

MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE	EFFECTIVE DATE	NUMBER
	02/01/2005	06.06.120
SUBJECT PROBATION VIOLATION PROCESS	SUPERSEDES	
	06.06.120 (11/03/97)	
	AUTHORITY	
	MCL 771.4	
ACA STANDARDS		
3-3143; 3-3156; 3-3158; 3-3159; 3-3165; 3-3174; 3-3171; 3-3167; 3-3168		
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POLICY STATEMENT:

The Department's goals when responding to probation violations are to protect the community, hold the probationer accountable for his/her behavior and reduce the probationer's likelihood of committing additional crimes. Field agents shall therefore respond to probation violations, including absconding, as set forth in this policy.

POLICY:

- A. Probation supervision provides the court with a viable alternative to incarceration. Probationers are expected to comply with the rules and special conditions prescribed in the Order of Probation issued by the sentencing court. If all rules and conditions are met, the probationer is discharged from probation supervision and the sentence is terminated.
- B. A probationer who does not conform to the rules and conditions of probation is in violation of the sentencing court's order, subjecting them to a range of possible sanctions. All violations require a response from the supervising field agent, but not all violations must result in a recommendation for revocation of probation. Agent recommendations and responses to violations shall be proportional to the seriousness of the violation, the risk of the probationer to the community and the probationer's overall adjustment to probation. Absent more stringent instructions from the sentencing court, OP FOA 06.06.120 "Probation Violation Response Guidelines" shall be followed when responding to violations.
- C. A probationer shall be considered an absconder when it is clear the probationer has fled supervision. A probationer also shall be considered to be an absconder if s/he has missed two consecutive in-person contacts or monthly mail-in reports.
- D. To initiate probation violation proceedings and recommend that probation be revoked, the supervising agent shall complete and file a Petition and Bench Warrant (CFJ-109) with the sentencing court. The Petition and Bench Warrant shall be filed as soon as possible but no later than ten business days after the supervising agent had reason to believe that the violation occurred; however, the Petition and Bench Warrant shall be filed within five business days if any of the following conditions exist:
 - 1. There is reason to believe the probationer has engaged in new felony behavior.
 - 2. There are allegations of assaultive behavior or threats by the probationer.
 - 3. There is evidence that the probationer absconded supervision while in possession of a firearm.
 - 4. When law enforcement requires a LEIN warrant entry before arresting an absconder whose location is known.
 - 5. The probationer is serving on, or has a history of, a sex offense.
 - 6. The sentencing court has given special instructions regarding warrant processing for the probationer or a targeted group; e.g., PA 511 probationers.

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- E. Whenever a probationer has his/her probation revoked by the sentencing court, the supervising agent shall proceed as set forth in OP FOA 06.06.120 "Probation Violation Response Guidelines". If probation was revoked for behavior that involved the probationer owning or possessing a firearm, including an imitation or simulation of a firearm, after July 13, 2004, the agent shall recommend to the court that the probationer be given a minimum sentence of at least sixty months or, if sixty months exceeds the recommended sentencing guidelines range for the offense, the maximum allowed within the guidelines, unless an upward departure is warranted.

OPERATING PROCEDURES

- F. The FOA Deputy Director shall ensure that procedures are developed as necessary to implement requirements set forth in this policy directive; this shall be completed within 60 calendar days after the effective date of the policy directive. This requirement includes ensuring that their existing procedures are revised or rescinded, as appropriate, if inconsistent with policy requirements or no longer needed.

AUDIT ELEMENTS

- G. A Primary Audit Elements list has been developed and will be provided to FOA Regional Administrators to assist with self audit of this policy, pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

PLC:OPH:01/05/05