factors driving community supervision outcomes in Montana. Most importantly, DOC should continue its efforts to understand the challenges facing Native American people in Montana and continue its efforts to address the reasons for people absconding from supervision.

CJI recommends:

- Engaging in dialogue with Native stakeholders to explore and address the challenges facing the Native American population
- Conducting a deeper analysis of the factors driving absconding behavior

ENSURE SUSTAINABILITY OF POLICY AND PRACTICE CHANGES INTENDED TO IMPROVE OUTCOMES

RECOMMENDATION 10: Align staff with DOC’s commitment to using evidence-based practices

It is important that leadership works to align staff with the department’s commitment to using evidence-based practices (EBPs). In CJI’s survey, 31 percent of officers disagreed or strongly disagreed that the MIIG was effective in responding to compliance violations, and only 58 percent of officers replied that they follow a formal response system when they become aware of a compliance violation. When asked what they would change about the violation response or revocation process, 23 percent of respondents reported that they would change or eliminate the MIIG and increase officer discretion.

Meanwhile, 54 percent of surveyed officers felt that there was inconsistency among officers about how to use incentives, and while 57 percent of participants agreed or strongly agreed that case plans were helpful for targeting an individual’s criminogenic needs, 43 percent either disagreed or strongly disagreed. Finally, through a survey of DOC staff, CJI found indications that staff do not feel included in the process of adopting new evidence-based supervision practices, as 71 percent of officers disagreed or strongly disagreed with the statement “Staff are encouraged to participate in generating ideas to make policy changes.” To change these prevailing narratives among officers, DOC must take steps to demonstrate the need for and utility of EBPs and build them into officers’ job descriptions and performance evaluations.

CJI recommends:

- Establishing a protocol to meet periodically as a department in addition to bureau or team meetings to strengthen the communication and collaboration between regional and local offices and the central office
- Holding discussion groups between officers and DOC leaders to examine the MIIG and evaluate what works well and what does not to enhance the use of effective responses to behavior, including both sanctions and incentives
- Tailoring performance evaluations to include the use of evidence-based supervision practices and developing a process for gathering feedback from staff on proposed policy and practice changes
- Implementing education for all stakeholders about the role of probation and parole supervision, framed around the use of evidence-based supervision practices intended to reduce recidivism
- Ensuring that officer job descriptions align with DOC's mission

RECOMMENDATION 11: Enhance the usability of data in OMIS

According to DOC stakeholders, Montana's IT trainers have conducted multiple rounds of data training to ensure that data are entered properly into OMIS. However, there are still substantial problems with the data that exist in OMIS, primarily due to the use of paper forms that require manual entry into the system, and because there is no means of ensuring that these forms are entered correctly and in their entirety. If these issues can be resolved, enhanced access to data can enable DOC to make data-driven decisions in real time, including enhanced monitoring and skill development around the use of evidence-based practices.

CJI recommends:

- Developing a plan for accurate and timely entry of all assessments and materials into the case management system; this plan should include a mechanism for quality control of data entry as well as periodic review
- Providing training to staff so they understand the importance of accurate data, and examining current data entry processes to identify any existing barriers that are preventing or discouraging staff from prioritizing data quality

Appendix: Methodology

In May 2020, CJI began conducting a comprehensive examination of data, policies, and practices related to community supervision in Montana, with a particular focus on revocations. This assessment started with a virtual meeting with a select group of DOC leadership. CJI presented the plan for the assessment methodology and facilitated a discussion with the group to gather feedback and finalize the specifics of the plan.

For the quantitative portion of the assessment, CJI collected and analyzed community supervision data in Montana from 2012 to 2020. Data were collected at the individual level and included the following information:

- Basic demographic information
- Sentence and offense information
- Supervision start and end dates/time served on community supervision
- Risk and needs assessment information
- Information on conditions of supervision
- Violation information (for individuals terminating conditional release)

Additionally, publicly available correctional population data were analyzed to provide further context.

File Review: CJI was unable to address several relevant questions with the data provided for the quantitative analysis portion of this project, such as information on needs and responsivity factors and violations for the parole and probation populations. To fill these gaps, CJI conducted a review of community supervision files, examining a sample of randomly selected terminations from 2019. A sample of 180 files was selected – 40 parole terminations, 40 conditional release terminations, and 100 probation terminations – with equal numbers of successful completions and revocations from each type of supervision. As several files did not have adequate data for analysis, the final sample included 164 individuals (39 parole terminations, 37 conditional release terminations, and 88 probation terminations), analyzed quantitatively to provide information unavailable in the original data provided. Montana DOC provided CJI with Pre-Sentence Investigation reports, judgments, and reports of violation (for individuals who were revoked), from which CJI collected information on fines/fees/restitution, needs, responsivity factors, and barriers to success on supervision, and details on violations leading to revocation (for individuals revoked from parole and probation).

To streamline and condense the violation information collected for the conditional release population, CJI created 13 overarching violation categories encompassing similar types of violation behaviors. These violation categories included:

- Substance Use-Related Violations
- Lack of Compliance/Status Offenses
- Missed Reporting Requirements
- Failure to Attend/Complete Programming Requirements
- Lack of Compliance/Location Monitoring
- Sex Offender Violations
- Lack of Compliance/Employment
- Lack of Compliance/Weapons
- Contact with Felons/Co-Defendant/Gang Members
- Absconding

- Failure to Pay Fines/Fees/Restitution
- Mental Health-Related Violations
- Contact with Victim/Child

Along with the quantitative data analysis, CJI conducted a qualitative analysis to gain further understanding on the practices that may drive the quantitative findings. CJI started this analysis by reviewing relevant state laws and written policies related to community supervision and decision-making. This included a review of documents related to staff onboarding and ongoing training, treatment and programs offered to individuals on supervision, risk and needs assessments, responses to violations, and revocation proceedings.

Working with DOC leadership, the CJI team conducted group and individual interviews with stakeholders to develop a more nuanced understanding of how individuals are supervised in the community and how revocation from supervision in Montana works in practice. CJI interviewed different groups of stakeholders over the course of the project, including:

- Probation and parole officers (six interviews with a total of 29 officers)
- Probation supervisors (two interviews with a total of 13 supervisors)
- Judges (four individual interviews)
- Public defenders (10 individual interviews)

Despite several attempts, CJI was unable to interview county attorneys or members of the Parole Board.

CJI also distributed a survey to DOC staff to gather information about factors that may lead to revocation. The survey was distributed to 259 DOC staff members and supervisors, 120 of whom responded, for a response rate of 46 percent.

Additionally, as part of CJI's qualitative analysis, The Moss Group provided an assessment and summary of DOC's organizational culture.

End Notes

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- ² Ibid.
- ³ Ibid.
- ⁴ Ibid.
- ⁵ Responsivity factors are individual characteristics, such as learning style or motivation, which may relate to how interventions should be applied.
- ⁶ Montana Code Annotated (MCA) 46-18-201. https://leg.mt.gov/bills/mca/title_0460/chapter_0180/part_0020/section_0010/0460-0180-0020-0010.html
- ⁷ Montana Board of Pardons and Parole. “Getting Ready for Parole.” Montana Department of Corrections. Accessed February 7, 2022. <https://bopp.mt.gov/GeneralInfo>.
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- ⁹ “Other” terminations include death, return of interstate compact cases to their sending state, individuals finishing a sentence with another state or federal agency, and individuals who have completed their sentence, but are in jail with pending charges.
- ¹⁰ “Other” terminations include death, return of interstate compact cases to their sending state, individuals finishing a sentence with another state or federal agency, and individuals who have completed their sentence, but are in jail with pending charges.
- ¹¹ A.L. Solomon et al., (2008). Putting Public Safety First: 13 Parole Supervision Strategies to Enhance Reentry Outcomes. Urban Institute. <https://www.urban.org/sites/default/files/publication/32201/411800-putting-public-safety-first-strategies-for-successful-supervision-and-reentry-policy-brief-.pdf>
- ¹² See e.g., State v. Zimmermann 355 Mont. 286 (2010). (Holding that ordering a defendant who was impermissibly feeding feral cats to remove his pet cats from the premises after being convicted of public nuisance was a permissible probation condition because doing so minimized the likelihood of his bringing cat food to the premises, and thus a sufficient “nexus” between the condition and conviction existed.)
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- ¹⁴ Montana Probation and Parole Division (PPD) 6.4.205.
- ¹⁵ MCA 46-23-1025. https://leg.mt.gov/bills/mca/title_0460/chapter_0230/part_0100/section_0250/0460-0230-0100-0250.html
- ¹⁶ MCA 46-18-203. https://leg.mt.gov/bills/mca/title_0460/chapter_0180/part_0020/section_0030/0460-0180-0020-0030.html
- ¹⁷ White and Native American individuals represent the two largest racial categories in the state.
- ¹⁸ E.J., Wodahl, et al., “Utilizing behavioral interventions to improve supervision outcomes in community-based corrections”, *Criminal Justice & Behavior*, (2011), 38(4), 386-405.
- ¹⁹ MCA 46-23-1028. https://leg.mt.gov/bills/mca/title_0460/chapter_0230/part_0100/section_0280/0460-0230-0100-0280.html
- ²⁰ MCA 46-18-203. https://leg.mt.gov/bills/mca/title_0460/chapter_0180/part_0020/section_0030/0460-0180-0020-0030.html
- ²¹ MCA 46-23-1025. https://leg.mt.gov/bills/mca/title_0460/chapter_0230/part_0100/section_0250/0460-0230-0100-0250.html
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- ²³ Montana PPD 6.3.101.
- ²⁴ MCA 46-23-1001. https://leg.mt.gov/bills/mca/title_0460/chapter_0230/part_0100/section_0010/0460-0230-0100-0010.html
- ²⁵ Montana PPD 6.3.413.

- ²⁶ MCA 46-23-1012. https://leg.mt.gov/bills/mca/title_0460/chapter_0230/part_0100/section_0120/0460-0230-0100-0120.html
- ²⁷ MCA 46-23-1023. https://leg.mt.gov/bills/mca/title_0460/chapter_0230/part_0100/section_0230/0460-0230-0100-0230.html
- ²⁸ Montana PPD 6.4.102.
- ²⁹ MCA 46-23-1028. https://leg.mt.gov/bills/mca/title_0460/chapter_0230/part_0100/section_0280/0460-0230-0100-0280.html
- ³⁰ MCA 46-18-401. https://leg.mt.gov/bills/mca/title_0460/chapter_0180/part_0040/section_0010/0460-0180-0040-0010.html
- ³¹ The Pew Charitable Trusts. (2020, April 23). *Policy Reforms Can Strengthen Community Supervision: A framework to improve probation and parole.* <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/04/policy-reforms-can-strengthen-community-supervision>
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