

UNIVERSITY OF MINNESOTA

PROBATION REVOCATION AND ITS CAUSES:

Profiles of State and Local Jurisdictions

A publication by the Robina Institute of Criminal Law and Criminal Justice

**WHARTON AND
MATAGORDA
COUNTIES,
TEXAS**



PROBATION REVOCATION AND ITS CAUSES: Profiles of State and Local Jurisdictions

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Wharton and Matagorda Counties, Texas



By

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This report is the second in a series on:

***Probation Revocation and Its Causes:
Profiles of State and Local Jurisdictions***

PROBATION REVOCATION AND ITS CAUSES:

Profiles of State and Local Jurisdictions

Introduction

The Matagorda County Community Supervision and Corrections Department (CSCD, or "Department") services Wharton County and Matagorda County, Texas.¹ In 2014, the CSCD had 22 employees, 18 of whom supervised cases in some capacity, dispersed over two units. One unit is located in Wharton and one in Bay City, Matagorda. The Department's annual budget was about \$1.5 million, \$1.3 million of which is for basic supervision, and which funds the majority of departmental functions and salaries. The remaining budget is devoted to the high risk caseload (which is grant funded by the state) and a substance abuse caseload (which is funded by the state and community correction funds). The primary sources of funding are supervision fees paid by probationers (65%) and state funding (35%). The high reliance on supervision fees is not unusual for probation departments statewide.

On August 31st, 2014, 473 individuals were under direct probation supervision in Wharton County and 720 were under direct probation supervision in Matagorda County. The probation supervision rate was an estimated 1,551 per 100,000 adult residents in Wharton County and 2,646 in Matagorda County as of August 2014. The combined supervision rate is 2,067, which is near the average rate for the entire state. In 2013, the statewide probation supervision rate in Texas was 2,043 per 100,000 adult residents, the ninth highest rate among all states.² Statewide, the probation supervision rate has been falling over the past 10 years, from 2,698 at yearend 2003³ to 2,043 at yearend 2013.

Source: 2014 Pop. Estimate" and "% of Pop. Over 18" from the U.S.Census Bureau website. "Wharton and Matagorda General Demographics, available at <http://www.census.gov/quickfacts/table/AGE295214/48481,48321>.

Wharton County is the 75th largest county in Texas (out of 254) with a population of 41,215 and Matagorda County is the 83rd largest county in Texas (out of 254) with a population of 36,537. In Wharton, forty-seven percent of the population is white, 14% are African American, and 31% are Hispanic. Similarly, in Matagorda, forty-six percent of the population is white, 11% are African American, and 40% are Hispanic. The median income in Wharton County is \$40,411 and the median income in Matagorda County is \$43,096, which is below the median income for Texas as a whole (\$51,900).

The index crime rate in Wharton County is lower than the statewide average in 2014: 2,422.3 versus 3,349.6 per 100,000 residents.⁴ The index crime rate in Matagorda County is about the same as the statewide average: 3,356.4.

Wharton and Matagorda County Crime Rates, 2014

Rate Per 100,000	Murder	Rape	Robbery	Aggravated Assault	Burglary	Larceny	Auto Theft	Total
Wharton	9.6	45.8	33.7	356.7	554.4	1,323.2	98.8	2,422.3
Matagorda	0	35.3	43.4	247.1	803.8	2,131.7	95	3,356.4

Source: Tex. Dept. of Pub. Safety, *Crime in Texas 2014*, ch. 10b, http://www.txdps.state.tx.us/administration/crime_records/pages/crimestatistics.htm.

Texas courts are authorized to impose community supervision terms as follows:

- Felony: A period equal to the minimum term of imprisonment up to a maximum of 10 years.
- Certain third-degree felonies: A period equal to the minimum term of imprisonment up to a maximum of 5 years.
- State jail felony (certain drug possession offenses): A minimum of 2 up to a maximum of 5 years.
- Misdemeanors: Up to 2 years.

Source: Tex. Code Crim. Proc., art. 42.12 §§ 3(b), 4(b), 5(a), 6(a), 15(b).

For those currently on probation, the average length of probation sentences pronounced for misdemeanor cases was 9.1 months in Wharton and 15 months in Matagorda; for felonies it was 62.7 months or approximately 5.2 years in Wharton and 71 months or approximately 5.9 years in Matagorda. The ten most common primary offenses for which individuals are directly supervised by Wharton and Matagorda Counties are listed in the table below.

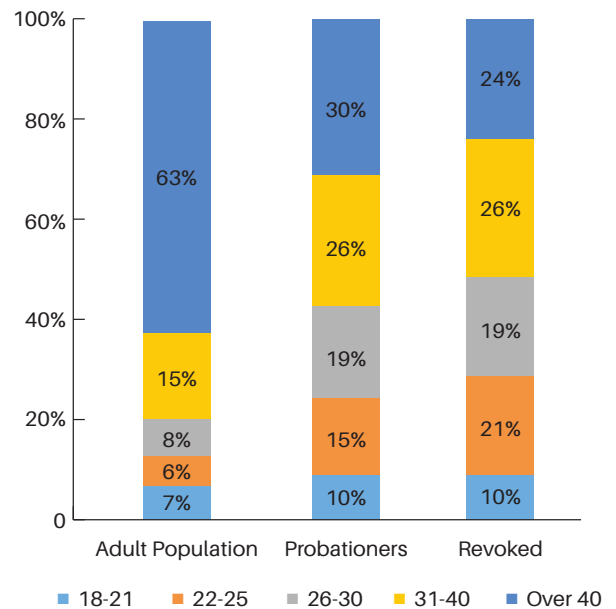
Note: The Wharton Community Supervision and Corrections Department is a bi-county department. It is a joint department and there are a minimum of 5 judges (3 district judges and 2 county judges) as well as two prosecutor's offices (one in each county). Each court has its own philosophies about the use and purpose of probation and each prosecuting office has differing internal policies about probation and revocations.

Ten Most Common Primary Offenses for Directly Supervised Offenders

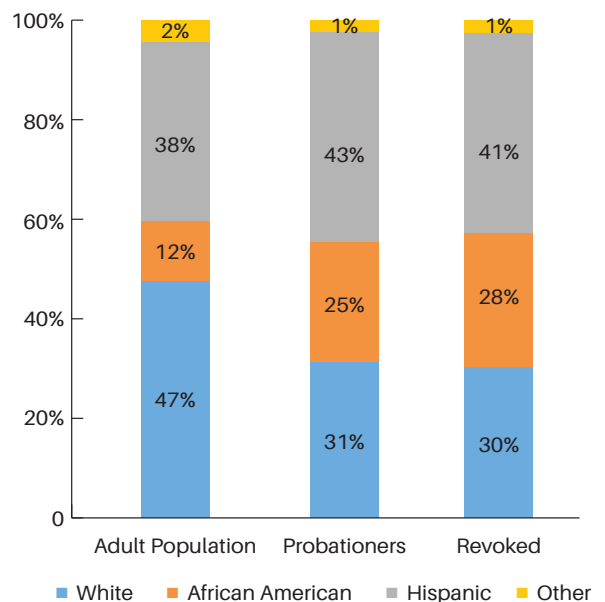
Offense	Percent
Felonies	
Assault	9.75%
Controlled Substance	9.67%
DWI/DUI	7.27%
Other Offenses	6.45%
Theft	6.36%
Burglary	6.36%
Felony Total	45.86%
Non-Felonies	
DWI/DUI	14.88%
Assault	7.60%
Controlled Substance	6.69%
Theft	5.79%
Non-Felony Total	34.96%
Grand Total	80.83%

The majority of individuals on adult probation in Wharton and Matagorda Counties in fiscal year 2015 were male (71%). Nearly a third of probationers were over 40, while about a quarter were 31 to 40, a fifth were 26-30, and a quarter were 26 and under. Thirty-one percent of probationers were white (compared to 47% of the population); 25% were African American (compared to 12% of the population), and 43% were Hispanic (compared to 38% of the population). The African-American probation supervision rate was nearly three times the white rate; while the Hispanic supervision rate was nearly two times the white rate.

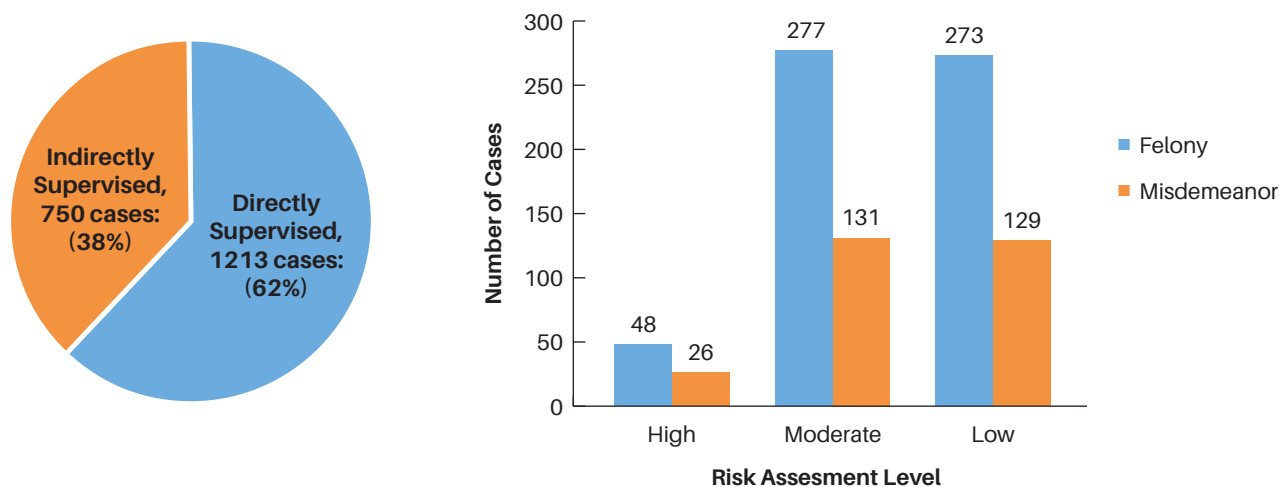
Age Demographics of Wharton and Matagorda Counties



Racial Demographics of Wharton and Matagorda Counties



Probationer Supervision by Risk Level



Prior to December 2014, the department used the Wisconsin Risk Assessment instrument for approximately thirty years. Beginning January, 2015, the state mandated the use of the Texas Risk Assessment System (TRAS) which is based on the Ohio Risk Assessment System (ORAS). The risk level indicated by the assessment determines the frequency of probation appointments and the intensity with which he or she is supervised. For example, high risk probationers (level 1) must report in person to probation monthly and a field visit (home visit) must be conducted every 30 days. Moderate risk probationers are seen once per month in the office and have less frequent field visits; low/moderate cases are seen in the office once per month and receive field visits as needed. Low risk probationers (level 4), must report in person every 60 days and field visits are only conducted as needed. In August 2015, just over two-thirds of probation cases were directly supervised (1213 cases). An additional 750 cases were "indirectly supervised," which included cases transferred to another jurisdiction and absconders.

The average regular caseload was 82 in Wharton and 114 in Matagorda as of the last quarter of fiscal year 2015. Since then, two additional officers were hired in Matagorda County, helping to reduce the caseload. Wharton and Matagorda Counties each have two specialized caseloads: each has one substance abuse caseload officer and one high risk caseload officer. The deputy director in Matagorda also handles a caseload of clients who are in the Substance Abuse Felony Punishment Facility (SAFPF) and the Transitional Treatment Centers

following SAFPF. Matagorda County places about 10-12 times the number of offenders in SAFPF that Wharton County does. The average specialized caseload in both counties was 53.

The court can revoke community supervision "when a preponderance of the evidence supports one of the state's allegations that the defendant violated a condition of community supervision."⁵ If the violation is solely based on a failure to pay attorney fees, fines, or court costs, the state must prove by a preponderance of the evidence that the defendant was able to pay and did not.⁶

The court may continue, extend, modify, or revoke community supervision based on a finding of a violation of a condition of supervision. If supervision is continued or modified, the court may impose any other condition deemed appropriate, including community service, an increased period of supervision, increased fines, or placement in a substance abuse felony punishment program. If the term of community supervision is extended, the term for a first, second, or third degree felony cannot exceed ten years. For a misdemeanor, an extension may not cause the defendant's term to exceed three years unless the extension is based on the defendant's failure to pay fines, costs, or restitution, in which case the term may be extended for a further two years if the court finds an extension would increase the likelihood of payment.⁷ Additionally, the court can extend the term for probationers convicted of certain sex offenses for an additional 10 years if the probationer "has not sufficiently demonstrated a commitment to avoid future criminal behavior and that the release of the defendant from supervision would endanger the public."⁸

If the court revokes probation, the potential consequences depend on the type of probation. For regular community supervision, the court can proceed as if there had been no community supervision and execute the original term of confinement, or if the judge determines the best interest of society would be served by shorter term of confinement, the court can reduce the term.⁹ For persons placed on probation in conjunction with a deferred adjudication, however, the consequences include entry of conviction and any sentence that could originally have been opposed for the offense of conviction.¹⁰

Violation hearings were drawn from both Wharton County and Matagorda County during September 2012 through August 2013. In Wharton County, probationers were

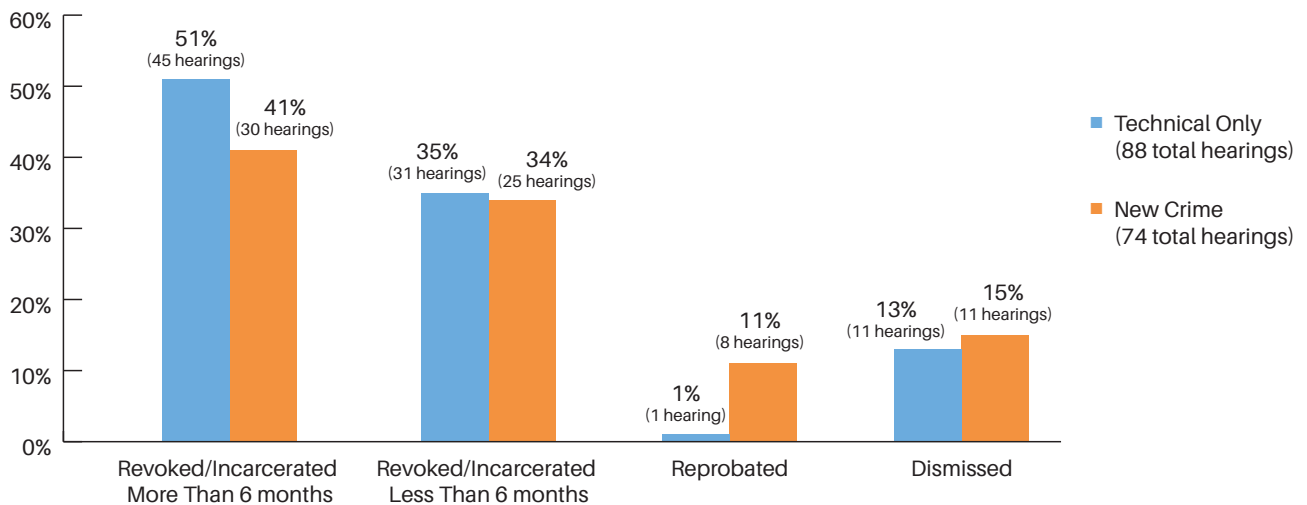
revoked in 80 percent of all hearings. Fifty-one percent of those revoked for technical violations received an incarceration sentence of more than 6 months. In Matagorda County, 56% of probationers were revoked in all violation hearings; 23% of those revocations were for technical violations only.

Interview Data

The remainder of this report summarizes the views of 36 people we interviewed that were evenly split between Wharton and Matagorda Counties, including 20 probation officials (both supervisors and line officers), 7 probationers, and several others including judges, defense attorneys and district attorneys. The interviews give important insight into the perspectives of those who participate in the county's

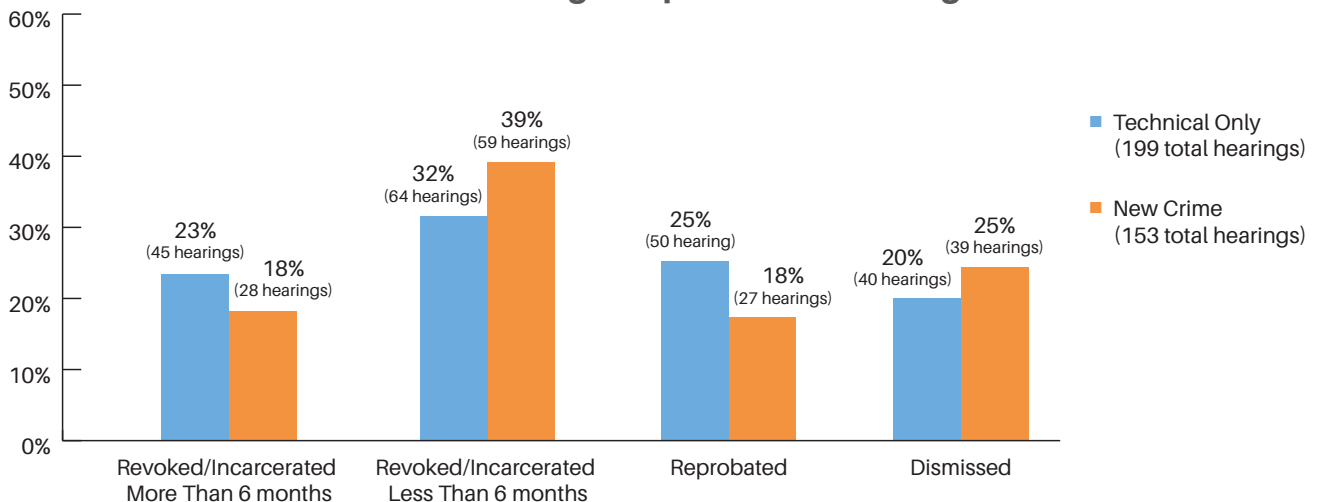
Process Analysis of Violations Hearings in Wharton County:

Outcomes for 162 Hearings (September 2012-August 2013)



Process Analysis of Violations Hearings in Matagorda County:

Outcomes for 352 Hearings (September 2012-August 2013)



probation system, but do not reflect the opinions or conclusions of the Robina Institute. Many interview subjects are quoted directly, but the material below is presented in a way that protects the identities of the people we interviewed.

We have organized the narrative to reflect the following subjects: (1) conditions of probation, (2) length of probation terms, (3) fees and restitution, (4) sanctions, administrative actions, and treatment services, and (5) motions, judges, hearings, and revocations.

1. Conditions of Probation

Summary of Views Expressed About Probation Conditions
The conditions imposed are things that the probationer should already be doing.
Conditions are an important part of the rehabilitative process.

be added by the judge (such as days in jail or credit for days served in jail), and if the defendant is convicted of a state jail felony or higher drug case, he or she must submit to a drug/alcohol evaluation by the CSCD, which will determine the appropriate treatment course of action. When probation is ordered as part of a deferred adjudication, there are 21 standard conditions, including one condition that includes five financial conditions. Sex offenders on probation in Wharton/Matagorda County have a longer list of mandatory conditions than most other probationers, with an additional 25 conditions.

Details from Interviews

Conditions imposed are things that the probationer should already be doing.

Criminal justice officials expressed that the conditions imposed by the court are manageable and fair, and generally codified the rules of being a good citizen. Probation officers stated:

“A lot [of people] who are abiding the law meet those conditions anyways. It is stuff that you should be doing anyways: not using [drugs], not being around criminal people. We do have a curfew for everyone.”

“I think a lot of them are basic conditions that they should do. They are basic things that you and I probably already do. I don’t think there is anything on the conditions that should be removed. It really covers it all. Matter of fact they have added things that have really helped us. I can’t say I would want anything removed.”

A few probationers also felt that the conditions were generally reasonable. One probationer said, *“I think that the conditions are fair. I am on felony probation so I have a curfew from 11 pm to 6 am which is a little difficult, but it’s okay.”* Another probationer said, *“There are not too many; all the rules are keeping you out of the life you were living.”*

Background: Texas law lays out a long list of potential conditions that may be ordered. They range from requiring probationers to remain law abiding to requiring probationers to submit for alcohol testing or electronic monitoring.¹¹ Specific conditions apply to defendants convicted of DWI offenses, offenses committed because of bias or prejudice, certain violent offenses, domestic violence offenses, and offenses involving substance abuse.¹² In addition, the court can impose “any reasonable condition that is designed to protect or restore the community, protect or restore the victim, or punish, rehabilitate, or reform the defendant.”¹³ The court can impose confinement as a condition of community supervision. For a misdemeanor, confinement must not exceed 30 days. For a felony, it must not exceed 180 days.¹⁴

The court must order all defendants granted community supervision to pay a fee of \$25 to \$60 per month. The judge may make payment of the fee a condition of granting or continuing the community supervision. The judge may waive or reduce the fee or suspend a monthly payment of the fee if the judge determines that payment would cause the defendant a significant financial hardship. Sex offenders must be ordered to pay an additional mandatory \$5 supervision fee.¹⁵

In Wharton and Matagorda Counties, there are approximately 26 standard conditions for all probationers, including one condition that includes seven financial conditions (see Appendix A). Additional conditions can

Conditions are an important part of the rehabilitative process.

Even though criminal justice officials did not expect that every condition would be followed, conditions were seen as an important part of the rehabilitative process. One probation officer stated:

“The idea is that the probationer accepts responsibility for what they have done and goes through a process of rehabilitation. But there is also the idea that we don’t want to put everyone in prison because we don’t have enough space. The conditions may help the person become more responsible and law abiding.”

A judge expressed a similar opinion:

“I expect violations to happen and expect [the] probation department to be on top of that. The people we have on probation are not usually well equipped to follow all the rules and conditions. The goal is to give them the skills to deal with tomorrow so they are not breaking all the rules. . . Change is not something that can happen overnight. The probation department, especially with the personnel we have now is pretty successful with that.”

2. Length of Probation Terms

Background: The length of probation is capped by law at 10 years for most felonies, 5 years for certain lower level felonies and state jail offenses (certain drug possession offenses), and two years for misdemeanors.¹⁶ In 2007, a bill was passed that decreased lengths from 10 to 5 years for certain offenses, including third degree felonies.

New legislation also simplified the process for petitioning for early termination of probation. After a probationer has served a third of his or her sentence, the probationer may file a pro se motion with the sentencing court. Previously, petitions for early release had to be filed by attorneys, making the process prohibitively expensive for most probationers. Even under the new law, however, probationers are not eligible for early release unless they have fully paid all outstanding fees.¹⁷

Summary of Views Expressed About the Length of Probation Terms

The “right” length of probation depends on a number of factors.

Sentences that are both too long and/or too short can be problematic.

Judges in the two counties are perceived to order different lengths of probation.

The length of probation can change through extensions and early termination.

Details from Interviews

The “right” length of probation depends on a number of factors.

The following factors were identified as important determinants of the appropriate length of probation: the offense, criminogenic needs, and the financial liability. Probation officers stated:

“I think [the appropriate length] depends on the offense and who the person is. I think we need to look at who the person is and what got them to this point.”

“[The right length] is going to be dependent on the offense. Some are going to warrant longer while some are going to warrant shorter. I have seen that the length is often based on the offense. I think for the most part it is warranted. I have a problem with marijuana [cases] and once we get in there and look at their history, I don’t 6 months deferred is long enough, but a year or two years deferred is long enough because it gives us a chance to work on the substance abuse and the history of how they got there.”

Another probation officer mentioned that people with significant restitution obligations need the maximum ten year sentence length in order to pay it. People with serious criminogenic problems, on the other hand, need about five to seven years. One prosecutor expressed specific views on the length of probation based on the offense and restitution obligations:

“Generally it shouldn’t be for very long. Someone who needs to be supervised for ten years probably isn’t a good candidate for probation. For cases like sex offenders who are only put on probation because we don’t think we can get a conviction and prison,

we want as long probation as possible. DWI third time, chances are they will get a fourth [DWI]. For large sums of restitution, they need a long time to pay but will probably not get probation for a case with that much restitution. 80-90% [of cases] are five years or less because if they will screw up, they will do it before then. No time is too short... My predecessor didn't like anything less than a year, but I rely on probation's expertise. Possession of marijuana, driving without a license. . . don't need long."

Sentences that are both too long and/or too short can be problematic.

Several officers felt that sentences that were too long were very unlikely to be successfully completed.

"When someone completes a 10 year sentence, that's huge. I try not to have them on that long. 3 to 5 is good. Some people are successful at 7, but anything beyond 7 is hard."

In addition, very short sentences don't give probation time to be effective. According to one officer:

"[The right length should be a] minimum of a year. . . sometimes [probationers] do get less but those cases are harder to deal with because [the] case is almost over by the time we are finished assessing. On six month cases, [the judge is] not court ordering any specialized conditions. They just float through and don't get anything out of it. If [sentences are] a year, they will get something out of it as they can do classes or community service, but the court doesn't order a lot of community service. Some classes are three months long, so it is hard to get into if a class has just started, and it is hard to extend supervision."

Several respondents indicated that the beginning of a probation sentence is key because it is when most violations will occur. However, this does not mean there is no risk of violations later on in a long sentence. One defense attorney said, "If people are going to violate, it will be the first couple of years. I think some of the terms of probation tend to be too long. . . If I have a drinking and driving case, [a violation] is probably going to happen in five years. Most people are going to make some mistake in ten years."

Judges in the two counties are perceived to order different lengths of probation.

Although the two counties share one probation department, each has its own judge and prosecutors. Several respondents noted the differences in sentencing practices between the two courts. One defense attorney described it this way:

"Here in [County A] the length of probation [sentences] are reasonable but in [County B] they are totally unreasonable because prosecutors know they are going to be able to hammer the probationer because of the judge. Because the judge is more reasonable here, the district attorney knows he probably needs to be more reasonable. . . The judge in [County B] is more likely to give ten years than the judge in [County A]. In [County B], they may start with a ten year probation sentence and work down to seven or eight but here we may start with a six and work down to a four."

The length or probation can change through extensions and early termination.

Probation can be extended as a result of violations or non-payment of fees. However, probation can also be shortened through early termination, though interviewees commented that this option is more difficult for probationers who lack the resources to hire a private attorney. One probation officer noted:

"If you get a 10 year probation and do everything right, you can get off early. But for some offenses you can't get off early. If they have fees related to restitution, they could get probation for another 10 years. And they could potentially be revoked. But usually those mess up before then. It is pretty rare that [early termination] can happen."

Judges had differing views about the ease and frequency with which early termination is utilized.

"I really encourage [early termination]. I think it is a good incentive to get people off probation earlier. I know the department early terminates on their own motion, because they move on to more pressing matters [and] because they need people to move off because there are people coming on."

"Typically that tool [early termination] is accessed by people who have privately obtained attorneys. . . . A lot of people simply cannot afford that because it is not something that court appointed [attorneys] do. To answer your question, [early termination is not used] that often."

3. Fees and Restitution

Background: More than half of the probation department's budget, including salaries, comes from probationers' payments. This degree of reliance on fee collection from probationers to meet basic operating needs is consistent across the state of Texas. The cost to the state for regular probation supervision is \$1.63 per day; the cost to the probationer (via supervision fees) is \$1.57 per day.¹⁸ The state pays more for intensive supervision probation and specialized caseloads, while the burden on the probationer remains roughly the same.¹⁹ The department receives revenue from supervision fees, interest on supervision fees, pre-trial diversion, urinalysis fees, substance abuse counseling, sex offender counseling, cognitive education fees, and transaction fees.

Summary of Views Expressed About Fees and Restitution

Numerous fees fund a large portion of the agency's budget, but probationers often have trouble paying the competing fees.

Probation uses a range of responses for collecting fees.

Probation can be extended due to nonpayment.

Details from Interviews

Numerous fees fund a large portion of the agency's budget, but probationers often have trouble paying the competing fees.

Supervision fees are an important part of the agency's budget:

"There are three different sources [of funding]. The primary source is the state which is about 60-65% depending on the month. The rest comes from the probationers' [fees]. That is where our salary, benefits, and operating costs come from. The county supplies us with the building, utilities, and equipment. . . sometimes the state provides the equipment."

A probation administrator explained that there are supervision fees, monthly payment processing fees, and copays for treatment sessions and classes. These competing fees can add up and be beyond probationers' ability to pay. A probation officer told this story:

"Leg monitors are \$300 a month, and if they are paying that then they aren't paying their supervision fees and restitution fees. They pay for it. And I have one guy who I put on the leg monitor for a year and I feel like I almost set him up to fail. He pays it but it takes mom and dad and grandma and everyone to help them pay for. I tried to get a re-modified but the judge would not accept it. They said the client needs to be on it for a year."

Probationers described the response they received from probation when experiencing difficulty paying fees. One probationer described it like this: "[T]hanks for letting us be free, but if you can't pay \$175, well, too bad."

Another probationer said:

"I pay \$120 a month since I'm [supervised] in two counties. I could have gotten the other one waived, but I can't because I signed the paper and agreed to pay and I'm not going back in front of that judge again! I'll just suck it up; I did wrong. But, I understand they need the money to function. At least in [this] county, if you speak up, they will listen and work with you to help you pay the fees."

Probation uses a range of responses for collecting fees.

Officers try to monitor payment of the fees and reported sending letters (often on bright green or red paper) when probationers fall behind. One officer tries not to pursue revocation for non-payment since the state bears the burden of showing willful non-payment. The judge in one of the counties is reticent to revoke probation for financial obligations, and reminds the officers that *"debtor's prison was declared unconstitutional a long time ago."* The prosecutor, on the other hand, wants probation to file petitions for non-payment after 90 days.

A judge, defense attorney, and prosecutor all described use of a report and pay docket as a method for encouraging payment of fees. The judge indicated that this method *"keep[s] pressure on them,"* but noted that probationers are rarely revoked for failure to pay. The defense attorney and prosecutor both commented that if probationers are sent to jail for failure to pay, they tend to somehow come

up with the money to pay their fees. A district attorney explained:

“For fees, I am opposed to putting people in prison for being unable to pay. Can dismiss probation sometimes, but can’t dismiss them all because probation needs the money to function. I will put them on a report and pay docket so the person will have to show up to court and pay each time. We can hold people for ransom. . . . it’s amazing how people can come up with the money when they are locked up. But, I lose legitimacy as a DA if I imprison someone for not being able to pay.”

A probationer explained how the possibility of getting off probation early was a good incentive to pay, as he was employed and able to pay:

“I’m paying almost double every month so I can get it done early. I already talked to the DA and if I get all my stuff paid off early and do everything I need to do, I can ask for an early release and he would go for it, it would just be up to the judge.”

Probation can be extended due to nonpayment.

Two officers said that the only reason they extend probation terms is for non-payment of fees, and that they often do so. *“I have some people [on probation] for 5 years and I extend [their sentence] to 10.”*

A defense attorney explained how extension typically worked:

“In the state of Texas, the law states you can’t be punished for [not paying fees], but they will look at did you do your community service hours. If they did, they will let them work it off doing community service hours which extends their probation and keeps them under the microscope of probation for a longer period of time.”

A probation officer explained what is required during an extension:

“We will work with them [regarding fees] for as long as we can; even if probation ends we will extend them, as long as they are making some effort, even \$5 a month.”

4. Sanctions, Administrative Actions, and Treatment Services

Background: A sanctions grid was established in 2007, with some minor adjustments since then. The sanctions grid lays out options for responding to violations (see Appendix B). Every violation has five sanction levels, each of which contains options ranging from letters, phone calls, and verbal warnings, to administrative hearings with a supervisor, increased reporting, judicial summons, and submission of the violation to the D.A. The department also had an incentive grid, though it is not used often because the staff views it as rewarding clients for things they should be doing anyway. The incentives are limited and include options such as verbal praise, reduced community service hours, reassessing risk/needs, and certificates.

Summary of Views Expressed About Sanctions, Administrative Actions, and Treatment Services

The progressive sanctions grid was embraced by probation officers but other criminal justice officials view it less favorably.

Officials noted a lack of resources in the community and suggested that additional resources would allow them to rely on incarceration less.

While short jail stays are sometimes used, the use of inpatient drug treatment is expanding.

Details from Interviews

The progressive sanctions grid was embraced by probation officers but other criminal justice officials view it less favorably.

In both counties, the department uses a progressive sanctions grid (see Appendix A). The response to violations follows a four-step progression. In the first violation, the agent responds. With the second violation, there can be an administrative hearing; this hearing

is not formal, and was described as an ad hoc meeting between the probationer, supervising probation officer, and a supervisor or senior officer. For the third violation, the response can progress to a judicial summons, which involves a status conference with the judge and a more formal reprimand. Lastly, a revocation can be filed. The response to a violation may also have to do with the severity of offense as explained by one probation officer:

“The severity of the offense has a lot to do with what we might do. Severity has a lot to do with what actions and choices we make in terms of sanctions.”

In addition, the response to the violation may depend on the original offense:

“We go down a list of sanctions before we actually revoke them. And it is different for misdemeanors and felonies. For misdemeanors you don’t give them that much leeway.”

A judge also expressed a favorable opinion of the sanctions process:

“We are very tolerant here. We use a progressive sanctions model, which most of the probation officers believe in. Sometimes people are frustrated with a ruling I made or probation made and they think the guy’s a dirt bag and needs to go to prison, so they try to find a violation. In every case, if you look hard enough, you can find a violation, so it is about trust between all parties. There are all sorts of ways trust can be lost. Sometimes we are patient with them and have good outcomes and sometimes we are very patient and we have bad outcomes.”

While many probation officers embraced the sanctions grid, the open-ended nature of the sanctioning process was seen as problematic to one defense attorney:

“I think that would help the [county] judge be more fair if it was outlined what sanction you are going to get for each violation. It kind of lets everyone know what’s going to happen before it happens. If you have gone through those violations. . . you have already gone through a progressive sanctions plan and it gives the defendant fair warning, and each time they are penalized for the smaller infractions it opens their eyes before the bigger infractions. . . Something that could be implemented in these counties to help the revocation process otherwise sitting in the county jail for an indeterminate amount of time when it could have been settled for 2 months in county jail.”

Additionally, a prosecutor did not have a favorable view of the progressive sanctions model:

“I don’t like it, it is a Ponzi scheme to keep people out of prison. . . The court believes in you enough to give you a second chance and then you blow it. . . If they know that they won’t go to prison, people won’t have faith in the criminal justice system and won’t respect probation.”

He felt that it was important to sanction more minor violations, such as testing positive for marijuana. He explained:

“UAs are seen as a technical violation to probation, but it is a crime to the DA. But, if you admit to use, you still have your character. The reason it’s prohibited for people on probation is that these people already have poor decision making. We need to stop them before they commit a crime while under influence. The law is not about legislating feeling good, it is about the bad conduct that comes along with drug use.”

A probationer noted how graduated sanctions leave room for misbehavior, though it was not clear if another type of response would be more effective:

“Graduated sanctions make someone want to do it even more. . . I have friends who will go to AA drunk, all it does is take 30 minutes out of their day. Some people just don’t get it and will just do what they want.”

Officials noted a lack of resources in the community and suggested that additional resources would allow them to rely on incarceration less.

Interview respondents noted the resources available in the county included counseling, AA/NA meetings, and some community service work sites. However, due to the size and rural nature of the county, there are limits to what is available. For example, one probation officer said the county does have good resources, but they need more. She mentioned a local program that offers wrap-around services for families (including on-site daycare, mentoring, and personalized programming), and wishes it could be expanded to include more communities. One defense attorney said:

“Because we are a small, rural county, I don’t think there are enough alternatives to incarceration. There is less money to spend on rehabilitation.”

Another defense attorney noted:

"It's money. There are just not enough resources. It is not that they [the probation department] don't try... but they just don't have enough resources. All of it. Anger management, alcohol and drug counseling, theft classes. The counselors that we use here are just not as qualified. I have heard of complaints about them. In a small town, you are just going to have trouble finding quality people."

Lack of transportation further limits a probationer's access to resources. One respondent from probation felt that lack of transportation was the biggest resource problem. While there is a regional bus system, it runs infrequently. Probationers often lack vehicles and/or driver's licenses. It was reported that about half of probationers reside in El Campo, on the west end of the county. Once a week, officers hold office hours there in borrowed space to minimize travel for probationers who need to report. Otherwise, the probationers would have to travel thirteen miles or more to Wharton to report. Additionally, sex offender treatment is only offered in Bay City, about thirty miles from Wharton or El Campo. There was also a reported need for mental health services. One probation officer stated:

"We could use more counseling resources for the mentally ill. Psychiatric services are limited and are not responsive to the challenges people face, especially with respect to transportation. Missing a meeting will often get people kicked out of programs, and the mental health care consists primarily of writing someone a prescription, with no regular follow-up."

One defense attorney felt that many decisions to revoke depend on the kinds of resources the county has. He suggested that, if additional resources were available in the community, it might be possible to avoid revocations in some cases:

"I think probation should be more of a rehabilitative program to help them improve where they're deficient as opposed to wait until they screw up to throw them in jail. Obviously, they committed a crime and that's why they are on probation, and the rest of the community wants to see them get help, but it is really hard when you live in a community with little resources. . . . Maybe that's why they [probation] are not so quick to revoke because there are not a lot of alternatives."

Often when they are making a motion to revoke they are asking to send [the probationer] to TDC [prison] or state jail because there are so many violations which is kind of counter-intuitive because, if there were alternatives for small violations, then maybe we could prevent larger violations. We could add community services, parenting classes, drug and alcohol treatment, but because we're small, I don't think we have that opportunity."

While short jail stays are sometimes used, the use of inpatient drug treatment is expanding.

Jail was sometimes used as a short sanction because other opportunities are limited as explained by a judge, *"I know there are state funded facilities, like SAFPF, which this county does take advantage of but since [the county is] small, there aren't many other opportunities."* This judge has started to give more county jail time as a wakeup call instead of sending probationers to prison.

A defense attorney felt that short jail stints weren't used often, but they were used more than in the past.

"What happens now is there is a motion to revoke with no bond so you are sitting in jail three or four months and they are sitting in jail with no treatment and the client will say. . . give me the lowest sentence you can and I will take it."

When short terms of jail are used (called "jail therapy" by one probation officer), *"[T]he probationer is made to sit for the term of custody and then is re-probated to a new term, without credit for the time served in jail custody."* Not getting credit towards the original sentence for the jail stay is an essential part of this type of punishment.

Probation officers also reported that drug treatment facilities are often used. As one probation officer explained:

"We do have locked facilities available to anyone in the caseload: A six month open facility, then we have some community providers that we have contracts with for 45 or 90 day open residential facilities. Then, we have multiple providers we have vetted for substance abuse services such as intensive outpatient, supportive outpatient, marijuana, and in house treatment."

Several probationers who were interviewed had experience with the state's locked, in-patient substance abuse treatment program, the Substance Abuse Felony Punishment Facility (SAFPF). This program is used much more frequently in Matagorda than Wharton. One probation officer described the program by saying:

"We get \$3.00 a day for SAFPF [during aftercare community supervision] and right now there is no waiting period. It wins on every level because you can get them out of jail, which makes the jail happy, and get the client into treatment, which helps them."

The probationers' accounts of the program were varied. Three probationers gave positive accounts of their experience with the program:

"SAFPF, it was different. 200 people for 9 months 24/7, you learn some patience. The program there, when you first get there you don't think it's good but in the end result, it is a good program. It was an alright program. I was out of my element. I had never been away from home that long. I got a lot of benefits from it, more than I had lost."

"I went to SAFPF in [a city in Texas], and it gave me more patience and allowed me to see my own character defects and how to deal with my emotions and not let my emotions make my decisions for me. It was a good place. It gave me good time to think about a lot. Really helpful. Then, I got out and went to the aftercare program for 8 weeks, here, that was really helpful."

"Fourteen months ago, I would have said the only reason they are sending me to SAFPF was because they made money off me. But, now I see they paid more to feed and take care of me. I don't really think about it, I look at the fact that it helped me. I don't care how they did it."

5. Motions, Judges, Hearings, and Revocations

Background: There are no specific written policies that mandate revocations in response to certain violations. However, the typical procedure is to utilize the written sanctions grid and, when a probationer re-offends, determine the response along with the prosecutor. If a probationer is arrested for a Class B misdemeanor or above, a motion to revoke or adjudicate is typically filed. However, whether or not the D.A.'s office is pursuing the new charge often weighs heavily on the response decision. After discussing the case with the D.A.'s office, it may be determined that it is not in the best interests of the probationer and the community to file a motion to revoke and instead to address the violation in a different manner. In fiscal year 2015, 19% of the revocations were due to a conviction for a subsequent felony or misdemeanor, 15% were due to a combination of a new offense arrest or charge and technical grounds, and 66% were for technical grounds. The most common technical grounds were absconding (20%) and failure to pay (18%).

Motions filed with the court include all violations. Even if the filing of a motion is prompted by a new arrest, all other violations the client received are included so that the court has an accurate depiction of the probationer before them.

Summary of Views Expressed About Motions, Hearings, and Revocations

Revocations are generally used by probation officers as a last resort.

There is general agreement that new crimes and repeated technical violations must result in a revocation proceeding.

For some probationers, the revocation hearing process can change their behavior, even if it does not result in revocation.

Generally, working relationships were good, with some exceptions. Relationships varied between the two counties.

Details from Interviews

Revocations are generally used by probation officers as a last resort.

Probation officials consider the possible collateral effects of revocations and the circumstances surrounding the violation. When confronted with a possible revocation, one probation officer thinks about the collateral consequences including the family units: *“Are we revoking the family?”* A defense attorney also describes how he takes into account the circumstances surrounding the violation:

“I think you have to look at the big picture. I have a guy who has been doing great. He has been seen in the bar drinking and I don’t have a problem with that. He has been doing what he has supposed to be doing. Now if he was beating his wife I would have a problem with that.”

Another defense attorney explains:

“The first [thing] that I look at when I get a revocation case is not only the alleged violation and the case at hand, but all the history that happened before. How many violations do they have, how many felonies? What was their criminal history prior to this revocation? Look at the criminal history, look at their role in society whether or not they are working, married, have kids. Whether or not they are part of their actual immediate family, whether or not living alone or with mom and dad. The objective is to look at the violation and see if there are any truth to them, ask the client if true or not, go by the violations one by one.”

Several probation officers also described how they utilize violations as a last resort, not as a first response. One officer stated, *“I believe in second chances”* and another noted that revocation is appropriate when supervision is no longer having an effect.” One probation officer reported that the county’s judge is supportive of the department’s approach. Before revoking, he asks, *“What else have you tried?”* Another officer reported that revocations almost always require the commission of a new offense, and they want to avoid revocations and the large amount of paperwork they require. This officer estimated that when the department files for revocation based on failed drug tests, substance abuse treatment is offered before or instead of prison about eighty percent of the time. Another

officer describes the extent to which the department tries to work with a probationer before filing a revocation. The officer stated that revocation is filed when there is:

“... total disrespect of what the probation is trying to do for them. When they are so resistant and they can’t see the benefit of probation. You know when they aren’t willing to see their part, it’s everyone else’s part; that person should be revoked because they were never engaged in the first place. I have worked in other counties and by far this probation department is willing to work with the probationers.”

On the other hand, a district attorney felt that the failure to revoke could have negative consequences:

“What message does it send that you can evade arrest [or commit another crime] and get probation again? If a defendant comes and says ‘I’m trying,’ let’s help them because they are trying to help themselves. For what [alternatives to incarceration] we have in [this county], they work very well. When they are used in lieu of prison, it is not fair. I am looking for accountability. Everyone makes mistakes but if you allow people to take advantage of second chances, authority is eroded. I’m concerned with putting a lot of people on probation because it’s so hard to get them off [and revoked].”

There is general agreement that new crimes and repeated technical violations must result in a revocation proceeding. Interview subjects across groups (district attorney, probation officers, and judges) consistently reported that the court must be notified when there are violations that involve a class B misdemeanor or above, and when there is repeated, intentional noncompliance with technical conditions. One probation officer felt that the district attorney would like to see violation petitions filed more often, but the probation office resists this.

Probation officers report having more discretion in the decision to bring a violation to the attention of the court when technical violations were involved. A probation officer described a hypothetical case:

“If someone is scheduled to come at 8 and they come at 10 a.m. that would be a violation because they are supposed to report as directed, but that wouldn’t necessarily go to the court. We would talk to them and that would be a minimal violation.”

One judge explained:

“The probation department works under the court supervision. That is right but the problem with the judge getting involved too much [is that] the judge is the least knowledgeable of the three entities. Employment situations are often fluid, drug and alcohol are often fluid. The judge cannot micro manage that department, there are too many variables. It works best for me if the judge and prosecutors don’t have hard and fast rules when you file, when you dismiss, when you modify, because there is a whole series of actions that the judge doesn’t really know. While it is true the probation works under the judges, the judges aren’t really in the position to manage.”

When a new offense is involved, particularly a more serious offense, or when there is repeated non-compliance, probation may have less discretion:

“[A violation should be brought to a judge] when there is a new arrest that is a class B [misdemeanor] or above. The court doesn’t necessarily need to revoke, but the court needs to hear about it. For technical violations, [revocations should be brought] when [there are] repeated violation[s] and no desire to comply. When compliance gets to the point that the officer cannot handle it or feels [he or she] cannot have an effect, it needs to be brought to the court.”

Generally, working relationships were good, with some exceptions. Relationships varied between the two counties.

Because of the small size of the two counties in the jurisdiction, working relationships were especially key. With such a small number of players (for example, each county primarily had one judge in each city and one district attorney), it is especially important that all of the departments work well together. Having a good relationship affects the ability of the offices to communicate with each other. At the time of the interviews, the relationships seemed fairly positive.

One judge explained:

“Working relationships? [The working relationships are] generally good. We have a small number of attorneys. . . It doesn’t exceed 20 and so we all know each other because it is a small population we have to be honest and we can’t play games. It makes everyone transparent. . . .”

Even though both counties were nearby and shared some personnel and administration, there were differences between the two that seemed to be based on relationships and personalities. One district attorney elucidated some of the differences:

“Both counties are different. The relationships here, I think are good, much better than in [the other] county, but there is obviously some tension between this district attorney’s office and district judge. They are more buddy-buddy over there which is part of the problem...it is pretty clear that the district judge is more likely to side with district attorney on every issue...The district attorney’s office [in this county] wants severe punishment in every case and so does the probation department but they don’t get that here because the judge is more reasonable whereas in [the other] county, they would.”

The judges sometimes handled cases differently in the two counties. *“In [one county], the judge does not let people travel out of state, no matter the situation or length of time that they have been on probation.”* A district attorney also felt that his relationship varied between the judges: *“One judge does not care about your opinion and the other judge engages in dialogue but we never see eye to eye.”* A defense attorney explains how cases are handled differently in the two counties because of the differences in the judges:

“[In one county] the district judge here is more reasonable and objective when deciding revocation cases as opposed to [the other] county where the judge is unreasonable, stricter, and more likely to revoke. The probation department knows that so that they will be probably more likely to revoke in [the other county] but here they would know that judge would not revoke on curfew or minor violations where they would in [the other county]. It really depends on who the judge is and who the prosecutor is.”

Summary

This report summarizes findings from interviews with criminal justice professionals involved in probation violations and revocations in 2 rural counties in Texas, as well as from a sample of individuals on probation. The profile also describes the organizational structure and demographics of probation within these counties. Dealing with probation violations in a small rural county can be difficult because of limited resources that are available to respond to violations. There are limited treatment options and other community based sanctions as well as virtually no public transportation to assist probationers when there are options. Probation officers stated they would like more services to help probationers deal with issues such as drug problems, criminogenic thinking, and mental health. One probation officers believed if they had more of these services it would lead to less violations,

“If we had more services to implement to change their criminal thinking, we may have less violations. Drug use is a big problem in this county and I think is a big reason why we have many of the violations.”

While services are limited in rural areas, one probation officer thought mental health services were lacking in the entire state and would like probation to have a mental health docket similar to another county in the state.

“The state of Texas is the worst at helping people with mental illness; they are kind of treated like anybody else in the community whereas Fort Bent has a mental health docket and that is taken into consideration rather just being put with the general population. That’s a major area that needs to be improved for probation and the criminal justice system as a whole.”

Responding to violations are also difficult because all professionals in the criminal justice department are dependent on each other but may not always agree on the desired outcome. Both public safety and the best interest of the probationer must be balanced and finding that balance is sometimes challenging. Some felt there were good working relationships between the criminal justice professionals so they could handle the challenges. A probationer officer stated, *“I don’t think there is anything I want to change to tell you the truth. Whenever there is problem with the DA we can get together to find a solution. I think all in all we give a person every possible shot.”* Whereas others voiced wanting to have better working relationships between others in the criminal justice system.

Despite the challenges, many interviewed thought things were heading in the right direction.

“I’d have to say, that looking at everything and what we are trying to do, I think that we are going in the right direction, compared to cuff and stuff, I think it is hard to swallow sometimes but I think we are going in the right direction.”

It seems as though being in a small, rural area allowed for more collaborative relationships and a chance for professionals to get to know each other. One judge stated, *“Think we have really good department. A smaller community and tend to know people after a period of time.”*

Appendix A: Standard Conditions

CONDITIONS OF COMMUNITY SUPERVISION

Under the law of this State, the Court has determined the terms and conditions of your period of supervision and may at any time during this period alter or modify the conditions of the supervision. The Court also has the authority at any time during this period to revoke your community supervision for violation of any of the conditions set out above.

- A. COMMIT NO OFFENSE against the laws of this State, any other State, the United States, or any governmental entity;
- B. AVOID INJURIOUS OR VICIOUS CONDUCT AND TOTALLY ABSTAIN from the purchase, possession, use, or consumption of alcoholic beverages of any kind or any substance capable of or calculated to cause intoxication or the illegal use of any controlled substance.
- C. AVOID PERSONS OF DISREPUTABLE OR HARMFUL CHARACTER, including but not limited to persons on community supervision or parole or who have been previously convicted of a crime or who have a history or reputation for violating the laws of this State or of any other State of the United States and specifically avoid contact or association of any type with known felons.
- D. AVOID PLACES OF DISREPUTABLE OR HARMFUL CHARACTER, including but not limited to any place where unlawful activities are being conducted or any place where alcoholic beverages are sold, served or delivered for on premises or off premises consumption except bona fide eating establishments or stores where you will remain only for such length of time as is reasonably necessary for the consumption of food ordered by or served to you or the purchase of non-alcoholic items;
- E. OBEY ALL RULES, REGULATIONS AND POLICIES of the Community Supervision and Corrections Department (CSCD);
- F. FINGERPRINT AND PHOTOGRAPH. Submit to fingerprint and photograph processing;
- G. BACKGROUND INFORMATION. Give the CSCD officer accurate and truthful information about background and present status;
- H. REPORTING. Report to the CSCD officer this date and on the same date each month during the period of community supervision and at said time submit an accurately completed and signed Community Supervision Monthly Report to the supervision officer;
- I. INCOME REPORT. Report monthly total income and expenses and the source of all income to the supervision officer;
- J. REPORT NEW CRIMINAL CHARGES. Notify your CSCD officer within five days if questioned by a peace officer or a peace officer or a peace officer any charge of violating any law has been made against you, stating the offense charged, the jurisdiction in which the charge is filed and the disposition or status of the charge;
- K. INFORMANT POLICY. Do not agree with any peace officer or law enforcement agency to act as an "informer" or special agent;
- L. RESIDENCE. Reside within Wharton County and do not change place of residence without first notifying the CSCD officer;
- M. TRAVEL. Do not leave the State of Texas without first obtaining permission in writing from the CSCD officer showing that the Court authorizes such removal and do not leave the County of Court approved residence for longer than seventy-two hours without first obtaining permission in writing from the supervision officer showing that the Court authorized such removal;
- N. HOME VISITS. Permit the CSCD officer to visit you at your home or elsewhere;
- O. EMPLOYMENT. Seek suitable employment in some lawful occupation, work faithfully to perform the duties of the employment and maintain a standard of personal appearance that will not impede you in obtaining and/or maintaining employment; specifically, do not make any job change without first notifying the CSCD officer and if terminated notify the CSCD officer by the next business day thereafter documenting daily efforts to secure employment and do secure another employment within a period of sixty days;
- P. SUPPORT DEPENDENTS that you now have or that you acquire during the term of community supervision;
- Q. WEAPONS. Do not purchase nor have in your possession a rifle, shotgun, handgun or any weapon deemed illegal, unlawful or prohibited by law, either at home, in a motor vehicle or on your person;

- R. DRUG TESTING. Freely cooperate and voluntarily submit to a breath test, blood test, urinalysis, and/or other drug and/or alcohol screening immediately upon arrest for any offense, or when requested by the CSCD officer, such request not to exceed 9nce a week, to determine whether or not you are using or are under the influence of alcohol or any controlled substance. Pay a \$15 fee to the Wharton County Adult Community Supervision Department for each urinalysis you are requested to submit to. (NOTE: DRUG USAGE MAY RESULTI N THE COURT ASSESSING ADDITIONAL JAIL TIME AS A CONDIT ON OF PROBATION);
- S. CURFEW. Be at your residence by 11:00 p.m.; remain there until 6 :00 a.m. unless at work or on a direct route to or from work;
- T. DRUG EDUCATION COURSE. At the discretion of your CSCD officer, you may be required to attend & successfully complete a CSCD-directed drug education course within 6 months of being placed on community supervision;
- U. G.E.D. Unless you have the equivalent of a high school diploma, enter and faithfully attend classes to assist you in obtaining a General Education Development (GED) degree under the direction of the CSCD officer;
- V. COMMUNITY SERVICE RESTITUTION. Work faithfully, without compensation, at a community service project for a period of _____ HOURS to be served at a minimum of _____ HOURS per month until completed during the period of community supervision under the direction of the CSCD of this County.
- W. COUNSELING. Attend counseling as deemed appropriate by the CSCD officer and pay any and all fees incurred in obtaining and participating in said counseling;
- X. ALLOW SEARCH. You shall submit your person, place of residence, and vehicle to search and seizure at any time of the day or night, with or without a search warrant, whenever requested to do so by any law enforcement officer or CSCD officer.
- Y. DNA SUBMISSION. Submit a blood sample or other specimen to the Department of Public Safety under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record of the defendant (Art. 42.12 §l (a)(23)).
- Z. PAY THE FOLLOWING:
1. COMMUNITY SUPERVISION FEE of \$60.00 per month during the term of community supervision, payments to be made on the same date of each month as this order beginning 30 days from the date of this order, payable through the CSCD of the County;
 2. COURT COSTS of an amount set forth in the judgment (NO LESS THAN \$5.00 COURTHOUSE SECURITY FUND FEE), payment to be made on or before 60 days from the date of this order, payable through the Clerk of this Court;
 3. FINE of \$__ at \$__ per month until paid in full, payments to be made on the same date of each month as this order beginning 30 days from the date of this order, payable through the CSCD of the County as set forth in the judgement attached hereto
 4. ATTORNEY FEE of \$_____, to be paid within 120 days of this order, through the Clerk of this Court;
 5. RESTITUTION of \$__ at \$__ per month until paid in full, payments to be made on the same date of each month as this order beginning 30 days from the date of this order, payable through the CSCD of the County as set forth in the judgement attached hereto;
 6. CRIME STOPPERS FEE of \$50.00 to be paid within 60 days of this order, through the CSCD of the County;
 7. CRIME VICTIMS COMPENSATION FUND shall be reimbursed for any amounts paid from that fund to or on behalf of a victim (as victim is defined in Art. 56.32 CCP) of the defendant's offense as indicated in the judgement. IF NO REIMBURSEMENTIS REQUIRED, defendant shall make a one-time payment of \$100 to the Crime Victim's Compensation Fund payable through the CSCD of the County on or before the expiration of sixty (60) days from the date of this order (Art. 42.12 Section 11(a)(18) CCP);
- [XX] AAA. If you are being convicted of a STATE JAIL FELONY OR HIGHER DRUG CASE you are to submit to an alcohol/drug evaluation at the direction of the Community Supervision and Corrections Department to determine the existence of a drug or alcohol dependence condition and to determine the appropriate course of conduct and action necessary for the rehabilitation of your substance dependence condition.
- [XX] BB. OTHER _____

Appendix B

Graduated Sanctions for Regular Medium/High Risk Offenders

Sanctions for Medium/High Risk Offenders					
Technical Violations	Level 1 Sanction 1st Violation	Level 2 Sanction 2nd Violation	Level 3 Sanction 3rd Violation	Level 4 Sanction 4th Violation	Level 5 Sanction 5th Violation
Failed to report as directed	<ul style="list-style-type: none"> Failure to report letter Phone call 	<ul style="list-style-type: none"> Field visit Failure to report letter Collaterals attempted 	<ul style="list-style-type: none"> Administrative hearing with supervisor 	<ul style="list-style-type: none"> Judicial Summons MATAGORDA COUNTY WILL OMIT THIS LEVEL. 	<ul style="list-style-type: none"> VR submitted to DA (discuss possible sanctions when warrant is served)
Curfew Violation(s)	<ul style="list-style-type: none"> Verbal warning by CSO 	<ul style="list-style-type: none"> More frequent reporting 	<ul style="list-style-type: none"> Administrative hearing with supervisor 	<ul style="list-style-type: none"> Judicial Summons MATAGORDA COUNTY WILL OMIT THIS LEVEL. 	<ul style="list-style-type: none"> VR submitted to DA (discuss possible sanctions when warrant is served)
Positive urinalysis test/ breath test	<ul style="list-style-type: none"> Verbal warning by CSO NA/AA attendance More frequent drug testing 	<ul style="list-style-type: none"> Administrative hearing with supervisor 	<ul style="list-style-type: none"> Referral to counseling AND placement in specialized caseload 	<ul style="list-style-type: none"> Additional Counseling Behavioral Contract JUDICIAL SUMMONS MAY BE DONE IN WHARTON COUNTY 	<ul style="list-style-type: none"> VR submitted to DA (discuss possible sanctions when warrant is served)
Failure to attend/participate in court ordered community programs: Anger management, Batterers Group, Cognitive Education, Group Therapy, Cultural Specific Group	<ul style="list-style-type: none"> Verbal warning by CSO More frequent reporting Either of the above MUST be accompanied by re-referral to provider 	<ul style="list-style-type: none"> Increase reporting Increased drug testing Increased field visits 	<ul style="list-style-type: none"> Administrative hearing with supervisor 	<ul style="list-style-type: none"> Judicial Summons MATAGORDA COUNTY WILL OMIT THIS LEVEL. 	<ul style="list-style-type: none"> VR submitted to DA (discuss possible sanctions when warrant is served)
Failure to attend DWI/Drug school – other mandated education program	<ul style="list-style-type: none"> Reassign Reassignment fee 	<ul style="list-style-type: none"> Increased reporting AND Reassign Reassignment fee 	<ul style="list-style-type: none"> Administrative hearing with supervisor 	<ul style="list-style-type: none"> Judicial Summons MATAGORDA COUNTY WILL OMIT THIS LEVEL. 	<ul style="list-style-type: none"> VR submitted to DA (discuss possible sanctions when warrant is served)
Interlock violation	<ul style="list-style-type: none"> Report immediately Verbal warning by CSO 	<ul style="list-style-type: none"> Administrative hearing with supervisor 	<ul style="list-style-type: none"> Referral to Treatment Provider and/or AA 	<ul style="list-style-type: none"> Judicial Summons MATAGORDA COUNTY WILL OMIT THIS LEVEL. 	<ul style="list-style-type: none"> VR submitted to DA (discuss possible sanctions when warrant is served)
Unsuccessful discharge from CCF – felony	<ul style="list-style-type: none"> Violation report to DA 	<ul style="list-style-type: none"> After warrant service – staff with supervisor to determine if another CCF placement is appropriate 	<ul style="list-style-type: none"> If necessary – full revocation hearing – depending on the circumstances or applying other significant sanctions 		
Failure to maintain employment	<ul style="list-style-type: none"> Submit verification of 3 job applications a week to CSO 	<ul style="list-style-type: none"> Unemployed 4 weeks Weekly reporting Offender must keep a journal outlining his/her daily activities. 	<ul style="list-style-type: none"> Unemployed 6 weeks Work CSR 2x/week AND Increase drug testing AND Refer to Texas Workforce 	<ul style="list-style-type: none"> Unemployed 8 weeks Daily CSR 	
Falsifying information – AA forms, CSR hours, therapy attendance, etc.	<ul style="list-style-type: none"> Administrative hearing with supervisor Reassignment to RE- DO hours 	<ul style="list-style-type: none"> Violation report submitted to DA (or) 	<ul style="list-style-type: none"> After warrant service – staff case with supervisor to determine if placement in a CCF is appropriate or other sanctions 		
Failure to pay court ordered fees, fines, court cost, etc.	<ul style="list-style-type: none"> 60 days delinquent Violation letter OR ADMINISTRATIVE HEARING WITH A SUPERVISOR ****See explanation at end of sanctions/ incentives grid. 	<ul style="list-style-type: none"> 90 days delinquent Submit receipts for expenses and earnings each month Develop a written payment plan to be current in 90 days Report more frequently AND Administrative Hearing w/supervisor 	<ul style="list-style-type: none"> 120 days delinquent Develop a payment plan to be current in 90 days Report more frequently AND Administrative hearing w/supervisor 	<ul style="list-style-type: none"> \$500.00 or more delinquent Judicial Summons MATAGORDA COUNTY WILL OMIT THIS LEVEL. 	<ul style="list-style-type: none"> Delinquent at discharge date Administrative review Extend supervision Possible placement in CCF Possible violation report
Failure to avoid places or person of negative reputation or disreputable character	<ul style="list-style-type: none"> Admonish by CSO 	<ul style="list-style-type: none"> Report more often 	<ul style="list-style-type: none"> Administrative Hearing with supervisor 	<ul style="list-style-type: none"> Judicial Summons MATAGORDA COUNTY WILL OMIT THIS LEVEL. 	<ul style="list-style-type: none"> VR submitted to DA (discuss possible sanctions when warrant is served)
Failure to remain in Wharton or Matagorda County and left without permission	<ul style="list-style-type: none"> If CSO confirms the offender absconded – violation report/MTR filed If offender left and returned – admonish 	<ul style="list-style-type: none"> If absconder is located – review with supervisor to determine if intermediate sanctions should be considered in lieu of revocation More frequent curfew checks 	<ul style="list-style-type: none"> If absconder is located, violation report will still be filed and reviewed upon arrest to determine course of action. 		

END NOTES

- ¹ In preparation of this report, site visits were made to the two main offices in Wharton and Matagorda counties.
- ² Erinn J. Herberman and Thomas P. Bonczar, *Probation and Parole in the United States, 2013* (U.S. Department of Justice, Bureau of Justice Statistics 2014), at 16 app. table 2.
- ³ Lauren E. Glaze and Seri Palla, *Probation and Parole in the United States, 2003* (U.S. Department of Justice, Bureau of Justice Statistics 2004), at 3 app. table 2.
- ⁴ http://www.txdps.state.tx.us/administration/crime_records/pages/crimestatistics.htm
- ⁵ *Leonard v. State*, 385 S.W.3d 570, 576 (Tex. Crim. App. 2012).
- ⁶ Tex. Code Crim. Proc. Ann. art. 42.12 § 21(c) (2013).
- ⁷ Tex. Code Crim. Proc. Ann. art. 42.12 §§ 21(b-2), 22 (2013).
- ⁸ Tex. Code Crim. Proc. Ann. art. 42.12 § 22A (2013).
- ⁹ Tex. Code Crim. Proc. Ann. art. 42.12 § 23 (2013).
- ¹⁰ Tex. Code Crim. Proc. Ann. art. 42.12 § 5(b) (2013).
- ¹¹ Tex. Code Crim. Proc. Ann. art. 42.12 § 19(a) (2013).
- ¹² Tex. Code Crim. Proc. Ann. art. 42.12 §§ 13, 13A, 13D, 14 (2013).
Tex. Code Crim. Proc. Ann. art. 42.12 § 11(a) (2013).
- ¹³ Tex. Code Crim. Proc. Ann. art. 42.12 § 12(a) (2013).
- ¹⁴ Tex. Code Crim. Proc. Ann. art. 42.12 § 19(a), (e) (2013).
- ¹⁵ Tex. Code Crim. Proc. Ann. art. 42.12 §§ 3(b), 4(b), 5(a), 6(a), 15(b) (2013).
- ¹⁶ Tex. Code Crim. Proc. Ann. art. 42.12 § 20(a) (2013).
- ¹⁷ State of Texas Legislative Budget Board, *Criminal and Juvenile Justice Uniform Cost Report Fiscal Years 2013 and 2014*, fig. 7, http://www.lbb.state.tx.us/Documents/Publications/Policy_Report/1440_Criminal_Juvenile_Justice_Uniform_Cost_Report.pdf
- ¹⁸ *Id.*