

MSDF Task Force - Supervision Holds Subcommittee

Draft Report, November 12, 2019

The Problem

For every individual whose supervision is revoked for alleged rule violations, there are many more who are re-incarcerated on probation and parole “holds” and short-term sanctions. Each year as many as 15,000 individuals on supervision, more than 20% of the total, are re-incarcerated, and most of these individuals never undergo revocation proceedings. According to Wisconsin Department of Corrections (WIDOC) data, approximately 4,000 individuals on supervision are re-incarcerated each year in DOC detention facilities such as the Milwaukee Secure Detention Facility (MSDF), and an additional 11,000 are detained in county jails on “payable holds” (i.e., the cost of these detentions is paid by WIDOC). In fiscal year 2018 there were 11,249 of these payable holds, averaging 12 days in length, and all of these detentions were for alleged rule violations. If someone on supervision is arrested for a new offense, the counties pay for the time they spend in jail.

These holds do not require judicial review or approval, and someone incarcerated on a probation or parole hold is not eligible to be released on bail. Moreover, while Supreme Court decisions have established minimum due process rights, including the right to call witnesses and confront one’s accuser, for individuals during revocation hearings, the Court has not extended these rights to all individuals re-incarcerated for alleged rule violations. All told, more than 20% of the individuals in Wisconsin are re-incarcerated each year, primarily for rule violations for which there are alternative sanctions that are less disruptive of employment and family situations.

Best-Practices and Alternatives to Supervisory Holds

Alternatives to the widespread use of supervisory holds can be seen in the supervisory changes being undertaken by many state DOCs, often as part of Justice Reinvestment Initiatives. States such as North Carolina and Colorado have also taken steps to insure that their DOC agents develop more supportive relationships with clients by requiring them to give greater emphasis to positive rewards for rule compliance, with the optimal response being four rewards for each sanction. These changes in the way agents

respond to the behavior of people on supervision accord with the social learning theory, the idea that people will choose behaviors that result in positive outcomes over those that have negative consequences.

Recommendations

The DOC should further restrict the circumstances under which re-incarceration is a recommended response to rule violation.

The DCC should establish some criteria and procedures whereby DCC agents are required to assess the credibility of an allegation before imposing a hold. In cases where the allegations subsequently prove false, there should be repercussions for the individuals making such false allegations. Any future testimony from them should be subject to higher requirements of evidence and should not result in a hold.

Where agents are not able or willing to establish a positive supportive relationship with supervisees, there be a liaison to help resolve conflicts and miscommunications. Where the conduct at issue could be the basis for imposing a hold, DCC agents should contact the liaison to help resolve the conflict before having an individual taken into custody.

The DOC should give greater emphasis to the use of positive rewards by recognizing agents who not only avoid imposing jail sentences and find alternative ways to sanction rule violations, but also consistently reward their supervisees for good behavior. In short, DOC should take steps to change the culture and reward agents who develop supportive relationships with the people they supervise.

Projected Impact

By taking steps to reduce the use of supervisory holds as a response to rule violations, and to encourage the development of more supportive relationships between DOC agents and the people they supervise, the Department of Correction can better achieve the goals of its Mission Statement, particularly the goal of providing opportunities for positive change and success on the part of the people it serves.