**Rethinking Probation Conditions: Perspectives from the Massachusetts Probation Service on Unenforceable Requirements**

**Abstract**

The present study examines probation conditions from the perspective of probation administrators and officers to gain a comprehensive understanding of how they perceive their ability to monitor and oversee conditions of supervision. Researchers conducted 72 in-depth interviews with 94 probation officers in the Massachusetts Probation Service, covering both district and superior court sites. The concept of enforceability appears to influence the officers' perception of useful, appropriate, or meaningful conditions of supervision. Additionally, officers’ perceptions of the circumstances that make specific conditions unenforceable are also presented. The findings suggest that incorporating enforceability as a key measure alongside existing considerations of realistic, relevance, and research support is essential. The study provides valuable insights that can inform policy adjustments and improvements to enhance the effectiveness and contribution of probation conditions to community safety.

**Introduction**

As of yearend 2021, there were approximately 3.75 million adults supervised on probation or parole in the United States, equivalent to one in every 69 adults (Kaeble, 2023). This high prevalence of individuals on community supervision places a considerable burden on the judicial system, primarily probation and parole officers who are responsible for monitoring and enforcing the conditions imposed on these individuals and the judiciary which must be available to handle supervision modification or revocation decisions. Supervision has evolved over the last half century with the addition of obligations or conditions that are used to assess the individual's progress with the sanction. Indeed, the use of conditions has grown significantly in recent years, with research indicating that individuals on supervision must comply with an average of 17 standard conditions (Taxman et al., 2020). This increase of conditions has led to recent reform efforts aimed at reducing the number of supervision conditions to improve outcomes. (CUNY, 2024). In fact, most plea bargain recommendations by prosecutors and defense attorneys include conditions of supervision, and the courts tend to abide by these recommendations (Mackey et al., 2022). Probation and parole officers often are absent from these decision-making processes, even though they are responsible for overseeing these conditions.

The effectiveness of conditions in preventing recidivism and promoting rehabilitation is a central concern for probation officers (Taxman, 2012), as well as the system overall. To provide fair and just conditions, the conditions should be tied directly to the individual's criminal offense and their specific rehabilitation needs (Taxman et al., 2020). The National Research Council (2014) established guiding principles that should be considered in defining appropriate conditions. Namely, conditions should be proportional to the offense committed, parsimonious in addressing the specific offense and individual's risks/needs, aimed at fostering continued citizenship through rehabilitation and restorative means, and attentive to social justice concerns of fairness and equity. Imposing inappropriate conditions that are overly burdensome, unrelated to the individual's supervision circumstances, or impractical to enforce can be counterproductive to positive outcomes (Taxman et al., 2020). Striking the right balance is crucial for probation to address the individual's offense, risks, and needs effectively while facilitating their successful reintegration into the community (Peled-Laskov & Gideon, 2024).

Several theories exist about the use of conditions. On one hand, Morris & Tonry (1993) describe how intermediate sanctions can be an effective punishment delivered in the community. They illustrated how conditions can stiffen the probation sentence so that it is more punitive and rigorous than standard reporting. On the other hand, the evidence-based practice (EBP) movement and the risk-need-responsivity (RNR) model (Andrews et al., 1990; Andrews & Bonta, 2006; Rhine et al., 2017; Taxman and Marlowe, 2006; Taxman, 2012) both articulate that conditions should be tied to the risk and/or need factors of an individual. In particular, probation interventions based on RNR principles emphasize education, substance abuse treatment, and cognitive-behavioral strategies. Finally, desistance theories (Bersani & Doherty, 2018; Broidy & Cauffman, 2017; LeBel et al., 2008; Maruna, 2001; Segev, 2018) provide frameworks for understanding probation's role in supporting individuals in developing a prosocial identity and building social bonds, which focuses conditions on these goals. Overall, conditions are core features of supervision, providing officers with a way to assess how well a person is meeting their obligations (Mackey et al., 2023; Simon, 1993).

The extent to which probation officers (POs) perceive conditions of supervision to align with theories regarding their use has not received scholarly attention. This is important since, although POs typically have little say in the assignment of probation conditions (Barklage et al., 2006), their perceptions of the purpose and effectiveness of conditions has implications for the ways in which they enforce them. This study assesses the appropriateness and enforceability of probation conditions from the perspective of probation administrators and officers in the Massachusetts Probation Service (MPS). Seventy-two qualitative interviews help to explore the efficacy and impact of the probation conditions set by the court, as experienced by officers. The interviews uncovered that officers often raised concerns about the practicality of conditions—namely, their ability to enforce them. Our findings shed light on the reasons why officers perceive certain conditions as unenforceable, and we discuss the implications of these perceptions for officers' understanding and implementation of probation conditions overall.

**Probation Services**

Probation is the most frequently used correctional sanction in the United States, with 2.9 million individuals on probation (and over 800,000 on parole) compared to 1.9 million in prisons and jails (Wang, 2023). In theory, being in the community allows individuals to maintain community ties, employment, or education while receiving targeted interventions and support services to address underlying factors contributing to their criminal behavior. Probation may reduce criminal behavior through supervision, treatment, and support for successful community reintegration, striking a balance between accountability and providing resources to desist from future criminal conduct (Taxman et al., 2020). As articulated by Taxman et al. (2020) in “From Mean to Meaningful Probation,” probation employs punitive conditions that are designed to ensure that individuals feel the punishment simultaneously with rehabilitation-focused conditions such as treatment, programs, services, and employment opportunities that address risk factors and respond to clients' dynamic needs. The tension between punishment- and rehabilitative-oriented conditions impacts the legitimacy of probation by undermining the sentence goals to be achieved through conditions of supervision. POs must carefully balance law enforcement and rehabilitation goals to deliver effective treatments and behavioral controls, and failure to do so can create uncertainty regarding appropriate supervision practices (Mackey et al., 2022).

**Probation Conditions**

While not directly addressing probation conditions, Garland (1991) posits that penal practices in general serve a symbolic function in society beyond their practical effects. This perspective suggests that probation conditions, like other penal practices, are likely to shape and reinforce societal norms and values. There are two types of conditions: those assigned by the judiciary or parole commission and those required by the supervision agency. Special conditions tend to include treatment and community service. Common conditions include employment, enrollment in educational or treatment programs, drug testing, reporting to a probation officer, informing the officer of changes in status (i.e., housing, employment, marital, etc.), and/or a myriad of fines/fees/restitution (Travis & Stacey, 2010). Obligatory conditions of supervision – typically a range of 12 to 25 standard conditions (Taxman, 2012) – are requirements that all individuals must comply with during community supervision.

Based on penological and desistence theories aimed at achieving the sentencing goals of rehabilitation, deterrence, restorative justice and/or retribution, probation conditions can impose psychological, physical, and financial constraints on behavior through a set of mandates commonly referred to as conditions and requirements (Taxman et al., 2020). Spatial (or physical) limitations may include restrictions on individual's movements, such as curfews, travel limitations, or requirements to remain within designated geographical areas. Enforcing these spatial restrictions can be challenging for officers, as they must ensure compliance through various monitoring methods, such as electronic monitoring devices or regular check-ins. In addition to spatial constraints, conditions may also impose new responsibilities on individuals under supervision. These can include mandated participation in counseling, treatment programs, or support groups aimed at addressing underlying issues or promoting rehabilitation. Officers must monitor compliance with these psychological conditions and ensure that individuals are actively engaged in the required programs or services.

The number and type of conditions have been identified as bottlenecks to successful completion of supervision because they impose constraints on the individual in their daily lives (Taxman et al., 2020). The high burden of supervision and the need to enforce these various restrictions and responsibilities can present significant challenges for officers. Understanding their perceptions and experiences with conditions is crucial for improving the effectiveness and fairness of community supervision practices.

Conditions can be assessed based on their contributions to sentencing goals, including the degree to which they are tailored to the individual; reflect productive, meaningful requirements; and are focused on facilitating positive behavioral change (Morris & Tonry, 1993). They can take various forms, ranging from excessive to useful and meaningful (Taxman et al., 2020). Useful conditions effectively address risk and need factors, reduce problem behaviors, are proportionate and parsimonious (i.e., the minimum number to achieve a sentencing goal), and improve overall well-being. Meaningful conditions resonate with the individual's unique circumstances, increasing their relevance by making them attentive to risk and need factors (Klingele, 2013, 2021). Excessive conditions tend to overburden people on probation without helping to meet sentencing goals or improving their chances of success (Durnescu, 2011; Mackey et al., 2023; Ruhland & Scheibler, 2022; Taxman, 2024). Moreover, there is growing recognition that criminal court processes can penalize individuals even before formal sentencing (Feeley, 1979). Harmful conditions potentially exacerbate struggles, do not add value to the punishment goals, and may contribute to failure (i.e., revocation from probation, potentially leading to incarceration).

The “three R's” – realistic, relevant, and research-supported (or research-based) – (see Robina Institute of Criminal Law and Criminal Justice, 2017) provide a useful test for evaluating potential probation conditions. Realistic conditions consider the likelihood an individual on probation can successfully complete them. For example, ordering immediate abstinence from alcohol may be unrealistic for someone assessed as alcohol dependent, as relapse is common; requiring successful completion of treatment might be more appropriate. Relevant conditions account for the individual’s specific crime, risks/needs, and strengths. Finally, research-supported conditions utilize interventions and practices backed by evidence as most effective for facilitating long-term behavioral change.

Mackey et al. (2022) examined the appropriateness of probation conditions based on research synthesis and input from both POs and justice-involved individuals. Both officers and individuals involved in the system generally viewed control measures (such as jail time) and financial sanctions as inappropriate, preferring psychological interventions, physical sanctions, or incentives to address non-compliance. Officers were especially supportive of rehabilitative strategies like therapy for medium/high-risk clients, but there was far less consensus regarding appropriate strategies for supervising low-risk clients. Justice-involved individuals indicated that some conditions are needed, but they typically saw the appropriateness of conditions as tied to the ways they were used by officers (e.g., to punish vs. to promote behavior change), rather than rating different conditions as always appropriate or always inappropriate. Officers and individuals involved in the justice system found it easy to identify excessive and harmful conditions whereas useful and meaningful conditions are more difficult to define. The research literature is robust for useful and meaningful conditions, particularly those that involve rehabilitative goals, but not those that serve deterrence, retributive, or restorative goals.

**Impact of Conditions on Supervision Practices**

Increasing the number of conditions affects the individual's success on supervision because each condition can contribute to a technical violation, thereby increasing the likelihood that the individual does not complete supervision (CUNY, 2024). Violating conditions can lead to technical violations, which can result in additional requirements or incarceration, even for non-criminal behavior (Kaeble, 2023). Most violations involve noncompliance with the conditions of supervision, which are often technical sanctions for behaviors that are not criminal for the unsupervised public (Gray et al., 2001; Rodriguez & Webb, 2007). More conditions and more intensive supervision practices are associated with higher odds of technical violations (Dir et al., 2021; Gray et al., 2001; Petersilia & Turner, 1990; Ruhland et al., 2020).

One of the most influential studies in the field of community corrections is Petersilia and Turner’s Intensive Supervision Probation randomized controlled trial (RCT) (Petersilia, 1989; Petersilia & Turner, 1993). Petersilia and Turner’s RCT of intensive supervision examined both the processes and outcomes associated with intensive supervision probation (ISP) in 14 U.S. jurisdictions (Petersilia & Turner, 1993). This noteworthy study is one of the largest RCTs in probation, examining the efficacy of ISP for drug-involved probationers. ISP included enhanced contacts between the officers and the probationer and frequent drug testing. Notably, in all sites, technical violation rates (i.e., violations of probation conditions) were higher than in control sites with four sites having statistically significant differences where the ISP group had higher technical violation rates. Overall, the study found that adding more conditions associated with ISP does not reduce recidivism, and actually increases technical violation rates.

Recent studies have highlighted the challenges faced by individuals on probation due to multiple requirements and monetary sanctions. Dir et al. (2021) found that an increase in probation-required programs correlated with faster technical violations among juveniles, emphasizing the need to balance requirements with individual needs. Similarly, research on monetary sanctions has shown that higher economic sanctions are associated with increased recidivism rates (Piquero & Jennings, 2017) and a higher likelihood of probation revocation (Ruhland et al., 2020).

The increase in strict probation conditions poses significant challenges for probation officers, who must monitor compliance and promote rehabilitation with limited resources (Klingele, 2013; Olson, 2019). The extensive list of conditions can make it difficult for officers to prioritize their efforts effectively and tailor supervision strategies to individual needs and risks, potentially undermining the quality of supervision and the likelihood of successful outcomes. According to Trusts (2020(‏, overextended supervision officers have less time to devote to high-risk, high-need individuals. As caseloads grow, many agencies struggle to prioritize supervision and services for individuals at a high risk of reoffending as well as those with significant needs related to substance misuse, housing instability, or financial insecurity. As a result, probation and parole officers often lack sufficient resources to promote success for the people who are most likely to fail on supervision. Exhaustive conditions also create an inefficient use of resources because they require officers to focus on enforcement rather than on planning to address risks and needs (Rhine, 2012). Special conditions, in particular, should be tailored to each person’s identified risks and needs, and should support behavior change.

It is unclear what goals are achieved when the number of conditions and restrictions increases the likelihood that an individual will fail on probation and potentially be incarcerated. While probation conditions aim to achieve rehabilitation, deterrence, and retribution, an excessive number of stringent requirements can undermine these goals. As Taxman et al. (2020) note, overly harsh conditions based on the offense's severity often make it difficult for probation to effectively rehabilitate. Additionally, an overemphasis on retributive conditions can hinder the criminal justice system's broader objectives. Excessively stringent conditions can set individuals up for failure, leading to future incarceration and undermining rehabilitation. Burdensome requirements can discourage compliance, reducing deterrence and increasing violation risks.

**Probation Officer's Voice**

Although POs are the frontline professionals implementing and enforcing conditions set by the criminal justice system, they have minimal formal influence over sentencing decisions and conditions of supervision imposed on probationers (Rudes & Portillo, 2012). Their input is rarely sought, as plea agreements are typically negotiated before probation reports are submitted (Hagan et al., 1979; MacDonald & Baroody-Hart, 1999; Young, 2013). Post-sentencing, their authority to interpret supervision conditions is restricted, preventing them from imposing additional liberty constraints beyond the original conditions (Barklage et al., 2006).

**The Present Study**

Massachusetts has a long history as the first state to establish a probation system in 1878, with the goal of rehabilitating individuals under supervision in the community rather than using incarceration. The state also introduced an early parole system in the late 19th century, which has evolved over time to the current state parole board structure.

The Massachusetts Probation Service (MPS), where this study took place, is a department within the Massachusetts Trial Court that oversees probation and community corrections services across the state. MPS operates 105 local offices, the Office of Community Corrections, and 18 Community Justice Support Centers. It collaborates extensively with law enforcement, health/human service agencies, and other criminal justice partners to provide a range of supervision and rehabilitation services to probationers.

This paper seeks to contribute to the limited study of conditions by integrating qualitative insights from MPS practitioners. Qualitative interviews with these frontline practitioners can offer an understanding of the perspectives of officers/administrators regarding the assigned conditions.

**Method**

**Participants**

A total of 94 participants participated in this study. Interviewees ranged in age from 20-69, were 46% female and 44% male, and were mostly non-Hispanic white (see table 1. appendix A for Interviewees demographics). Their positions ranged from Chief and Assistant Chiefs, to POs, to Associate POs (primarily tasked with court appearances).

**Tools and Procedure**

Interviews with MPS staff occurred as part of an ongoing randomized controlled trial testing the effect of a quality improvement process on a representative sample of probation offices in the state. Prior to the randomized study, probation offices across the state were interviewed to assess the MPS’s existing condition-setting practices. MPS leadership facilitated access to probation offices by sending an introductory email to the Chief PO at each district/superior court site we visited. After this introduction and to preserve anonymity, MPS leadership was not involved in the data collection process. The study was approved by the George Mason University IRB. The informed consent was conducted before each interview.

In June 2023, three initial interviews were conducted. By August 2023, the team split into three pairs to conduct further interviews statewide. They visited a variety of district and superior courts, from high-crime urban areas to rural offices with minimal staff. At each site, the team first met with the Chief PO and/or Assistant Chief(s), along with any additional staff they chose to include. These initial meetings were not recorded or analyzed. Following these introductions, the team conducted private interviews with individual probation staff or, occasionally, group interviews.

The interview guide centered on the process of establishing probation conditions, distinguishing between appropriate and inappropriate conditions, related challenges, and training to address these issues. While the guide provided a framework, interviewers employed a flexible, semi-structured approach, often exploring related topics or delving deeper with follow-up questions (Fontana & Frey, 2003; Kvale, 1996). Remote interviews were conducted in August and September 2023 for those unable to participate during site visits. Participants were awarded training credits for participating in the interviews.

A total of 23 probation offices were visited statewide: 13 district courts and 10 superior courts (see Table 1. appendix A, for interview details and demographics). On average, three interviews were conducted per court, ranging from one to nine. In total, 72 interviews were conducted (64% district court; 36% superior court) with 94 interviewees (57% district court; 43% superior court), ranging from Chief POs to junior-level Associate POs. Most interviews (86%) were one-on-one, but some involved multiple participants (up to six). Remote interviews were conducted later for those unavailable during visits (19% of interviews). All but one PO consented to recording (typed notes were taken during this interview), with interviews lasting 11 to 76 minutes (average 38 minutes). Professional transcription services transcribed the audio recordings.

**Data Analysis**

The analysis team consisted of three coders: an experienced senior coder with a background in ethnography and qualitative interviewing, and two junior coders. While the senior coder coordinated and performed many of the interviews, the junior coders were not involved in the interview process. This arrangement helped mitigate potential researcher bias that the senior coder might have developed from conducting interviews, as the junior coders provided an external perspective (Maxwell, 2005).

The interview data was analyzed using ATLAS.ti version 24 for Windows (ATLAS.ti Scientific Software Development GmbH, 2024). The coding process began with primary-cycle coding (Tracy, 2013), applying both deductive codes based on the interview guide's main themes (e.g., probation's voice in supervision, challenges, conditions’ perceptions) and inductive codes that emerged during initial readings, such as probation's interactions with court actors. Codes for these relationships were also applied during primary-cycle coding. The final primary-cycle codebook comprised 28 codes. Additionally, demographic information including race/ethnicity, gender, and age was coded.

A secondary-cycle codebook was created to further refine the primary codes into more specific subcategories (Strauss & Corbin, 1998). Two coders independently analyzed each transcript, then met to reconcile any differences through discussion and consensus (Tracy, 2013). This process was applied to 18 interviews (25% of the total) to ensure quality control and develop a code list that was agreed upon by all the different coders. This collaborative approach helped mitigate individual biases and enhance the codes' relevance to the data by incorporating multiple perspectives.

After establishing and validating the secondary-cycle code list, the three coders independently analyzed the remaining 54 interviews, with the senior coder reviewing the junior coders' work. They primarily used the agreed-upon code list, minimizing the creation of new codes. The final secondary-cycle codebook comprised 446 codes, applied between one and 91 times across the data. Subsequently, tertiary-level coding was conducted to reconstruct the data into a coherent narrative (Strauss & Corbin, 1998; Tracy, 2013). This entailed a thematic synthesis of the secondary-level codes wherein distinct domains were categorized. Each domain was described in an analytic memo. Several of these memos, including “Inappropriate Conditions” and “Unenforceable Conditions,” were incorporated into the findings section below.

**Findings**

POs were mixed regarding the appropriateness of probation conditions, for the most part, POs found treatment-related services, including employment, to be an appropriate requirement. This applied across various contexts, including mental health issues, substance abuse disorders, and cases of domestic violence. Generally, the POs expressed a desire for more treatment conditions to be assigned. In contrast, nearly every PO identified at least one condition that they found inappropriate, with varying reasons. POs described inappropriate conditions as those that were counterproductive to the goals of supervision, not matched to the client's risk/need profile (or underlying psychosocial conditions), likely unachievable for the client, unnecessary to ensure public safety or assist the client, and/or unenforceable by POs.

The POs gave more attention to the category of unenforceable probation conditions, which the POs defined as inappropriate because of their nature and the difficulties of monitoring. When identifying the reasons why particular conditions were inappropriate, POs most often focused on issues of enforceability. This study focuses on this issue because it was an unexpected finding, and one that is not recognized in the literature.

Two major themes emerged: (1) the reasons why POs see conditions as unenforceable and (2) the conditions that impact unenforceability**.**

A. **Why POs See Conditions as Unenforceable**?

POs often assessed the conditions from the lens as to whether they can effectively monitor the condition. The concept of enforceability affects the determination of whether a condition or set of conditions are useful, appropriate, or meaningful. Thirty-three POs (46% of the 72 interviews) used this concept. Given the prevalence of the officers' assessment of enforceability, the following focuses on the reasons why officers believe certain probation conditions are unenforceable.

Conditions are ***difficult or impossible to monitor or verify,*** especially those related to

spatial restrictions. As one PO explained, “*They set curfews on individuals, but there's no GPS order. We’re not going out at 10:00 and knocking on people’s doors*” (A2-1).i Another PO noted the challenge of enforcing conditions like staying away from schools, stating, “*You obviously can’t make exclusion zones around every school in Massachusetts. I suppose you could, but I don’t think the electronic monitoring center is really up for doing that*” (B3-8). Some probation officers talked about the difficulty of supervising attending AA meetings or taking prescribed medications, as POs have no way to verify attendance or compliance: “*I have no idea if he went to those meetings. Another one we can’t supervise is take your medication as prescribed. There’s no way for us to supervise that. Even if we give them a drug test it’s not—we’re not testing for the medications they’re taking*” (A4-2).

Some conditions are ***too vague or subjective***, like "*no excessive alcohol or drug use*" or "*remain drug-free*" without defining what constitutes such behavior or what is a violation. One PO related to this ambiguity, stating, "*Some of the conditions of the 58A was no excessive alcohol or drug use. What does that mean? There's no drug testing attached to that. How do you enforce that? … What is excessive? I mean, if that person comes in drunk, is that excessive? I can't test 'em, right*?" (A2-2).

Other conditions are ***unrealistic or impractical*** for POs to enforce, such as knocking on probationers' doors at night to enforce curfews or monitoring whether probationers in sex offense cases have contact with minors or use electronic devices. As one PO lamented when describing conditions prohibiting contact with minors, "*How are we gonna monitor that? No contact with people under 16. How are we gonna know when somebody runs—their neighbor comes over and knocks at their door*?" (A4-1).

Supervising probationers who live out-of-state was also mentioned as an impractical condition. As one PO stated,

*I'll give you a funny one. It was a guy on a risk-need and number nine struck out. He*

*meets a girl. She lives in Hartford [Connecticut]. He's got connections to Hartford. He*

*starts seeing her and dating her. Eventually moves in with her in Hartford. I said,*

*'Look, I can't supervise—' we can travel a little bit. We're doing home checks. I can't*

*go to Connecticut* (A2-3).

Some conditions are perceived as ***legally unenforceable***. For example, POs mentioned that they no longer have the legal authority to search probationers' homes and devices without explicit permission, as case law has changed in Massachusetts. Therefore, orders that specify no guns in the house or restrictions on living arrangements are difficult to assess.

POs see conditions as unenforceable when the enforceability of certain probation conditions, particularly those related to drug use and mental health evaluations, heavily ***relies on the self-reporting*** of the probationers themselves. For example, the POs highlighted the challenges they face in effectively monitoring compliance with "no drugs" conditions when they lack access to drug-testing resources. Without the ability to conduct objective tests, they are mostly left to rely on the probationers' own admissions: "*all I can do is ask the person. If they're not honest there's nothing I can do about it*" (A8-1).

Finally, there are conditions that are considered ***more appropriate for a health worker or doctor to order***, such as neuropsychological evaluations. One PO stated, "*I see an inappropriate condition of neuropsych eval when that's a doctor's recommendation. A defense attorney can have that as a condition. It's unenforceable. A doctor has to say yes, he needs a neuropsych ...*" (A1-1).

In summary, POs view conditions as unenforceable when they are difficult to monitor, vague, impractical, legally prohibited, reliant on self-reporting, or outside the scope of probation supervision. Imposing too many such conditions, especially in sex offense cases, can overload POs with conditions they cannot realistically enforce and make it challenging for POs to effectively supervise probationers. This overburden was expressed by one of the POs: "*Typically, the ones I see that get too many are sex offender cases. They tend to overload them with conditions that we can't enforce sometimes*" (A4-1).

B. **Specific Conditions that are Perceived as Unenforceable**

Based on the interviews, there are ten sub-themes regarding how specific conditions are unenforceable related to: GPS monitoring, supervising curfew compliance, remaining drug/alcohol-free, restrictions on access to locations and devices, attendance requirements, lack of access to probationers' homes, monitoring medication compliance, weapons possession bans, and unenforceable mental health-type evaluations. The following section is devoted to each type of unenforceable condition identified by the interviewees. The themes derived from the interviews with probation officers are organized according to their prevalence, with the most frequently mentioned topics presented first. Table 2 presents a summary of these conditions, along with quasi-statistical data indicating the frequency of their mention across the 72 interviews conducted. This quantitative representation helps illustrate the prevalence of each condition within our sample, providing insight into which unenforceable conditions were most commonly recognized by the participants.

**Table 2. Unenforceable Conditions Identified by Interviewees**

|  |  |  |
| --- | --- | --- |
| **Theme** | **Number of interviews where mentioned** | **% out of 72 interviews** |
| **1. Restricted Contact and Locations** | **16** | **22.2%** |
| **2. GPS monitoring** | **12** | **16.67%** |
| **3. Remaining drug/alcohol-free** | **9** | **12.5%** |
| **4. Evaluations for Psychological Issues** | **4** | **5.56%** |
| **5. Restrictions on internet/device use** | **4** | **5.56%** |
| **6. Lack of Access to Probationers' Homes** | **4** | **5.56%** |
| **7. Attendance Requirements: Employment, School, or Mandatory AA/NA Meetings** | **3** | **4.12%** |
| **8. Monitoring Medication Compliance for Mentally Ill Individuals under Supervision** | **3** | **4.12%** |
| **9. Weapons Possession Bans** | **3** | **4.12%** |
| **10. Supervising Curfew Compliance** | **2** | **2.78%** |

**1.** **Restricted Contact and Locations**

There are some conditions, mostly for sex and domestic violence individuals, which include staying away from certain locations, restrictions on contact with minors, and prohibitions on taking children's photos or allowing minors to stay overnight. These types of conditions are commonly intended to protect vulnerable populations and are sometimes unenforceable.

The few ways the officers can learn of violations are limited – if they happen to be at the right place at the right time, if someone else reports the individual under supervision (for example in cases when there was a specific restriction not to be close to a specific victim), or if the individual under supervision is caught by police. Otherwise, enforcement largely depends on the honesty of the individual under supervision.

The main challenge raised by the POs is the inability to effectively verify whether individuals under supervision are obeying these restrictive conditions. As one officer is quoted saying,

*Don't have contact with anyone in the community, or don't go to any—there's certain*

*things. For us, how do you enforce that as a—we're not, 24/7, drivin' around Franklin*

*County say, 'All right, who's at the playground today?' It's hard. If, by chance, we're*

*drivin' by and we see them, oh, okay, well, then we know. Those are some hard*

*conditions* (B5-2).

This is especially hard when the locations are general and not specific:

*Sometimes they'll say like, stay away from Mass and Cass and different streets and*

*whatnot. I mean, the only way to really enforce that is if you get a police report that Joe*

*Smith was stopped on the corner of Mass and Cass and interact. I looked at one of the*

*cases and there's 25 streets in the City of Boston this person has to stay away from and*

*you're like*… (A11-1).

POs often must rely on the individual under supervision’s own self-reporting or accidental discoveries to learn of any violations. They may find suspicious evidence during home visits but must then ask the probationer about it. As was expressed by one officer:

*If they're having contact with minor children, all I can do is really ask them, ‘No*

*unsupervised contact with minor children?’ During home visits, we're expected to look*

*around make sure we don't see like diapers or baby clothes or something like that. If we*

*did, we would just ask them like, ‘What is this? Who knows?’ They gotta come up with an*

*explanation, but yeah, that's very hard to monitor* (B5-1).

The officers emphasize that the individual's compliance is primarily based on self-reporting and this, as explained by one of the POs, should be made clear to the judges in court: "*…this condition is a self- report condition that we can't supervise. You need to let the judge know that. No unsupervised contact with somebody with a child 16 years or under, right? That's a self- report*" (B1-1).

Overall, the POs find significant difficulties in enforcing restrictive probation conditions, especially for high-risk individuals under supervision in the community.

**2. GPS monitoring**

Over the last three decades, sophisticated technological tools have become a larger part of the landscape of probation strategies, contributing to increased monitoring, surveillance, and individual control. The application of different technologies provides the ability to expand supervision “outside the office” or beyond physical walls (Taxman & Maass, 2016). GPS technology is one example regularly used for monitoring individuals in the community. It combines tracking, crime mapping, and web-based data integration to provide information about the location and movements of those being monitored. There are two primary types of GPS technology commonly used: passive and active GPS monitoring. Both require individuals to wear a receiver/portable tracking device, usually around their ankle; they also require the use of a cellular telephone and computer software to review GPS data. Signals from global positioning satellites create a map of the individuals' movements. With passive GPS monitoring, the information is downloaded to a monitoring center and relayed to the supervising officer once or twice daily. In active GPS monitoring, the information collected is transmitted every few minutes by cellular telephone to a monitoring center and any violations are immediately reported to the officer (Pattavina & Mackey, 2024).  
 There are some limitations of GPS monitoring like spatial limitations. GPS devices can only indicate the present location of the individual but cannot provide information about the specific activity or context of their presence at that location (Bishop, 2010). As one PO stated, "*You can put somebody on a bracelet and keep tabs for home confinement, but that doesn't monitor who's going into the home*" (A10-1).

One major limitation of GPS monitoring is the potential for gaps or windows of time when there is no monitoring data available. This can occur due to various reasons like signal loss, device issues, or environmental factors (Bishop, 2010). As the PO further explains,

*That doesn't mean they're not gonna figure out they've got a 15-minute window to go*

*around a block real fast or they can go out into the driveway or into the backyard and*

*do whatever they need to do and realize that they're not having a violation*.

This highlights that GPS monitoring alone cannot account for brief absences or activities within the designated confinement area, such as leaving the home for a short period or engaging in unauthorized activities in the backyard or driveway.

While GPS can be helpful in supervising probationers, its effectiveness depends on how the GPS monitoring is implemented. GPS monitoring zones exclude geographic areas (exclusion or “hot zones”) for individuals such as schools, libraries, etc., but also define acceptable areas. Inclusion zones may be used to identify places where individuals are required to be (such as home, treatment sessions, or employment) and specific times for those locations (Bishop, 2010). For GPS monitoring to be most effective, it should be accompanied by specific exclusion zones tailored to the individual under supervision’s case, rather than broad, general restrictions.

There have been cases where GPS monitoring was ordered for individuals under supervision, but without setting up appropriate exclusion zones or with only general restrictions. This can make the GPS monitoring less effective and unenforceable. As one PO explained, "*Is this really necessary? Why are we putting him on GPS? There's no exclusion zone. You're just letting him walk around*" (A11-1). This suggests that without specific exclusion zones, GPS monitoring does not serve its intended purpose of restricting the individual's movements. Similarly, general restrictions can be difficult to monitor effectively and enforce using GPS. One PO commented on the challenges of using general restrictions like:

*Stay away from all schools… We wouldn't know unless we're regularly checking it...*

*That would really restrict even their routes of travel if they're not willfully violating their*

*condition by being near a school. It'd be tough to drive down just about any road without*

*running into some sort of school* (B3-8).

The officers clarified that for GPS monitoring to be most effective, it should be accompanied by specific exclusion zones tailored to the individual under supervision’s case, rather than broad, general restrictions. The most enforceable approach is when there is a specific restriction prohibiting the individual under supervision from coming close to the victim's location, as one PO commented,

*Yeah. I think a lot of times with the GPS they'll say like, ‘Stay away from the victim.’*

*Then there's like a certain area that we map out that says like, this is what you have to*

*stay away from, and it gives you the buzz if you go into the exclusion zone. I think*

*sometimes that's appropriate. If it's stay away from a certain location*…… (A11-1).

**3. Remaining drug/alcohol-free**

Drug testing, which requires a physical sample of urine, blood, saliva, or sweat to detect any drug use, emerged in the late 1980s as a technology that probation and parole agencies could use to obtain evidence on whether the individual is engaged in the use of illicit substances (Taxman & Maass, 2016). Mandatory drug testing helps enforce probation conditions requiring individuals to remain drug/alcohol-free. As one probation officer stated, "*They say remain drug-free, but there's no drug testing*" (A2-1), underscoring the difficulty in verifying compliance without regular testing. Another PO elaborated on this issue, explaining that:

*(no testing) can be kinda hard ......almost the only thing that's gonna trip 'em up is a*

*new offense with drugs or something that's pretty blatant. Even then for a violation it's*

*not easy to prove* (A2-3).

This emphasizes the challenges POs face in enforcing drug-related conditions, particularly when they are ordered to enforce a "no drugs" rule without being provided the means to test for drug use. Without drug testing, the way for a probation officer to detect a violation is if the probationer commits a new drug-related offense or does something that obviously proves they are under the influence of drugs. For instance, if the PO observes obvious signs of intoxication during a meeting or home visit, such as slurred speech, erratic behavior, or dilated pupils, which could be viewed as an obvious violation. However, even in such cases where there are apparent signs of drug use, the PO notes that, "*a violation, it's not easy to prove*." (A2-3). This likely stems from the need for substantial evidence or the legal hurdles involved in the revocation process, stressing the challenges POs encounter in effectively enforcing drug-related conditions without adequate testing resources or clear evidence of violations.

The need for testing depends on the type of drug. For example, if it is a legal drug, it is less of a problem but if it's illegal it is a different story that scares the officers and sometimes even causes them to go back to court. As was expressed by one of the officers:

*Those are the cases that scare the hell outta me. ….What I would do, as a supervisor—and I think, what my chief will do, as well—is, if we see someone like that come outta court, and we're signing the conditions* *of probation, we see that it's possession of class A fentanyl, and there's drug- and alcohol-free, but no testing, we would immediately go okay, there's something wrong with these conditions. Let's go back to court and let's clarify this, 'cause there's no sense of putting this guy on drug- and alcohol-free with no testing, if he's testing—if the charge is fentanyl. Marijuana, hey, listen, I get it. It's legal in Massachusetts. I can see why you don't want testing. If you're gonna send us a case where we know that this person is a fentanyl user, we don't want this person to overdose. We want this dude to be tested* (A13-6).

If there is no drug testing, the only ways to know if a probationer is under the influence are: 1) If they are caught by police, or 2) If there is obvious proof they are impaired. Otherwise, the probation officer must trust the probationer's word. This was expressed by one of the POs:

*There are conditions of that nature where it's kind of the honor code system, which,*

*let's be honest, if it's–depending on the choice of drug–but anyone would be almost*

*very difficult to comply with that type of order. To think they're going to comply with it*

*is ……. I can't really enforce this because all I can do is ask the person. If they're not*

*honest there's nothing I can do about it* (A8-1).

The POs claim that testing is vital and beyond that ordering treatment is essential: "*The other area that we ask the judge to reconsider, too, would be when they're ordering remain drug free and alcohol free and random testing. Then we want the treatment added*" (A12-3).

Sometimes treatment is ordered but without testing. One PO explains the thought process behind ordering treatment but not ordering drug testing. He brings the arguments from the defense attorneys that substance use relapses should be seen as part of the recovery process, rather than automatic probation violations. This reflects the challenge of balancing the need for probationers to remain substance-free with the realities of addiction recovery, where occasional slips may occur:

*A lot of times I’ve had the alcohol-free, drug-free because they are in treatment, so I think knowing that—you know? I know some of the arguments from the defense attorneys when they’ve been in the courtroom is that sometimes if there is a relapse or a reuse, it’s part of their recovery, it’s part of them engaging, so they have treatment conditions, so we just want them to remain drug-free….* (A3-1**)**.

4. **Evaluations for Psychological Issues**

Two POs related to court-ordered mental health evaluations and treatment as a condition of probation. The officers claimed that mental health evaluations are generally considered unenforceable, even if the court orders them, especially when they go against the recommendations of medical professionals. This might be because of different reasons such as differing opinions between the court and medical experts on the necessity or appropriateness of an evaluation.

The courts have limited ability to compel defendants to undergo evaluations or treatments

that are not supported by the medical community. One of them said:

*An inappropriate condition of neuropsychological evaluation when that's a doctor's*

*recommendation. A defense attorney can have that as a condition. It's unenforceable… A*

*doctor has to say yes, he needs a neuropsychological in order for health insurance to*

*agree to it. You’ve seen this. You know exactly what I’m talking about. Conditions like*

*that are unenforceable…* (A1-1).

Some mental health providers are unwilling to conduct court-ordered mental health evaluations. This is because they only hear one side of the story and lack access to valuable information like police reports, which makes the evaluations less reliable and useful. When the primary provider in the area stops conducting court-ordered mental health evaluations, it can be difficult to find alternative providers who are willing and able to perform these evaluations in a thorough and reliable manner. This creates challenges for the courts in obtaining the necessary assessments. This was expressed by one of the officers:

*…cause a—like we had one agency in town that did the evaluations. They won't do an*

*evaluation—a mental health any longer for a court ordered condition... We're trying to*

*find other places outside to do 'em because the one place that used to do 'em, they don't*

*get the police reports. They're going in just hearing one side of a story. There was no*

*use* (A4-1).

While courts can order conditions like substance abuse evaluations and therapy, monitoring compliance can be challenging without additional measures like drug testing. One PO explained: *"He has the substance abuse evaluations, and he has to consistently meet with therapists, but how do we monitor that it's actually working if we're not doing any drug screens?"* (B5-3).

5. **Restrictions on internet/device use**

POs reported that restricting probationers from using the internet is an unenforceable condition. They explain that probationers can easily claim they only access the internet at the probation office, while having hidden internet access at home that the officers cannot verify. One officer stated:

*Somebody could come in the offices and say, ‘This is my phone. This is the only place I*

*have access to the internet.’ They could have a whole Vegas-like security room in their*

*house that we know nothing about. There's no way* (B10-1).

POs view restricting probationers' internet use as an unenforceable condition due to the lack of access to their homes and devices, as well as the officers' own technological limitations. Some POs spoke about lack of access to devices: "*I don't know if they're on Snapchat talking to a minor child. We don't have the search and seizure ability yet*" (B5-1). Some POs expressed their own lack of technological knowledge, especially when it comes to monitoring social media and internet usage. One officer said:

*I have a person that has to stay off of Snapchat. I don't even know what Snapchat is,*

*never mind me monitor it…. I had my wife, who's also a probation officer, check*

*Snapchat. She just checks. I don't know what she did. She put in a name. She said, ‘Oh, he*

*doesn't have an account,’ but they all can make up fake accounts* (A11-2).

The officers acknowledged that they cannot effectively verify and monitor probationers' internet and social media usage without the proper tools and training.

6. **Lack of Access to Probationers' Homes**

POs mentioned that they no longer have the legal authority to search probationers' homes and devices without explicit permission. One officer said:

*Case laws change. We have no legal authority to go searching a computer, searching*

*your phone. We can't walk in your house and open your refrigerator and see that there's*

*12 bottles of vodka. We used to be able to do that in the old days, right? So many of these*

*old orders, especially out of county orders, will say Condition Number Three, other. You*

*will allow the Probation Department to search your computer, to look for, to make sure*

*that–because you have no Internet use, right? or no cell phone with Internet capabilities*

(B6-1).

7. **Attendance Requirements: Employment, School, or Mandatory AA/NA Meetings**

Three POs reveal concerns regarding employment, school, or AA/NA meetings attendance requirements as a condition of probation. Judges often order probationers to attend AA meetings, but there is no reliable way to verify if they actually attend. One participant noted that "*they could lie right to my face*" about attending and adds: "*They can give us a sheet but he coulda filled it out himself*" (A4-2). On the other hand, the same officer claims, employment, or school attendance requirements are seen as more verifiable than AA attendance, as "*we can get verification*" from employers or schools.

8. **Monitoring Medication Compliance for Mentally Ill Individuals under Supervision**

Five POs talked about several key challenges that POs face in effectively monitoring medication compliance for mentally ill individuals under supervision. As one officer noted, it is "*impossible to supervise*" medication compliance unless the individual under supervision takes the pills in front of the officer. Even counting the pills does not guarantee the individual under supervision is taking them as prescribed: "*They order medication compliance, which is impossible to supervise—impossible—unless they're gonna take the pill in front of you. Even if you count the pills, it doesn't—yeah*" (A6-1).

POs must often rely on the individual under supervision’s own word about whether they are taking their medication. As another officer expressed, "*How can you verify he's taking medication? He's showing me his prescription, but I don't know if he's taking his medication*" (A3-2). This can be problematic, as the same officer noted they "*had to violate his probation because he said he wasn't taking his medication.*"

The concern extends to the potential liability POs face if a client fails to take their medication, and something goes wrong. One PO worried that it could "*fall back on us saying why didn't you know they weren't taking their medication*" (A3-1). Although this has not yet occurred, it underscores the risks of imposing conditions that are difficult to enforce. Another PO described the anxiety associated with these unenforceable conditions, stating that they make POs “*feel a little uneasy when there are things that we can’t easily enforce and make sure that [clients are] actually sticking to what they’re supposed to do*” (A7-2).

In summary, POs face significant challenges in effectively monitoring medication compliance for mentally ill individuals on probation who are not in a structured setting. Relying solely on the honesty of individuals and using impractical monitoring methods make it difficult to ensure these individuals under community supervision are receiving the treatment they need. Additionally, the potential liability for POs if a client fails to adhere to their medication treatment adds another layer of complexity and concern to their supervisory responsibilities.

9. **Weapons Possession Bans**

Four POs express frustration about their inability to enforce weapons possession bans effectively without the ability to search probationers' homes. One PO stated that they "*can't really check to see if someone has a weapon on them*" and that "*the weapons ban is more 'reactive' where we can only take action if we find out the probationer had a weapon, but we can't really help enforce it*" (A7-2).

The same officer said these conditions make them feel "*a little nervous*" and "*uneasy*" because they "*never really know*" if the client has a hidden weapon unless they can search the home, which they are limited in doing:

*Those make me feel a little nervous, to be honest, because you never really know. You*

*can only go with what you have and what facts you have. Okay. They haven’t been*

*arrested with any weapons, but how do I know, if I walk in the house, unless I’m*

*searching over everything which we have to follow certain procedures and policies for*

*search and seizure. You never know what they have hidden. It does make me feel a little*

*uneasy when there are things that we can’t easily, I guess, enforce, and make sure that*

*they’re actually sticking to what they’re supposed to do* (A7-2).

One officer explained that they sometimes have to bring these unenforceable conditions to the judge's consideration:

*They say we can't have weapons in the home or something like that, can't go by someone's*

*home if they don't have a GPS system. Like, how are we really properly supposed to*

*monitor that? We do have to sometimes bring that to the judge's attention* (A7-3).

**10.** **Supervising Curfew Compliance**

POs noted that sometimes judges order curfews without also requiring GPS monitoring, making it difficult or impossible to supervise the client's compliance effectively. As one officer stated, "*Sometimes, they set curfews on individuals, but there's no GPS order. We're not going out at 10:00 and knocking on people's doors*" (A2-1). In these cases, the only way to find out about a violation is if the client is arrested, as the same PO commented, "*a lot have the curfew without a GPS. It was like okay, well, that's not gonna work. Unless, of course, again, they get arrested. That's how we know that they violated the conditions*" (A2-1).

**Discussion**

This study examines the views of POs within the Massachusetts Probation Service (MPS) to gain a comprehensive understanding of how they perceive the ability to monitor and oversee conditions of supervision. The concept of enforceability appears to influence the officers' perception of useful, appropriate, or meaningful conditions of supervision. It is important to explore the officers' perception of enforceability because it provides an indicator of how officers would like to impose conditions, and the tools needed within each type of condition to ensure they can be meaningful and effectively enforced.

The study outlines various conditions and the circumstances that officers perceived as making each condition unenforceable. The concept of unenforceable conditions includes: making it challenging for POs to effectively supervise probationers, increasing the liability of the officer, and not providing sufficient tools to monitor a condition.

The POs stated that certain probation conditions are unenforceable, which creates significant challenges for them in effectively supervising clients. Conditions like GPS monitoring without specific exclusion zones, requiring drug/alcohol abstinence without testing, and restrictions on contact with minors or locations are hard for POs to enforce and verify compliance. POs often must rely on the client's self-reporting or chance discoveries, rather than being able to actively monitor adherence. General restrictions, like "stay away from all schools," are viewed as unenforceable by POs, since it's difficult to constantly verify the client's whereabouts. POs no longer have the legal authority to search client's homes and devices without explicit permission, making it difficult to enforce conditions restricting internet/device use. POs also lack the technological knowledge and tools to monitor clients' online and social media activity effectively. Requiring clients to attend AA meetings is viewed as unenforceable, as POs have no reliable way to verify attendance.

**The Importance of Understanding POs’ Perspectives**

Understanding POs’ perspectives is crucial as they are the frontline professionals implementing and enforcing conditions set by the criminal justice system. Their insights provide valuable feedback on the practicality and feasibility of these conditions, which can inform policy decisions and improve supervision effectiveness (DeMichele & Payne, 2007).

POs’ perceptions of conditions also have implications for the ways in which they enforce them and discuss them with individuals on probation. POs play a pivotal role in shaping clients' perceptions and attitudes. If officers perceive conditions as unenforceable or lacking legitimacy, it can negatively impact clients' willingness to comply and overall engagement. Indeed, past research indicates that individuals on probation judge the appropriateness of supervision conditions partly based on the intent behind them (Mackey et al., 2022). If officers feel conditions lack legitimacy and meaning, this may be communicated—intentionally or otherwise—to individuals on probation. This may in turn delegitimize the conditions in the eyes of people on probation, increasing perceptions that the conditions are inappropriate.

These findings also have implications for POs’ satisfaction with their job duties. Recognizing and addressing POs' concerns about unenforceable conditions contributes to their job satisfaction, morale, and effectiveness (Bin & Shmailan, 2015; Inuwa, 2016). When officers feel their voices are heard, it fosters empowerment and commitment, benefiting probationers.

**Implications of Imposing Unenforceable Probation Conditions**

Excessive unenforceable conditions, notably for high-risk probationers requiring additional oversight, can overload POs, making it extremely frustrating and difficult to provide effective supervision. These circumstances undercut the purposes of probation by setting clients up for failure rather than fostering successful rehabilitation and reintegration (CUNY, 2024).

Compounding this frustration is the liability worries POs face when attempting to enforce unenforceable conditions. POs, who are not trained health professionals expressed concern that if a client fails to take prescribed medication and something goes wrong, it could fall back on them. One reaction to this liability problem was the urge to go back to court and report to the judge that the client's compliance is mostly based on self-reporting. This highlights how unenforceable probation conditions can create challenging situations for POs, especially in high-risk cases like sex offenses, in terms of ensuring public safety and managing their own legal exposure. This underlying fear of potential legal ramifications for failing to uphold impractical mandates adds another layer of strain to an already overburdened system.

Research indicates that POs often face concerns about being held accountable for individual non-compliance (Drapela & Lutze, 2009; Slate et al., 2002). The pressure to ensure individual accountability can lead to role conflicts and job stress, potentially affecting overall agency functioning (Drapela & Lutze, 2009; Slate et al., 2003). In a study examining the implementation of risk-need-responsivity (RNR) aligned practices, Viglione (2019) conducted interviews with POs and found liability to be a major concern, particularly with special populations. POs were worried continuously about being personally liable if a client reoffended while under their supervision. They believed evidence-based practices might put them at risk, and that some clients were not "ready" for such practices. POs were deeply apprehensive that using RNR-aligned practices exposed them to personal and professional liability, which was further exacerbated with high-risk populations like sex offenders.

Viglione (2019) provided examples of instances where officers were held liable for client behavior, highlighting that such news spread rapidly across the state, leading to heightened attention on liability. POs can be held liable for various actions, such as committing criminal acts, engaging in criminal behavior with clients, or injuring clients (McShane & Krause, 1993). They can also face civil liability for violating civil rights by treating individuals differently based on race, religion, or sex, or for injuries caused to third parties by clients due to PO negligence, such as failure to properly supervise the client (McShane & Krause, 1993; Morgan et al., 1997).

Another implication of imposing unenforceable conditions is that it can lead to wasted time and resources. POs expressed frustration with conditions that are "*extra words on a form that really can't be enforced*" (A2-1). Attempting to impose unenforceable conditions diverts POs' attention from focusing on conditions they can meaningfully monitor and enforce, resulting in an inefficient use of limited resources.

Considering these challenges posed by unenforceable conditions, the presence of such conditions stresses the need for and the importance of trust as a means to supervise. When probation conditions are unenforceable, officers must rely on the client's word "*because all I can do is ask the person,*" necessitating building positive rapport that improves compliance, program participation, and reduce reoffending (Friedmann et al., 2008; Mowen et al., 2018; Petersilia, 2007; Sarver et al., 2015; Sloas et al., 2019; Solomon et al., 2008; Taxman et al., 2015; Wodahl et al., 2011).

Conditions that are difficult or impossible to monitor may ***undermine the legitimacy of probation supervision*** both in the eyes of the individuals on supervision but also in the eyes of officers. As for clients, POs noted that clients can easily lie about complying with conditions like attending AA meetings or taking prescribed medications, since POs have no way to verify attendance or compliance. This can erode the legitimacy of probation supervision, and individuals tend not to comply with the law if they perceive authorities to be illegitimate (Tyler, 1990; Williams & Schaefer, 2024). As for the POs, when POs are unable to effectively monitor and verify compliance with certain conditions, it can potentially diminish their perception of the legitimacy and effectiveness of the probation system they are tasked with enforcing. If they feel that they cannot do their jobs, then they don't feel that they can make credible decisions.

Although unenforceable conditions in probation services may have serious implications concerning legitimacy, they can be partially legitimized by serving a symbolic purpose. Many scholars have written about the symbolic elements of criminal justice. Garland (1991), in his article "Punishment and Culture: The Symbolic Dimension of Criminal Justice," argues that punishment serves a symbolic function in society beyond just its practical effects. Garland contends that penal practices, discourses, and institutions actively contribute to the production and reproduction of shared cultural meanings, values, and sensibilities. Through its routine activities, the penal system interprets events, defines conduct, classifies actions, and evaluates worth, forcefully projecting these judgments onto individuals under supervision and the public. In this way, punishment teaches, clarifies, and authoritatively enacts basic moral-political categories and distinctions that help form our symbolic universe.

There is also increasing awareness of how the processes of the criminal courts can serve to penalize individuals subject to them, even before a formal sentence is imposed. In his seminal work "The Process is the Punishment," Feeley (1979) was among the first to explicate how these processes could serve as punishments in and of themselves. Feeley focuses on the legal actors involved in administering process-based punishment, such as judges, prosecutors, and defense attorneys, collectively referred to as the "*courtroom workgroup*" (see also Eisenstein & Jacob, 1977). Even when unenforceable, probation conditions can be seen as part of this process-based punishment, serving a symbolic function beyond their practical application.

**Inappropriate Unenforceable Conditions May Undermine the Rehabilitative Purpose of Probation**

In determining appropriate probation conditions, the principles are that conditions should be tailored, parsimonious, not overly burdensome, and focused on facilitating positive behavioral change rather than merely monitoring compliance (Klingele, 2013; 2021; Taxman et al., 2020). Excessive conditions place an additional burden on clients without necessarily increasing their chances of success (Durnescu, 2011; Mackey et al., 2023; Ruhland & Scheibler, 2022; Taxman, 2024). One example of excessive conditions is those that are difficult for the officer to enforce. The fact that the POs described many conditions as unenforceable is concerning, as having many excessive conditions lowers the chances of success through rehabilitation. Adding to this is another example of an excessive condition that requires the individual to "avoid" something besides the victim. This demand was expressed by some of the POs saying: "*Don't have contact with anyone in the community, or don't go to any*..." (B5-2(.

Probation conditions should align with individuals' risks and needs to promote rehabilitation and public safety (Andrews & Bonta, 2010). Imposing unenforceable conditions undermines the Risk-Need-Responsivity (RNR) model's "risk principle," which states that conditions must match supervision intensity to individuals' risk levels to reduce recidivism (Andrews et al., 1990). However, POs identified several unenforceable conditions like GPS monitoring and remaining drug/alcohol-free due to difficulties monitoring compliance. Such unenforceable conditions violate the risk principle by failing to provide appropriate control and intervention for higher-risk individuals. This can undercut probation's effectiveness for public safety and client rehabilitation (Peled-Laskov & Gideon, 2024).

**Enforceability as a Key Measure for Probation Conditions**

This study's findings underscore the importance of adding 'enforceability' to the existing criteria for determining appropriate probation conditions. While previous literature has emphasized the 'three R's' - realistic, relevant, and research-supported conditions (Robina Institute of Criminal Law and Criminal Justice, 2017) - our research suggests that a fourth 'R', 'realistically enforceable', should be considered. The Massachusetts Probation Service's perspectives highlight that even conditions that meet the traditional criteria may fall short if they cannot be effectively enforced. This additional criterion aligns with the need for useful and meaningful conditions, as opposed to excessive or potentially harmful ones (Durnescu, 2011; Klingele, 2013, 2021; Mackey et al., 2023; Ruhland & Scheibler, 2022; Taxman, 2024). By including enforceability as a key consideration, probation services can enhance the effectiveness of supervision, reduce the burden on both clients and officers, and potentially improve outcomes. This approach represents a significant contribution to the ongoing dialogue about optimizing probation practices and aligns with broader efforts to reform community supervision to be more equitable, efficient, and impactful.

**Limitations and Future Research**

This qualitative study provides valuable insights into the perspectives of POs within the Massachusetts Probation Service regarding probation conditions, particularly the perception of those that are burdensome and difficult to monitor. However, there are several limitations to consider. The study was conducted within a single state's probation system. While this allowed for an in-depth examination of the local context, the findings may not be fully generalizable to probation systems in other states with different policies, practices, and organizational cultures .In addition, the study relied on self-reported data from probation officers, which may be subject to social desirability bias or other limitations inherent in qualitative interviews. Incorporating additional data sources, such as observations of probation meetings or case file reviews, could strengthen the validity of the findings. Finally, using quasi-statistics helps to quantify how often themes emerged across interviews but is limited because it relies on open-ended conversations instead of structured surveys where closed-ended questions are uniformly presented to respondents (Becker, 1970).

Future research directions should focus on investigating the perspectives of other key stakeholders, such as judges, prosecutors, defense attorneys, and clients themselves, to gain a more comprehensive understanding of the challenges and potential solutions surrounding unenforceable probation conditions. Our future intention is to develop and evaluate interventions or policy changes aimed at improving the appropriateness and enforceability of probation conditions, in alignment with the principles of the evidence-based practice (EBP) rehabilitative model and Risk-Need-Responsivity framework. Such interventions or policies could focus on providing training and tools to probation staff for crafting more parsimonious, enforceable conditions, tailored to individuals' criminogenic risks and needs.

**Conclusion: The Limits of Unenforceable Probation Conditions**

While unenforceable probation conditions may serve a symbolic punitive purpose, and the process of imposing these conditions can itself be seen as a form of punishment, the findings suggest that officers perceive the enforceability to affect the utility and meaningfulness of a condition. Since condition setting tends to be done by the prosecutor and defense attorney in plea negotiations, officers often have little input into the type of conditions imposed. From the officers' perspective, these conditions fail to adequately address sentencing goals, underlying criminogenic factors, rehabilitative needs, and/or facilitate successful community reintegration. The process of condition setting often results in conditions that are not useful in the eyes of the POs, which obviously affects the legitimacy of the sanctions.

The findings focus the need for probation personnel to be included in the condition setting process, which would involve asking for input into the conditions and for judges and administrators to carefully consider each condition's enforceability and appropriateness. Incorporating enforceability as a key criterion alongside existing considerations of realistic, relevance, and research support seems essential. A meaningful set of enforceable conditions targeting individuals' criminogenic needs is recommended to better serve rehabilitation goals while upholding accountability and meeting social justice and citizenship goals.

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**Endnotes**

i. To preserve PO confidentiality, direct quotations are attributed using an alphanumeric identification scheme (e.g., A2-2, where A2 indicates the probation office and -2 indicates it is the second interview at that site. “A” offices are district courts and “B” offices are superior courts).

**Appendix A**

**Table 1**

*Interview Information and Interviewee Demographics*

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Measure** | **All Courts** | |  | **District Courts** | |  | **Superior Courts** | |
| **N** | **%** |  | **N** | **%** |  | **N** | **%** |
| **Interviews** | 72 | - |  | 46 | 64% |  | 26 | 36% |
| **Interviewees** | 94 | - |  | 54 | 57% |  | 40 | 43% |
| ***Position*** |  |  |  |  |  |  |  |  |
| *Chief* | 13 | 14% |  | 7 | 13% |  | 6 | 15% |
| *Assistant Chief* | 12 | 13% |  | 9 | 17% |  | 3 | 8% |
| *Probation Officer* | 37 | 39% |  | 21 | 39% |  | 16 | 40% |
| *Probation Officer II* | 15 | 16% |  | 10 | 19% |  | 5 | 13% |
| *Associate Probation Officer* | 8 | 9% |  | 4 | 7% |  | 4 | 10% |
| *Specialty Court Coordinator* | 1 | 1% |  | 1 | 2% |  | 0 | 0% |
| *Unknown* | 8 | 9% |  | 2 | 4% |  | 6 | 15% |
| ***Age*** |  |  |  |  |  |  |  |  |
| *20-29* | 1 | 1% |  | 0 | 0% |  | 1 | 3% |
| *30-39* | 21 | 22% |  | 15 | 28% |  | 6 | 15% |
| *40-49* | 25 | 27% |  | 13 | 24% |  | 12 | 30% |
| *50-59* | 30 | 32% |  | 17 | 31% |  | 13 | 33% |
| *60-69* | 6 | 6% |  | 4 | 7% |  | 2 | 5% |
| *Unknown* | 11 | 12% |  | 5 | 9% |  | 6 | 15% |
| ***Gender*** |  |  |  |  |  |  |  |  |
| *Male* | 41 | 44% |  | 25 | 46% |  | 16 | 40% |
| *Female* | 43 | 46% |  | 25 | 46% |  | 18 | 45% |
| *Unknown* | 10 | 11% |  | 4 | 7% |  | 6 | 15% |
| ***Ethnicity*** |  |  |  |  |  |  |  |  |
| *Hispanic* | 18 | 19% |  | 10 | 19% |  | 8 | 20% |
| *Non-Hispanic* | 63 | 67% |  | 39 | 72% |  | 24 | 60% |
| *Unknown* | 13 | 14% |  | 5 | 9% |  | 8 | 20% |
| ***Race*** |  |  |  |  |  |  |  |  |
| *White* | 57 | 61% |  | 35 | 65% |  | 22 | 55% |
| *Black* | 6 | 6% |  | 4 | 7% |  | 2 | 5% |
| *Other* | 5 | 5% |  | 2 | 4% |  | 3 | 8% |
| *Unknown* | 26 | 28% |  | 13 | 24% |  | 13 | 33% |