North Carolina Department of Public Safety
Division of Adult Correction and Juvenile Justice
Community Corrections
Policy & Procedures

DPS Policy Manual

Personnel Policy Manual

Prisons Policy Manual

August 1, 2016

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Chapter A Administration – Fiscal and Personnel

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This section sets out the responsibilities and duties of staff to carry out Section policies, rules, and standards on the various fiscal and personnel operations.

.0102 ORGANIZATION

Responsibility

Fiscal and Personnel policy is subject to review by the Director of Community Corrections. Any variation in the policies and procedures specified herein must immediately be reported to the Director for review and approval. Administrative directives and updates will be issued by the office of the Director as required to specify and update this policy.

Duties

It is the responsibility of all employees of Community Corrections to know and follow the standards and guidelines of these policies. The principle purposes of these policies are to guide the performance toward a standard of excellence and to meet the agency's core values of:

(a) A commitment to public safety;

(b) Providing outstanding public service by professional, ethical dedicated employees;

(c) Providing public accountability for our actions and outcomes;

(d) A commitment to improving offender behavior through the use of evidence based practices and interventions;

(e) Valuing innovation, collaboration, and flexibility in our management.

Staff

Various administrative support and management staff have direct responsibilities for the fiscal and personnel operations of the division. All employees are expected to follow the standards and guidelines of this policy.

Review

The judicial district manager will review operations to ensure policy is followed based on the standards established by the Director of Community Corrections.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter A Administration – Fiscal and Personnel

Section .0200 Definitions

.0201 DEFINITIONS OF TERMS

(a) **ADA - Americans with Disability Act**. The Americans with Disabilities Act gives civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications.

(b) **BEACON – Building Enterprise Access for North Carolina's Core Operation Needs.** This collaborative effort is designed to transform the way the state conducts business by modernizing and standardizing key business processes. The first project in the BEACON program is in human resources and payroll. Employees are able to access and maintain personal information, employee information, and management reporting in the BEACON HR/Payroll system.

(c) **DOA – Department of Administration.** Acts as the business manager for North Carolina state government. The department oversees Government Operations such as building construction, purchasing and contracting for goods and services, managing state vehicles, acquiring and disposing of real property, and operating auxiliary services such as courier mail delivery and the sale of state and federal surplus property.

(d) **DPS EEO Office.** Ensures equal employment opportunity for all applicants and employees of the Department of Public Safety and to promote diversity at all occupational levels of the Department's workforce. Web site: NCDPS - EEO

(e) **DPS Human Resources.** The entity responsible for all personnel actions within the Department of Public Safety.

(f) **DPS PREA Office.** Conducts PREA training of employees, vendors

and agents in addition to educating offender populations across the agency. Also conducts PREA violations/complaints within the Department of Public Safety. Contact e-mail address: prea@ncdps.gov

(g) **DPS Purchasing and Contract.** The Division of Purchasing & Services is the centralized location for procurement, warehousing, transportation/communications, and leased property acquisition and management for the Department of Public Safety.

(h) **Exempt Overtime Designation.** Management leveled position who receive compensatory time (hour for hour) for all hours worked over 40 in accordance with the Hours of Work and Overtime Policy

(i) **FLSA - Fair Labor Standards Act.** Prescribes standards for the basic minimum wage and overtime pay, and affects most private and public employment. It requires employers to pay covered employees who are not otherwise exempt at least the federal minimum wage and overtime pay of one-and-one-half-times the regular rate of pay.

(j) **MFM – Motor Fleet Management.** The Motor Fleet Management Division provides passenger vehicles to state agencies for employees in the performance of their duties. The division is a receipt-supported operation that purchases, maintains, assigns and manages the state's centralized motor vehicle fleet.

(k) **NCAS – North Carolina Accounting System**. The chart of accounts maintained by the Office of the State Controller for the State of North Carolina.

(l) **PREA –Prison Rape Elimination Act.** Standards establish to prevent, detect, respond to and monitor sexual abuse of incarcerated and detained individuals.

(m) **RCC Manager.** The person who has oversight for their unique responsibility cost center (RCC) budget.

(n) **SPA - State Personnel Act.** Provides a uniform and equitable system of

personnel administration of employees in the state service. Recruitment, selection, appointment, development, promotion, transfer, layoff, classification, compensation, discipline, separation and provision for the welfare of state employees is performed in a manner to secure and retain well qualified employees to carry out state programs effectively and efficiently and to provide reasonable stability of employment in the state service.

(o) **Subject to Overtime Designation.** FLSA subject employees who receive overtime compensation, pay at the rate of time and one half, for all hours worked over 40 in accordance with the Hours of Work and Overtime Policy.

APPROVED.

Anne L. Precythe

Director of Community Corrections

08/01/2016

Date

Chapter A Administration – Fiscal and Personnel

Section .0300 Facilities Management

.0301 GENERAL PROVISIONS

For both leased facilities and those statutorily provided by county governments as required by G.S. 15-209, Community Corrections will secure and maintain the use of facilities in the most efficient and effective manner possible to support its operations, to better ensure a safe and adequate working environment for its employees, and to better ensure facility access for the disabled, as mandated by Title II of the Americans with Disabilities Act. To the greatest extent possible, staff will be located in Division facilities in a logical and rational manner that will best promote operational effectiveness.

.0302 LEASE MANAGEMENT

Leases and lease proposals shall be submitted to the Judicial Division office for forwarding, as prescribed below. (See DPS Purchasing Manual)

(a) Lease Categories

Community Corrections has three categories of leases:

(1) **Category 1 -** Leases greater than $25,000 annual rent, 3-5 year initial term with renewals desired. Bids must be obtained for this type of lease except properties leased from county or city municipality.

(2) **Category 2 -** Leases greater than $5,000 annually up to and including $25,000 annually. Term of lease not to exceed 3 years.

(3) **Category 3 -** Leases $5,000 annually or less. Term of lease not to exceed 3 years.

(b) Initiation of Lease Contract

(1) For field offices the Judicial District Manager shall initiate a lease request by submitting a memorandum to their respective Judicial Division Office.

This memo shall be submitted 10 months in advance of the desired occupancy date when annual rent is anticipated to be in excess of $25,000. For annual rent of $25,000 or less and a three year term lease or less, the memorandum shall be submitted 7 months in advance of desired occupancy date.

(2) Memorandum shall include:

a. Minimum needs of the facility;

b. Organizational chart designating those positions for which space is to be provided, including any new positions anticipated within the next year;

c. Fire and safety checklist.

(3) The Judicial Division Administrator or designee:

a. Review the written request for space and instruct the Administrative Assistant to have a requisition entered on NCAS.

b. The requisition number shall be handwritten on the original organization chart.

c. Memorandum, organizational chart, and a standard space analysis shall be forwarded to Community Corrections Administration, Fiscal Section.

(c) Acquisition of Lease Property

The Division Administrator will be contacted by DPS Property Agent regarding setting up site visits for the advertised leases.

(1) The Division Administrator shall prepare thorough written evaluations of the properties visited and submit to Community Corrections Administration, Fiscal Section.

(2) Particular attention shall be given to whether or not bid specifications were met.

(3) Once the lease decision has been finalized, DPS Purchasing Office will make the necessary changes to create a purchase order with the correct dollar figures, dates, vendor, etc.

(4) DPS Accounting Office will receipt these purchase orders monthly and set them up on an automatic payment system.

(5) Lease Advertising Threshold and Procedures Information

(6) No advertisement required:

a. Under $5,000 – Prepared by DPS Property Agent and signed by Director of Purchasing; can have no longer than a 3-year term, including all renewal options.

b. $5,000-$25,000 – Recommendation sent from DPS Purchasing to State Property for lease preparation; can have no longer than 5-year term. Request must be approved by State Property office. If lease exceeds 3 years, must be approved by the Council of State.

(7) Advertisement required:

a. $25,000 and above – Sent from DPS Purchasing to State Property, which develops specifications and determines where to advertise.

b. State Property sends back to DPS Purchasing, which advertises.

c. Proposals go to State Property for review and determination.

d. All such leases must go to the Council of State for approval, regardless of lease term.

e. Lease terms may not exceed three 5-year terms.

.0303 FACILITY ACCESS FOR THE DISABLED

Offenders or any other members of the public with a disability, visiting a Community Corrections facility, are to be accommodated in whatever reasonable fashion is available. (See Americans with Disabilities Act, DPS Personnel Manual)

.0304 BUILDING CONTENT AND OCCUPANCY UPDATES

The Judicial Division Offices are responsible for establishing and updating facilities information regarding the location and estimated value of building contents, to be provided to the Department of Insurance and are responsible for the location and relocation of staff.

Annually, the Community Corrections Administration, Fiscal Section will distribute to

the Judicial Division Offices the Department of Insurance forms for the updating of information regarding building content values for both leased and county-provided facilities. Those forms shall be returned to the Community Corrections Administration, Fiscal Section by the prescribed deadlines. The Community Corrections Administration, Fiscal Section then will provide the information to the DPS Central Accounting Office, which provides the information to the Department of Insurance.

Additionally, using the same aforementioned Department of Insurance forms, the Judicial Division Office will notify the Community Corrections Administration, Fiscal Section of any substantial change in value or change in location of building content and of any change in location of staff by positions.

This information must be provided to the Community Corrections Administration, Fiscal Section in a timely manner so as to avoid any lapse in insurance coverage of building content due to underestimated value or inaccurate record of location of building content, and to allow for the accurate record keeping of positions by locations.

.0305 REQUIRED FACILITY POSTINGS

When complying with the posting/notice requirements, it may require that copies be posted in more than one location to ensure access for all employees. The Department of Public Safety Human Resources Division has approved providing extra copies of the Department's Personnel Manual for employee reference in lieu of postings that are extraordinarily lengthy as long as the manuals are maintained properly and easily accessible.

Available from the Department of Public Safety, EEO Office:

(a) Equal Employment Opportunity Poster

(b) Unlawful Harassment in the Workplace Policy

Available from Department of Public Safety, Human Relations, Benefits Section:

(a) Family Medical Leave Act of 1993 Poster

(b) Department of Public Safety Family/Medical Leave Policy

Available from Department of Public Safety, Human Relations or Office of State Personnel:

(a) Alcohol/Drug Free Workplace Policy

(b) Americans with Disabilities Act of 1990

(c) Disability Review Process Policy & Procedures

(d) Dispute Resolution Process Policy & Procedures

(e) Disciplinary Policy & Procedures

(f) Drug Testing Policy & Procedures

(g) Federal Highway Administration Drug and Alcohol Testing Policy & Procedures

(h) Grievance Policy & Procedures

(i) Leave Without Pay Policy & Procedures

(j) Merit Based Recruitment and Selection Plan

(k) Personal Dealings with Offenders Policy

(l) Political Activity Policy & Procedures

(m) Administrative Memorandum: 3.02.03-97 regarding the Expansion of the Department of Public Safety Drug Testing Policy

(n) Administrative Memorandum: 3.02.03-96 regarding implementation of employee alcohol testing based on reasonable suspicion.

Available from Department of Labor – http://www.nclabor.com/:

(a) North Carolina Workplace Laws

(b) OSHA-200

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter A Administration – Fiscal and Personnel

Section .0400 State Owned Vehicles

.0401 GENERAL PROVISIONS

Community Corrections will comply with all General Statutes, regulations and guidelines provided by the Department of Administration, Division of Motor Fleet Management, and Division of Adult Correction and Juvenile Justice fiscal policy and procedures pertaining to the use of state-owned vehicles. All Division vehicles are provided by a lease agreement with the Department of Administration Division of Motor Fleet Management. The use of rental company vehicles is not allowed.

State-owned vehicles will be used for official state business only. All offender supervision will be performed in a state-owned vehicle. G.S. 14-247; G.S. 143-341

.0402 TRAVEL STATUS

Employees of Community Corrections may be approved to use a state-owned vehicle for daily or overnight travel dependent upon availability.

.0403 RESTRICTIONS

The following limitations will apply to Community Corrections employees' use of state- owned vehicles, both in travel and commuting status:

Off Duty Travel

With the exception of employees whose home is designated as the official workstation or employees authorized to commute, no state-owned vehicle will be driven to an employee's home or used during non-working hours except with the permission of the employee's supervisor when one or both of the following conditions exist:

(a) State business requires an authorized trip by vehicle the following workday; the employee's residence is closer to the destination than the official

workstation; and the employee does not have to return to the work station prior to beginning the trip; and/or

(b) The employee needs the use of the vehicle after completion of the regular workday to conduct state business on the same day or before usual working hours on the next workday.

Travel Time

Travel time will be counted as work time only during the performance of approved job responsibilities. Normal travel from home to the workstation and back before and after the workday will not be considered time worked.

Meals

Employees with commuting privileges may drive the assigned state owned vehicle to breakfast, lunch or dinner if either falls within the approved work schedule.

Employees in approved travel status may drive the state-owned vehicle to breakfast, lunch or dinner.

Entertainment

Employees with commuting privileges or in approved travel status may not drive the assigned state owned vehicle for entertainment purposes.

Alcoholic Beverages

Driving a state owned vehicle after consuming any alcoholic beverage or consuming any alcoholic beverage in a state-owned vehicle is strictly prohibited. With the exception of alcohol confiscated from offenders in an officer's performance of official job responsibilities, the transport of any alcoholic beverage in a state-owned vehicle is also prohibited.

Personal Business

Employees will not be allowed to conduct personal business during the performance of required job responsibilities in a state owned vehicle. Bank/Credit Union visits within the immediate vicinity of the official work station will be allowable for employees with commuting privileges or an approved travel status during approved breaks.

Authorized and Unauthorized Passengers/Drivers

The following persons will be permitted to ride in but not drive state-owned vehicles:

(a) Non-state employees who have a business interest in the travel, including offenders;

(b) Spouses and children of state employees when ample space is available and all travel is strictly for official state business not involving the supervision of offenders;

(c) Volunteers; and

(d) Division of Adult Correction and Juvenile Justice-sponsored interns.

Radar Detectors

The use of radar detectors is prohibited in state-owned vehicles.

Authorized Use of State-Owned Vehicles to Attend Funerals

Upon approval of their respective manager, employees may drive state-owned vehicles to attend funeral services, where appropriate. Use of state-owned vehicles is limited to attending funeral or graveside services and processions for those with whom employees have had direct professional association (e.g., fellow employees, other law enforcement officers, judges, other criminal justice colleagues, etc.,) Carpooling is required.

Community Parking Strategy

This provides specific directions for the parking of state vehicles assigned to employees of the division in areas in the community other than the employees' primary duty station. This strategy will:

(a) Provide an additional enforcement presence in the community;

(b) Provide for more efficient and timely officer response to offender behavior, compliance with supervision conditions, and public safety issues; and

(c) Improved efficiencies in officer/offender contacts in the community.

Division managers in specified classifications may also use the strategy in order to:

(a) Improve required supervisory and management oversight of field operations;

(b) Responses to emergency situations;

(c) Employee work performance evaluations; and

(d) Maintain management presence with various law enforcement and partner agencies.

(e) Additional considerations also include providing less opportunity to vandalize state vehicles and improved parking costs associated with state vehicles.

Community parking locations that may be approved include the following:

(a) Division of Adult Correction and Juvenile Justice Facilities

(b) Law Enforcement Facilities

(c) Department of Transportation Facilities

(d) Federal Facilities

(e) County/City Facilities

(f) Fire Stations

Position classifications that may be approved to use a community parking location include:

(a) Probation/Parole Officers

(b) Field Specialists

(c) Chief Probation/Parole Officers with multi-county/split unit responsibilities

(d) Judicial District Managers, Assistant Managers, Judicial Services Coordinators and Judicial Services Specialists with multi-county responsibilities

(e) Assistant Judicial Division Administrators with multi-district responsibilities

Guidelines for officer/community parking designation

(a) State vehicles must remain within the county of the employees work location/duty station;

(b) Parking at the employee residence is prohibited unless prior approval is received from the Judicial District Manager for travel in accordance with DACJJ Fiscal Policy;

(c) The Judicial District Manager must designate and approve locations, obtain agreements from the appropriate allied agency official and forward to the Judicial Division Administrator for approval. Approved locations and employees are to be submitted to the Deputy Director.

Guidelines for Managers, Judicial Services Coordinators, Judicial Services Specialists and Assistant Administrators/ community parking designation:

(a) State vehicles must remain within the judicial district of the employees' work location/duty station for Judicial District Managers, Assistant Managers, Judicial Services Coordinators and Judicial Services Specialists; and in the judicial division of the employees' work location/duty station for Assistant Judicial Division Administrators;

(b) Parking at the employee's residence is prohibited unless prior approval is received from the Judicial Division Administrator for travel in accordance with DPS Fiscal Policy

(c) The Judicial Division Administrator must designate and approve

locations, and forward approvals of locations and names of employees to the Deputy Director.

An employee with an individually assigned state vehicle may drive the vehicle to/from their home when the state vehicle is required for a trip the following day & the employee's home is closer to the destination than the regular duty station; and the employee does not have to report to the duty station before beginning the trip. Frequent occurrence of this situation requires approval through the chain of command and Motor Fleet Management approval.

Supervisors, Managers, and Administrators are responsible to conduct reviews to ensure compliance. FM-30 or FM-35 forms must reflect the designated community parking location.

Employees approved for community-parking designations are responsible for following these guidelines and all applicable division, department and state policies.

Vehicle mileage reports must be fully completed listing all travel designation locations. Employees are not allowed to utilize the community parked state vehicle for the sole purpose of driving only to their assigned work location/duty station.

Violations of the guidelines of department or state policies may result in loss of the parking designation and appropriate disciplinary action.

.0404 MAINTENANCE

The individual to whom each state-owned vehicle is assigned will be responsible for the vehicle's maintenance and care, in accordance with Department of Administration, Division of Motor Fleet Management policy. The following topics are addressed in the Motor Fleet Management Regulations handbook assigned to each state- owned vehicle:

http://www.ncmotorfleet.com/documents/mfmregs.pdf

(a) Routine Maintenance

(b) Vehicle Washing (See Admin memo concerning washing vehicles at Prison facilities and DCC-161)

(c) Preventive Maintenance

(d) Repairs and Maintenance

(e) Annual Safety Inspections

(f) Accident Reporting/Property Damage

(g) Decals on Vehicles

(h) Installation of Special Equipment

(i) Tire Chains

DPS does not pay for car washes; please do not use the credit card assigned to the vehicle to pay for the car wash.

.0405 OPERATOR LICENSE

The driver of any state owned vehicle will possess a valid personal driver license in accordance with the laws governing the class and usage of each vehicle, and will comply with all other requirements established by the Department of Administration, Division of Motor Fleet Management. All officers or other employees assigned to use a state vehicle will maintain a valid North Carolina Operator License. The Judicial District Manager and Judicial Division Administrator will ensure that all staff vehicle operators within their districts and divisions are appropriately licensed and are in compliance with all other requirements established by the Department of Administration, Division of Motor Fleet Management.

Employees who lose the ability to operate a state vehicle due to a violation of Department of Administration, MFM rules or due to violation of the law are subject to disciplinary action up to and including dismissal.

.0406 MOTOR VEHICLE VIOLATIONS

The driver of a state-owned vehicle will be responsible for any violation of state laws governing the use of motor vehicles, including but not limited to traffic violations, parking tickets, and towing charges. The Division of Adult Correction and Juvenile Justice will not pay charges or fines resulting from motor vehicle violations. Any

correspondence regarding traffic violations and/or non-payment of fines will be forwarded to the Commissioner of Adult Correction and Juvenile Justice for appropriate action. Inappropriate handling of payment of parking citations including impoundment of an officer's state owned vehicle will result in disciplinary action up to and including dismissal.

.0407 ACCIDENTS / DAMAGE / VANDALISM

All accidents, damage or vandalism involving a state-owned vehicle will be reported to the supervisor through the chain of command within 24 hours of the event. Accidents involving death or extensive bodily injury will be reported immediately. Universal precautions, including the use of personal protective equipment, will be followed when rendering first aid to any accident victim. It is the responsibility of the employee driving the vehicle to remove all state issued equipment prior to releasing the vehicle to the towing company or to Motor Fleet Management.

The Deputy Director of Community Corrections shall approve the drug screening of any employee:

(a) Involved in a fatal motor vehicle collision with a state-owned vehicle;

(b) Involved in a motor vehicle collision with a state-owned vehicle which results in an apparent serious bodily injury.

All accidents involving state-owned vehicles or other property damage, regardless of amount of damage, must be reported to the Department of Administration, Division of Motor Fleet Management within 10 days by calling 800-277-8181 or 919-733-4043. Law enforcement must be contacted in the event of an accident to obtain an accident report. The following information will be obtained from the other driver(s) involved in the accident, if applicable):

(a) Name

(b) Address

(c) Telephone Number

(d) License Plate Number

(e) Insurance Company and Policy Number

An FM-16 *Accident Reporting Form* must be completed and forwarded immediately to Motor Fleet Management.

All accidents involving injury or damage to a state-owned vehicle must be reported

promptly to Travelers Insurance Company. *(See Section .1000 Fixed Assets and Inventory Control)*

.0408 MOTOR VEHICLE MILEAGE DOCUMENTATION

Each driver will record daily mileage driven in a state-owned vehicle on the FM-12e Travel Log. The following will apply to the completion of the FM-12e:

(a) The beginning mileage for each day must match the ending mileage for the previous day the vehicle was driven, mileage for each day will be recorded as it occurs

(b) Dept/Off No will be 1901

(c) Fund No. will be 1370 for positions funded by regular budget and 1360 for Community Corrections' administrative operations

(d) RCC No. will be the four-digit numerical location number where the vehicle is assigned

(e) Individual Responsible for Vehicle will be the individual to which the vehicle is assigned. This individual's name must be signed, not printed.

(f) Travel Logs will be closed out on the 20th of each month. The completed FM-12e, *Travel Log*, will be approved by the supervisor, signed and entered into OPUS.

APPROVED.

Anne L. Precythe

Director of Community Corrections

08/01/2016

Date

Chapter A Administration – Fiscal and Personnel

Section .0500 State Telecommunications

.0501 GENERAL PROVISIONS

Community Corrections will establish and maintain requirements for the use of telephones, cellular phones, radios, facsimile machines, computers, tablets and any other electronic device. All Community Corrections employees will adhere to the specific requirements as set out below. The purpose of this section is to establish uniform procedures for the use and control of telecommunications equipment.

.0502 STATE TELECOMMUNICATION SERVICES

State Telecommunications Services has developed low cost telephone communication systems throughout the state which go directly through the State Telephone Network. Depending on the location, the procedures for accessing these services will differ. Each employee is required to determine the least expensive manner to place long distance business calls available in their area and to use such procedures.

.0503 USE AND RECORD KEEPING

(a) Long Distance Calls

Long distance telephone calls charged to the State must be strictly for business purposes only. In addition to the required verification by both employees and their respective supervisors of the itemized list of phone calls from State Telecommunication Services and/or other telephone companies, as indicated below, access codes may be used to assist with the tracking of charges, the use of which is to be determined by the RCC Managers. Each RCC Manager will establish internal controls to ensure that all calls are legitimate and business related.

1. Each month, supervisors will receive:

    a. An itemized list of phone calls accessed by the designated employees through the State Telecommunication Services, E-Billing System; and/or

    b. An itemized list of phone calls from other telephone

companies, accompanied by a summary of charges.

2. The itemized list of long distance calls are to be reviewed, signed with full signature and dated by the designated employee, verifying that the calls are, in fact, legitimate and business related.

3. The E-Billing summary of charges provided by other telephone companies are to be reviewed, signed with full signature and dated by the Supervisor or the RCC Manager of the employee making the calls, verifying that the calls are, in fact, legitimate and business related.

4. In addition, any other areas of concern regarding calls will be discussed during the review of the itemized list of phone calls. Any erroneous calls or calls thought to be incorrect will be referenced on the signed E-Billing printout and/or the summary of charges provided by other telephone companies.

5. After calls have been verified, the Expense Summary Page will be signed by the RCC Manager and forwarded to DPS Accounting. After the summary of charges provided by other telephone companies has been verified, a CNTR 005 must be processed for payment.

6. The signed and dated itemized list of phone calls is returned to the Supervisor or the RCC Manager. The RCC Manager will maintain, for auditing purposes, copies of the signed and dated itemized list of phone calls, the signed Expense Summary Page and/or the summary of charges provided by other telephone companies.

Per DPS policy .2400, it is not necessary to print the whole E-Bill. Please only print the Expense Summary page and any pages that require adjustments or corrections. Each facility/section head shall designate 2 employees who will be authorized to access the monthly bill. The designated employees shall be responsible to review the charges for accuracy and confirm the charges are for valid State business purposes.

(b) Cellular Phone/Smart Phone Use

Community Corrections provides cellular phone communication as part of the Officer Safety Package and as appropriate, in support of administrative operations. All uses of cellular phones must be requested through the chain of command and must receive prior approval from the Division Administrator, and/or Community Corrections Administration section head. Cellular phones will be distributed and assigned to users by their respective RCC Managers. RCC Managers are responsible for informing their respective cellular phone users of the phone features; providing adequate training in the use of the phones; and informing the users of all costs associated with the use of the phones, including any monthly air time limitations. Employees receiving smart phones will sign the Community

Supervision Mobile Device User Agreement and follow the policy as described therein. Additional information regarding smart phone usage can be found in Administrative Memorandum 01.13.06-12- Smart Phone Usage.

1. For shared cell phones/smart phones:

    a. Each supervisor will compare individual work schedules with the monthly invoice (Ebilling printout) and both the supervisor and employee will certify that the calls are valid by signing with full signature and dating the invoice before submission to the DPS Central Accounting Office.

    b. After calls have been verified, the Expense Summary Page will be signed by the RCC Manager and forwarded to DPS Accounting.

    c. The signed and dated itemized list of phone calls is returned to the RCC Manager.

    d. The RCC Manager maintains, for auditing purposes, copies of the signed and dated itemized list of phone calls, the signed Expense Summary Page.

2. For individual assigned cell phones/smart phones:

    a. Each month, the designated employee(s) who are authorized to access the facility/section's monthly telephone bill through E-Billing will perform the following duties using the following method:

    b. The pages of the E-Bill for cellular charges for each individual cell phone shall be emailed by the designated employee(s) to the cellular phone holders for review.

    c. The cell/smart phone holder shall review the pages and send an email confirmation back to the designated employee(s) indicating that all charges are correct and were only for official state business or if there were errors, they will indicate those.

    d. The cell/smart phone holder shall then forward the email with attached cell/smart phone bill to their supervisor for review and approval.

    e. The supervisor shall review the bills and then forward the email with their approval and attached cell/smart phone bills back to the designated employee(s).

    f. The designated employee(s) shall print the email with approvals and shall retain it with the Centrex Bill Expense Summary Page signed by

the facility/section head or designee.

.0504 COLLECT TELEPHONE CALLS

Under no circumstances, will any collect telephone calls be accepted by employees of Community Corrections and charged to the State.

.0505 SCANNERS, FACSIMILE MACHINES and WEB CAMERAS

State owned scanners, fax machines and web cameras are for business purposes only.

.0506 COMMUNITY CORRECTIONS COMPUTER/LAPTOP, TABLET AND INTERNET ACCESS-ACCEPTABLE USE

State owned computer hardware and software, as well as the use of the Internet, must be used responsibly and professionally and will not include any use of these services in an illegal, malicious, or obscene manner. Employees may make reasonable personal use of state owned computer hardware and software, as well as the Internet, as long as the direct measurable cost to the public is none and there is no negative impact on employee performance of duties. (Refer to the Security Link on the DPS Internet Home page for further guidance).

Unauthorized use of state owned computer hardware and software, as well as Internet use, will be investigated and could result in disciplinary action up to and including dismissal. Employees are prohibited from loading personal software and downloading software from the Internet. Any unauthorized software will be deleted and reported to MIS who, in turn, will report to the proper Community Corrections Management.

(a) All passwords must be kept confidential and not written or displayed where they can be reviewed.

(b) Exchange is the only authorized e-mail software. All e-mail is public domain and may be subject to viewing by the public or management. Attachments are considered part of e-mail.

(c) All individually assigned state-owned devices that use the e-mail software must have an e-mail signature containing the following in black, size 12, Times New Roman font:

Name
Rank or Title
NC Department of Public Safety Division or
Section Name

Mailing Address or Mail Service Center Code (City), NC
(Zip Code)
Phone (xxx) xxx-xxxx
Cell (xxx) xxx-xxxx
Fax (xxx) xxx-xxxx
xxx.xxx@ncdps.gov (employee e-mail address)
www.ncdps.gov

(d) Photos added to an email account shall only be a close up headshot of the employee; logos or graphics should not be used as part of the email signature; brief quotes or tag lines are permissible.

(e) For security purposes, staff will log off of computers when unattended.

.0507 COMPUTER RELATED INVESTIGATIONS

In cases of suspected computer misuse, the supervisor will forward details through the chain of command to the Judicial Division Administrator or Community Corrections Administration section head. The Division Administrator will determine if an investigation is appropriate and, if so, notify

the Deputy Director who will contact Internal Audit. If an investigation is approved by Internal Audit, the Deputy Director will contact the Information Security Officer with MIS who will assign an investigator.

The Judicial District Manager will:

(a) Follow internal investigation policy. (See DPS Computer Related Investigations)

(b) Assist the investigator, as needed and,

(c) Retain a copy of the investigator's report in the employee's investigation file.

The Information Security Officer is responsible for:

(a) Investigation records

(b) Computer collection

(c) Computer examination; and

(d) Preparation and distribution of a written report.

.0508 HANDLING OF LAPTOP COMPUTERS

Due to the mobile and fragile nature of laptop computers, the following guidelines must be followed:

(a) When not in use, secure all laptop computers in carrying cases.

(b) Laptop computers must not to be subjected to extreme weather conditions, i.e., hot and cold.

(c) Laptop computers will be treated as sensitive electronic equipment and not be abused. Users must be aware of all applicable charges incurred for the remote use of laptop computers.

(d) All remote connectivity will be strictly for state business.

.0509 RADIO COMMUNICATION

The Division is committed to providing radio communication for use by officers and other designated employees for officer and public safety.

(a) Use of Radios

1. Officers are authorized to use approved handheld and mobile radios in the performance of their official duties. Wireless radio communication is the lifeline for public safety and should not be used as a conversation tool.

2. Radio communication should be short, concise and professional at all times. Officers should follow the practices of local law enforcement as it relates to the use of 10-codes.

3. The Federal Communications Commission (Title 18, Section 1464) prohibits the utterance of "any obscene, indecent or profane language by means of radio communication. Violations of this federal rule can result in penalties including fines and/or imprisonment.

4. Misuse of state-issued communication equipment can lead to disciplinary action up to and including dismissal.

(b) Care and Maintenance of Radios

Officers will be responsible for handling, maintaining, and securing their radios in a safe and judicious manner at all times.

(c) Lost or Stolen Radios

In the case of lost or stolen radios the officer is to immediately notify the supervisor who is to:

1. Immediately notify the Community Corrections DCI terminal (919-324-1159) of the circumstances under which the loss or theft occurred, the serial number, model and date of theft or loss;

2. Immediately inform all persons within the chain of command;

3. On the next business day, the Department of Public Safety's Radio Shop is to be notified of the theft or loss of the radio.

4. Notify the DCI terminal if a radio is recovered.

On weekends or holidays when the supervisor may not be available, the officer is to immediately report the lost or stolen radio to the DCI terminal.

In addition to the above, the procedures as outlined in *Lost, Stolen, Damaged or Misused Equipment* will be followed *(See Section .1000, Fixed Asset and Inventory Control)*.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter A Administration – Fiscal and Personnel Section .0600 Cash Transactions

.0601 GENERAL PROVISIONS

Community Corrections has established uniform standards in order to prevent potential misunderstanding and abuse by offenders and staff regarding cash transactions.

.0602 PROHIBITED CASH TRANSACTIONS

Cash transactions with offenders, including but not limited to money orders, checks, and currency are prohibited. **Under no circumstances are employees to engage in any such transactions with offenders.**

.0603 ALLOWABLE CASH TRANSACTIONS

(a) Receipt and forwarding to the Community Corrections Administration, Fiscal Section Office of restitution payments made by employees for lost or damaged items resulting from neglect or for unauthorized charges (such as telephone charges, vehicle maintenance, etc.) incurred by employees;

(b) Payment by employees for personal telephone calls charged to the state;

(c) Reimbursement payments to employees for travel expenses, etc.; and,

(d) Receipt of payment for on-site sale of surplus property, as approved by State Surplus Property. Checks for payment made on-site for surplus property must be made out to Department of Administration Surplus Property Office. Receipts must be obtained for all cash transactions.

APPROVED.

Anne L. Precythe

Director of Community Corrections

08/01/2016

Date

Chapter A Administration – Fiscal and Personnel

Section .0700 Budget and Fiscal Record Retention Schedule

.0701 GENERAL PROVISIONS

This section serves as a guide in establishing uniform procedures for maintaining, archiving and disposing of records in an efficient and timely manner. Obsolete files or files of a financial or confidential nature shall be destroyed upon release for disposal. All other files may be disposed of in any other appropriate manner.

.0702 BUDGET AND FISCAL RECORD RETENTION SCHEDULE

CNTR 005 Suspense File.

Each Facility/Section shall maintain a CNTR 005 Suspense File for all Direct Processing Forms CNTR 005 that have been issued but not yet completed.

(a) Upon completion of the transaction and receipt of the invoice, and the Direct Processing Form CNTR 005 has been completed and approved, it shall be distributed as follows:

(1) The original shall be forwarded to the General Accounting Section with all applicable documentation substantiating and/or authorizing the purchase.

(2) A copy shall be retained by the Facility/Section and filed numerically by CNTR 005 number without supporting documentation. Voided CNTR 005's shall be retained numerically in this file.

(3) A copy will be retained by the Facility/Section and filed with copies of all supporting documents. It may be filed by Accounting Distribution Code, by Vendor or by other means deemed appropriate by the Division. Whatever system is used, it must be readily available for audit purposes

(b) All documentation relating to the Direct Processing Form CNTR 005, including Registers, Files, Invoices and other supporting document shall be retained at the Facility/Section for a period of 3 years, per Office of the State Controller (OSC) retention schedule.

(1) After 3 years, if no litigation, claim, audit, or other official action

involving the records has been initiated, the records shall be destroyed.

(2) If official action has been initiated, destroy the records after completion of the action and resolution of all issues involved.

Destruction shall consist of shredding, burning or other approved method that renders the documents completely unreadable.

.0703 RETENTION SCHEDULE

Agency Budget management Report (BD-701)	Maintain Facility/Section for a period of 3 years following close- out
Application for Permanent Assignment of Passenger Vehicle (FM-30)	Maintain Facility/Section for a period of 3 years
Direct Processing Form(DC-702)	Maintain Facility/Section for a period of 3 years
Purchase Order Files (e-procurement)	Maintain Facility/Section for a period of 3 years
Fixed Assets File	Maintain Facility/Section for a period of 5 years
Material Received Report File	No longer used with NCAS
Reimbursement of Travel and Other Expenses Incurred in the Discharge of Official Duty (DC-114) (Invoices attached)	Maintain Facility/Section for a period of 3 years
Annual Equipment Reports	Maintain Facility/Section for a period of 3 years
Quarterly Laptop Reports	Maintain Facility/Section for a period of 3 years
Service Award Files	Maintain Facility/Section for a period of 3 years (These items are ordered on a Purchase Order and all supporting documents are attached with Purchase Order)
Telephone Files (e-billings)	Maintain Facility/Section for a period of 3 years
Transfer of Equipment (DC-272)	Maintain Facility/Section for a 5 years
Travel Log for Permanently Assigned Vehicles (FM-12)	Maintain Facility/Section for a period of 3 years Travel logs (Form FM-12e) for permanently assigned vehicles are to be filled out on a daily or trip basis when the vehicle is in use. Logentries should accurately reflect the use of the vehicle. Travel logs are to be entered via the MFM Web site by the 15th calendar day following the month of use. The agency assigned the vehicle is responsible for keeping the log sheets available for audit
Case Files (offenders)	Maintain Facility/Section for a period of 5 years
SBI Reports (Incident Report Files)	Maintain Facility/Section for a period of 3 years
Usage Order Files	Maintain Facility/Section for a period of 3 years

See Government Records Branch Retention Schedule for DACJJ

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter A Administration – Fiscal and Personnel

Section .0800 Federally Forfeited Property

.0801 GENERAL PROVISIONS

(a) Community Corrections will comply with all federal and state laws, regulations and guidelines regarding the processing and accounting for proceeds received in the seizure of forfeited tangible property or currency.

(b) State and local law enforcement agencies have no statutory right to receive proceeds from seized property or currency; by federal law, those proceeds accrue to the federal government. However, upon application and at the discretion of the federal government, proceeds from federally forfeited property or currency may be transferred to state and local law enforcement agencies which participated in any of the acts which led to the seizure or forfeiture of those items. The authority to distribute funds or transfer property being shared has been delegated to the United States Marshals Service.

(c) Federal law further stipulates that proceeds from seized property or funds must be used for specific purposes only, which must be stated in the application for the forfeiture of proceeds, and that those proceeds can only be used to support a law enforcement function. Such proceeds may not be used to supplant a law enforcement agency's budget or deposited into the general fund of a governmental unit. At fiscal year-end, any such monies left unappropriated may not be reverted to the general fund, but must be carried forward to the next fiscal year for the same stated law enforcement purpose.

(d) All law enforcement agencies in receipt of property or funds must implement standard accounting procedures and internal controls to track transferred property and funds and must execute an annual certification, reporting fund balances, sharings received, interest accrued and total spent by the law enforcement agency. Additionally, law enforcement agencies are required to report arrest and/or seizures involving non-tax paid unauthorized substances to the North Carolina Department of Revenue's Unauthorized Substances Tax Division. These accounting and reporting procedures will be met through the DPS Central Accounting Office.

.0802 REPORTING, APPLICATION AND RECEIPT PROCESS

(a) Prior to participating in the Federally Forfeited Property program, an annual Equitable Sharing Agreement and Certification form is to be executed by DCC Director and DPS Secretary following guidelines from the Department of Justice, Washington, D.C. The certification form has to be completed and in Washington prior to August 31st.

See U.S. Department of Justice Equitable Sharing Program

(b) Upon seizure of confiscated illegal or unauthorized property or funds, said property or funds must be surrendered to the United States Marshals Service.

(c) In order to receive seized property or funds from the federal government, a DAG-71 Form, Equitable Sharing Request Form, shall be completed and returned to the U.S. Department of Justice for consideration. The request must include:

(1) A designated specific law enforcement use for the proceeds;

(2) Must be signed by the Director of Community Corrections and General Counsel for the Department of Public Safety.

(d) DAG-71 applications shall be completed in the field, approved through the proper chain of command, and forwarded to the Administrative Services, Fiscal Section;

(e) The Fiscal Section enters information from the DAG-71 Application into a Forfeited Property log;

(f) The Fiscal Section gives DAG-71 Application form to the Director of Community Corrections for signature and delivers to General Counsel for the Department of Public Safety for final approval;

(g) Upon approval, the Community Corrections Administration, Fiscal Section, will forward the completed DAG-71 Application to the originating county (JDM);

(h) The originating county shall submit to the appropriate local agency for percentage of seizure within 60 days of the seizure;

(i) Copies of the DAG-71 applications and logs documenting the processing of

those applications shall be kept in and maintained by the Community Corrections Administration, Fiscal Section;

(j) The Director of Community Corrections will be notified, in writing, by the U.S. Department of Justice, of the decision regarding the release of forfeited property or funds;

(k) All forfeited property or funds received will be forwarded to the Community Corrections Administration, Fiscal Section, which will document and forward to the DPS Central Accounting Office for proper accounting;

(l) The request to use Federally Forfeited funds must be sent to Gov Ops for approval and must present a designated specific law enforcement use for the proceeds and;

(m) The funding must be distributed to all 4 divisions.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter A Administration – Fiscal and Personnel

Section .0900 Officer Safety Equipment

.0901 GENERAL PROVISIONS

This policy provides uniform standards in the provision of safety equipment to officers. Officer safety is top priority of the Department of Public Safety and Community Corrections.

Officers to whom safety equipment is assigned are responsible for the proper use and care, and reporting of problems with the safety equipment. Supervisors are responsible for timely assignments, ensuring inspections are complete, and in the case of abuse or neglect of safety equipment, remediation, including appropriate disciplinary actions. Only Community Corrections issued equipment is allowed.

.0902 DESIGNATED OFFICER POSITIONS AND STANDARD EQUIPMENT LIST

(a) The following certified positions are authorized to regularly carry a firearm during the performance of the officers' duties:

(1) Chief Probation/Parole Officer;

(2) Probation/Parole Officer;

(3) P/P Field Specialist; and

(4) Probation/Parole Associate

(b) Standard Equipment List for the above-stated positions is as follows:

Public Safety Items	
Item	**Quantity**
Handheld Radio/VIPER	1
Weapon (Firearm)	1
Magazines	3
Ammunition	45 rounds
OC Pepper Spray and carrier	1
Flashlight, charger and carrier	1
Handcuffs with key	1

Non-Public Safety Items	
Item	**Quantity**
Cell Phone/Smart Phone	1
Weapon lockbox, key, and cable	1
Duffle bag	1
Holster	1
Handcuff carrier	1
Badge, identification and carrycase	1
Gun cleaning kit	1
Body armor	1
Molle vest and pockets	1
Jacket with patches and flap	1
Hat	1
Reflective vest	1
Glove pouch	1
One-way face mask	1
Duty belt (if applicable)	1
Plastic spray bottle	1
Eye protection	1
Ear protection	1
Disposable coveralls and booties	1
Plastic bags and antibacterial wipes	1

A security locker may be provided as optional equipment, depending on the location. Only state-issued equipment including state issued ammunition is to be used while on duty.

(c) Assignment of Officer Safety Equipment

Assignment of equipment by managers in a timely manner is critical to the overall safety of officers. Failure by management to assign equipment in a timely manner is subject to disciplinary action up to and including dismissal.

(d) Equipment Termination Checklist

Upon termination of employment an Employee Separation Checklist (DCC-149) should be completed by the Judicial District Manager. DCC-149

(e) Transfers of Officer Safety Equipment

All officer safety equipment is to be assigned to the employee with the exception of the communication devices (i.e., state issued radio/cell phone) and the security locker.

Upon transfer out-of-county into a certified position all other equipment will remain with the employee. The

transferring manager is to document to the receiving manager an accounting of the officer safety equipment assigned, if applicable.

(f) Care and Custody of Officer Safety Equipment

Officers must take good care of safety equipment and immediately report any equipment that is misplaced, stolen, or is in disrepair. All equipment will be kept clean and in good working order. Officers must maintain proper custody of all issued equipment. Abuse, neglect or failure to properly secure assigned safety equipment will require restitution by the officer and is subject to disciplinary action up to and including dismissal. (*See Section .1000, Fixed Asset and Inventory Control for detail*)

Replacement and reissuance of officer safety equipment will be made by the Judicial Division Office for any item that has suffered excessive wear or irreparable damage.

.0903 MANDATORY USE OF OFFICER SAFETY EQUIPMENT

(a) **Mandatory**

Officers will use their assigned safety equipment under certain duty situations. Mandatory wear of the handgun, communication device, badge/identification, pepper spray, handcuffs, body armor, flashlight and appropriate carriers is required for all field work to include, but not limited
to:

(1) Emergency Management Response deployment;

(2) EHA and SBM Response and other enforcement activities;

(3) Training activities involving firearms.*

*Required safety equipment as directed by training staff

(b) **Exception to Mandatory Wear**

Use of safety equipment for the office, court duty, visiting with family, visits to treatment providers or facilities is discretionary based upon the officer's good judgment and the purpose of the visit. Local restrictions from the judiciary or partner facilities will be honored. The safety equipment must be accessible to the

officer's person or secured in the vehicle.

.0904 INSPECTION

INVENTORY AND AUDIT OF OFFICER SAFETY EQUIPMENT

(a) The following officer safety equipment items are to be visually inspected for condition and inventoried by verifying the serial number on a semi-annual basis by the supervisor or designee using the Semi Annual Equipment Report, Form DCC-152A/B. If a designee completes the inspection, any discrepancies noted are to be reviewed with the supervisor and addressed accordingly. This report shall be submitted to the Judicial District Office on January 1st and July 1st of each year.

(1) Hand held radio (quarterly) – VIPER and Handheld Radio Inspection Report – DCC 154

(2) Weapon, assigned duty ammunition, magazines, lockbox, key and cable, gun cleaning kit (quarterly) – Weapon inspection Report – DCC 153

(3) Handcuffs with key

(4) Handcuff/Magazine carrier

(5) Badge, identification and carry case

(6) OC pepper spray and carrier, if applicable

(7) Cell phone (quarterly); smart phone inventory form-DCC 146

(8) Flashlight, charger and carrier

(9) Body armor

(10) Molle vest and pockets

(11) Jacket with patches and flap

(12) Hat

(13) Reflective Vest

(14) Duty Belt

(15) Plastic Spray Bottle

(16) Duffle bag

(17) Holster

(18) Eye protection

(19) Ear protection

(20) Glove Pouch and One-Way Face Mask

(21) Disposable coveralls and booties

(22) Plastic bags and antibacterial wipes

(23) In addition to the visual inspection of the equipment items listed above, the officer safety equipment audit will also include inspection for each officer's possession of a valid North Carolina driver's license.

(b) **Firearms Inspections/Inventory**

Handguns, magazines, ammunition, gun cleaning kits, weapon lockboxes with keys and cables are to be visually inspected for condition and inventoried by verifying the serial number on a quarterly basis. For this purpose the inspection should be conducted by a Chief Probation/Parole Officer, Judicial District Manager or other approved designee who is firearm proficient. The inspections will be performed by the following:

(1) Two of the quarterly inspections will be performed by an approved designee immediately following the biannual firearms training or no later than the following business day after training.

(2) One of the quarterly inspections will be performed by the Judicial District Manager or Assistant Judicial District Manager.

(3) One of the quarterly inspections will be performed by the CPPO.

(See DPS Fiscal Policy and Procedures Manual .1700 and .0904 (d) Using the Weapon Inspection Report (Form DCC-153). All quarterly weapons inspections shall include ensuring the officer possesses 45 rounds of state issued ammunition; fifteen rounds shall be in each of the three magazines. It is the responsibility of the officer to maintain a clean weapon at all times.

The Controller's office has updated their Fiscal Policy for Control of Firearms to include an exception for Community Corrections firearms.

(c) **Designated safety areas.** For inspection of the handgun and magazines, managerial and supervisory staff should determine one or more locations that are the most acceptable and safest area(s) to complete a weapon inspection.

Only these pre-determined locations within the office should be utilized to conduct weapon inspections. These designated areas must be approved and communicated with the Division Administrator. The inspector is to follow the procedures below:

(1) The officer shall wear the weapon to the designated location secured in their state issued holster. With the inspector present, the officer will perform an administrative unload. This requires the officer to depress the magazine

(2) release button while the weapon is holstered and physically remove the magazine. Once the magazine is removed, the weapon is designed to not discharge and can then more safely be removed from the holster for inspection.

(3) Immediately upon removing the magazine from the weapon, the officer will remove the weapon from the holster. Then the slide of the weapon is to be opened and locked to the rear of the weapon, which will also remove the round chambered in the weapon. This round is to be re- inserted into the magazine which was removed from the weapon.

(4) Once the chambered round is removed the officer will conduct a physical and visual safety inspection of the weapon prior to transferring the weapon to the inspector.

(5) The officer will transfer the weapon to the designated inspector. Once the inspection is completed, the weapon will be transferred back to the certified officer. The certified officer will then reinsert the fifteen round magazine into the weapon, release the slide and place the loaded weapon back into the holster.

(d) **Weapon Inspection Report –** DCC-153 will include comments regarding the condition of the weapon lockbox, magazines and handgun, serial number verification, signature of inspecting supervisor or designee and any other pertinent information deemed necessary for the record. The weapon report will be submitted to the Judicial District Office quarterly by the first day of the month in which the report is being submitted. The Judicial District Office will maintain the originals for auditing purposes and forward copies to the Judicial Division Office by the 15th of the month in which the report is being submitted.

(e) **The semi-annual inspections/inventory** of officer safety equipment will be

submitted to the Judicial District Office by January 1st and July 1st using the Semi Annual Equipment Report Form DCC 152A/B. The Judicial District Office will maintain the originals for auditing purposes and forward copies to the Judicial Division Office by the 15th of each month stated above.

(f) **Periodic and unannounced audits** will be conducted by an independent audit team established by the Community Corrections Administrative Office, as ordered by the Director or Deputy Director. All officer safety equipment package audits will be conducted uniformly in accordance with the standardized guidelines and procedures established.

.0905 FIREARMS

(a) **Authority to Carry a Firearm**

In strict conformance with federal and state law and this policy, certified officers are authorized to possess and carry a firearm while on and off-duty. Officers will be responsible for handling, maintaining, and securing their firearm in a safe and judicious manner at all times. In order to minimize risk and provide the greatest degree of protection, Community Corrections authorizes the carrying of firearms as follows:

(1) On-Duty

a. Certified Officers - All officers who complete and maintain the required Community Corrections certified firearms training and qualification will be authorized to carry an issued firearm during the performance of official duties. While carrying the assigned weapon the officer shall possess their official badge and identification.

b. Issued firearms and magazines shall be loaded to capacity with Community Corrections issued ammunition. Authorized weapons are only those which have been issued by Community Corrections. Officers shall carry only State- issued weapons and ammunition as their on-duty weapon.

c. While on-duty, officers are prohibited from possessing any weapon other than those issued by Community Corrections.

d. Firearms may be carried concealed or unconcealed while on-duty.

e. Firearms may be worn at all times while on-duty.

f. Firearms will be carried in Community Corrections issued holsters.

g. Officers while operating or as a passenger in a state-owned vehicle shall have on their person his/her issued firearm, communication device, badge/ identification, pepper spray, handcuffs, body armor, flashlight and appropriate carriers. The officer will secure his/her issued safety equipment in the trunk of his/her assigned vehicle with the firearm in a tethered lockbox when not in use.

h. Safety equipment is not to be stored in the vehicle overnight.

i. Officers shall only fire issued ammunition in the issued firearm.

j. Upon completion of a certified officers' work day, they are authorized to transport their assigned weapon in their state issued holster to their residence to then be secured in accordance with the Firearms Control, Storage of Weapon and Ammunition policy.

(2) Off-Duty

a. In accordance with G.S. 14-269(b)(6), state probation or parole certified officers may carry a concealed weapon "*when off duty, provided that an officer does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's body*".

b. In strict conformance with state law and this directive, certified probation/parole officers are authorized to possess and carry a concealed firearm, State-issued or a personal firearm, while off-duty. Use of off-duty weapons shall be reported immediately to a supervisor. The same reporting procedures will apply as an on-duty incident.

c. An officer who carries his/her firearm(s) while off-duty will be required to have in his/her possession the official badge and identification identifying him/her as an officer with Community Corrections.

d. Officers who practice while off-duty with issued weapons shall comply with all policies regulating the use of firearms.

e. An officer shall not consume or have remaining in his/her body any alcohol previously consumed or be under the influence of alcoholic beverages while handling a firearm or while possessing any firearm away from his/her own premises.

f. Officers shall not make a public display of a firearm or remove it from its holster except for lawful purposes.

g. If approached by a law enforcement officer while carrying a weapon off-duty, the officer will immediately disclose that they are a certified

probation/parole officer and that he/she has a concealed weapon in his or her possession. The employee shall display their Community Corrections identification and badge to the law enforcement officer.

h. The statutory authority under G.S. 14-269(b)(6) for certified probation/parole officers to carry a concealed weapon is limited to the geographical boundaries of the State of North Carolina

i. State-issued firearms will not be carried out of state without prior approval.

j. The Community Corrections issued firearm will be carried in the issued holster while carrying off-duty.

k. It is the preference of Community Corrections that firearms carried off-duty be carried in a concealed manner. The size of the Community Corrections issued firearm may prevent proper concealment; therefore, discretion must be used in carrying this weapon off-duty.

l. An officer who is on investigatory leave with pay or disciplinary suspension or is required to surrender his/her State-issued safety package for any reason, or is otherwise prohibited from exercising powers of arrest, is not authorized to carry a personally owned firearm pursuant to G.S. 14-269(b)(6), concealed or otherwise, while off-duty during the period the officer is on investigatory placement, or on disciplinary suspension.

(b) **Firearms Training Requirements**

(1) Officers authorized to carry firearms must complete the Community Corrections' Firearms Training Program.

(2) Officers will wear body armor while on the firing line participating in live fire training.

(3) The Division Administrator or designee is responsible for monitoring firearms qualification and re-qualification training and ensuring that all division personnel are properly certified before being authorized to carry a Community Corrections approved firearm.

(4) The Department shall provide quarterly "open range" days where any officer may train with a certified firearms instructor while on duty. Planned dates and times will be communicated to the Division Administrator and the Judicial District Manager to provide adequate time to plan and prevent disruption of operations. These practice sessions shall be documented by the instructor on an OSDT-1 and Firearms Remediation Tracking Form and forwarded to the Judicial District Manager for inclusion in the personnel file.

Officers whose qualification scores were 80 or below are encouraged to attend an "open range" day prior to their next requalification session.

(c) **Initial Qualification**

(1) Prior to attending Basic Training, the officer must successfully complete the Department approved Firearms Orientation for Probation Parole Basic Training. The employee shall have a maximum of three opportunities to successfully complete this course of orientation training. Should the employee not successfully complete Firearms Orientation after three attempts, the Deputy Director shall make a determination as to further training or the employment status of the employee.

(2) Only after successful completion of Firearms Orientation for Probation Parole Basic Training, may the officer attend Basic training.

(3) In order to perform the duties of a Probation Parole Officer, the officer must successfully complete the accredited Basic training which includes a course for firearms qualification.

(4) An officer who fails to qualify with the firearm during Basic training will be required to attend the department approved training "Handgun Remedial and Evaluation Training". An officer shall have a maximum of three opportunities to successfully complete this course of remedial training. After successful completion of Handgun Remedial and Evaluation Training, the officer shall be rescheduled for another accredited Basic Training program. Should the employee not successfully complete firearms remedial training after three attempts, the Deputy Director shall make a determination as to further training or the employment status of the employee.

(5) An officer's failure to qualify with a firearm or complete Basic Training a second time will result in dismissal.

(d) **Requalification**

(1) Officers authorized to carry a firearm must requalify annually (day and night fire). At each requalification, the officer is afforded three attempts to qualify. Officers who attempt to requalify and fail will complete the approved training "Handgun Remedial and Evaluation Training". Officers shall have a maximum of three opportunities to successfully complete this course of remedial training with a qualifying score. Upon successful completion of "Handgun Remedial and Evaluation Training", the officer will be rescheduled for a second attempt at requalification.

(2) Officers who fail to requalify with a firearm on their second attempt shall be issued a written warning for unsatisfactory job performance and shall have a

maximum of three opportunities to successfully complete the "Handgun Remedial and Evaluation Training" with a qualifying score after which time the officer will be rescheduled for a third attempt at requalification.

(3) Officers who fail to requalify with a firearm on their third attempt shall be issued another written warning for unsatisfactory job performance and shall have a maximum of three opportunities to successfully complete the "Handgun Remedial and Evaluation Training" with a qualifying score after which time the officer will be rescheduled for a fourth attempt to requalify.

(4) Should the officer fail to qualify after the two written warnings for unsatisfactory job performance, the Division Administrator will follow standard operating procedures to include an investigation, and recommend further disciplinary action, up to and including dismissal, to the Deputy Director.

(5) All attempts to requalify must be completed within a four month period of time. Officers who fail to requalify will not be allowed to carry a weapon. These officers will be permitted to see offenders in the office, however until the officer has successfully requalified, he/she may not go in the field unless accompanied by a certified officer and may not participate in planned arrests and searches.

(6) A written warning that has been issued for failure to qualify with the firearm will remain active for 18 months. Otherwise, after twelve months and successful completion of in-service training, the employee may request through their chain of command to make the written warning inactive after he/she has qualified.

(7) All documentation of qualification attempts and remedial training shall be forwarded to the Judicial District Manager.

All disciplinary actions taken by the Division Administrator are to be reported to the Deputy Director.

(e) **Training at Certified Ranges**

(1) Certified officers may train with their Community Corrections issued weapons while off-duty at a National Rifle Association (NRA) sanctioned range or a fully insured firing range. Prior to training off duty with their assigned weapon, certified officers are to provide notification to their immediate supervisor. Ammunition for training will not be supplied by the department. Ammunition used must be from a commercial manufacturer and of the same caliber and ballistic equivalent of ammunition approved for duty use by Community Corrections (180 grain, .40 caliber ammunition). Steel case ammunition and any ammunition advertised or classified as

remanufactured are prohibited. After firing the weapon, the weapon must be cleaned and will be subject to inspection upon returning to work.

(2) The weapon will be carried in accordance with .0905(a)(2) Off-Duty.

(f) **Maintenance and Care of Firearms**

(1) All officers shall keep their State-issued firearms in excellent condition.

(2) Officers shall not in any manner alter or tamper with the internal working mechanisms of their issued firearms.

(3) The only modifications allowed for issued firearms are grip panels that have been provided.

(4) Officers shall regularly clean and inspect issued firearms.

(g) **Firearms Control**

(1) **On-Duty Access to Safety Package**

Officers who are on-duty are required to have their safety package accessible to their person while working in the office or performing field contacts. Mandatory wear of the safety package is required for all field work (.0903 Mandatory Use of Officer Safety Equipment)

(2) **Storage of Weapon and Ammunition**

Officers who are not on-duty and/or their weapon is not in use shall store his/her assigned state-issued firearm and magazines in the provided weapon lockbox. The lockbox shall contain the firearm and three loaded magazines. The weapon shall have one loaded magazine in the grip with a round in the chamber. The weapon and loaded magazines shall be placed in the secure lockbox and either:

a. In the state-issued security locker or locked filing cabinet, or

b. Securely locked (using the provided cable) to a permanent fixture inside the state-issued vehicle/trunk (firearms are not to be stored in the vehicle overnight), or

c. At the employee's house secured in the state-issued lockbox or a designated gun safe (with or without the lockbox) and maintained in a safe environment. (Pursuant to G.S. 14-315.1. *Storage of firearms to protect minors*)

d. When visiting a detention facility or prison, the employee will place the weapon in the facility's lockbox or secure in the lockbox attached (using the provided cable) to a permanent fixture inside the state-issued vehicle/trunk.

Uncontrolled, negligent storage of firearms and ammunition will result in disciplinary action up to and including dismissal.

(h) **Fitness to Carry a Firearm**

(1) The Director or Deputy Director may remove from an employee any issued firearm due to concerns regarding the safety of the officer and the general public.

(2) Any employee involved in an incident in which the firearm was discharged will be placed immediately on administrative duty until a full investigation has been conducted and a finding made by the Deputy Director of Community Corrections.

(3) The Director or Deputy Director will make all final decisions regarding an officer's fitness for duty and approval to carry a firearm.

(i) **Lost or Stolen Firearms**

(1) In the case of lost or stolen state-issued firearms, the employee is to immediately notify the supervisor who is to:

a. Immediately notify the Community Corrections DCI terminal (1-919-324-1159) of the circumstances under which the loss or theft occurred, the serial number, make, caliber, type, model and date of theft or loss;

b. Immediately inform all persons within the chain of command;

c. Notify the DCI terminal if a firearm is recovered.

On weekends or holidays when the supervisor may not be available, the officer will attempt to report this information through the chain of command, including the DCI terminal relating the information stated above.

(2) In addition to the above, the procedures as outlined in *Lost, Stolen,*

Damaged or Misused Equipment will be followed (*See Section .1000, Fixed Asset and Inventory Control*). If during the initial investigation it is determined that the missing firearm is due to negligence of the employee, they will be administratively reassigned pending an internal investigation.

(j) **Accidental Discharge**

Any officer, CPPO, or CTI involved in an incident in which the state-issued firearm was accidentally discharged will be immediately placed on administrative duty until a full investigation has been conducted and a finding made by the Deputy Director. Any officer who has an accidental discharge with the state-issued firearm must requalify on that firearm prior to being reissued the weapon. Until the officer has successfully requalified, he/she may not go in the field unless accompanied by a certified officer and may not participate in planned arrests and searches. The Director or Deputy Director may remove from an officer any issued firearm due to concerns regarding the safety of the officer and the general public. The Director or Deputy Director will make all final decisions regarding an officer's fitness for duty and approval to carry a firearm, or final decisions regarding disciplinary action.

.0906 CONTROL OF BADGES AND IDENTIFICATION CARRY CASE

(a) Upon completion of training the new employee will be issued a badge and identification at graduation.

(b) Management, in locations where the employee is separated, will forward the badge and identification carry case to the Judicial Division Office. The Judicial Division Office will forward the badge and identification holder to the Community Corrections business office.

(c) Only badges issued by Community Corrections are approved. Personally purchased badges are not approved for official business.

(d) Upon separation, officers must surrender their current credentials to their supervisor.

.0907 PURCHASE OF DUTY WEAPON

DACJJ staff who retire with 30 years of creditable state service and the last 10 years have been with DACJJ may purchase their assigned duty weapon at retirement (G.S. 20-187.2). At 30 days prior to retirement, the officer may submit the Request to Purchase Weapon form (DCC-144) through their chain of command to the Judicial

Division Administrator. Upon approval the retiring employee must submit a money order payable to the North Carolina Department of Public Safety in the amount of $100.00 to their Division Office.

Creditable service includes the years and months of membership in which an employee contributed to the Teachers' and State Employees' Retirement System and may also include sick leave credit, military service credit, and certain types of purchased service credit.

Requests may be disapproved if the employee has disciplinary actions or criminal charges pending at retirement. Final review and approval will be made by the Deputy Director and Director. Once approved and the weapon has been released to the employee, the original DCC-144 will be forwarded through the chain of command to the Deputy Director. There are no appeal rights to the decision.

.0908 REQUEST FOR BADGES

Badges shall be presented to retiring officers upon request at no cost to the employee (G.S. 20-187.2). Retiring officers may submit the Request for Badge form (DCC-144A) through their chain of command to the Judicial Division Administrator. If an officer elects not to receive the badge, it must be surrendered upon separation.

.0909 CREDENTIALS FOR RETIRING EMPLOYEES

Upon retirement officers must surrender their current credentials to their supervisor. The Division Administrator will provide to the employee credentials reflecting the employee's status as retired.

.0910 COMMUNICATION EQUIPMENT

Communication equipment is approved and issued to enhance officer safety. While on-duty any communication device used will be for the performance of official Community

Corrections business only.

(a) **Process for Issuing Communication Equipment**. The Judicial District Manager will issue the designated communication device as approved by the Judicial Division Office. The equipment will be issued to the probation/parole officer prior to the officer assuming field duties. All shared communication

equipment will be issued by the immediate supervisor as needed.

(b) **On-Duty Protocol**. All state-issued communication equipment, including cell/smart phones, will be turned on and functioning while the officer is on-duty. The officer is expected to respond to all Community Corrections calls while on-duty.

(c) **Calls of Distress.** In the event a probation officer is in the near vicinity of a law enforcement officer making a distress call, the probation officer will, in the spirit of cooperation, go to the officer's location to render emergency assistance.

(d) **Accountability**. All officers are responsible for state-issued communication equipment that conforms to Departmental standards. (*See Section .0500 State Telecommunications Use*)

.0911 METHAMPHETAMINE LABORATORY EXPOSURE AND DECONTAMINATION

Community Corrections is dedicated to officer safety and uses preventative and innovative strategies to enhance supervision practices while protecting the officers in the field. The following procedures follow this approach toward officer safety as it relates to methamphetamine lab exposure and decontamination.

(a) Prevention of Exposure before Discovering a Methamphetamine Laboratory

When you suspect that a residence or other building structure contains a methamphetamine laboratory, either because it houses someone under supervision for a methamphetamine-related offense or information is received about a possible laboratory, call the appropriate law enforcement agency for assistance.

(b) Minimization of Exposure after Discovering a Methamphetamine Laboratory

(1) Leave the residence or other building structure when you discover a methamphetamine laboratory or suspected methamphetamine laboratory;

(2) Call the appropriate law enforcement agency when you discover the methamphetamine laboratory or suspected methamphetamine laboratory;

(3) Do not touch, move, seize, or manipulate any items of the methamphetamine laboratory or suspected methamphetamine laboratory or any other object in the residence or other building structure. Do not touch any surface in the residence or other building structure;

(4) Do not touch anything outside while waiting for law enforcement to arrive;

(5) If possible, do not get into your automobile or place anyone or anything in your automobile while waiting for law enforcement to arrive;

(6) Secure or detain all persons with suspected or potential involvement at the scene until law enforcement arrives, if safe to do so.

(c) Decontamination after Exposure

Community Corrections provides, as a part of the officer safety package, disposable coveralls and booties, plastic bags and antibacterial wipes which shall be accessible to the officer at all times.

(1) If made available to you, follow the protocol of law enforcement professionals;

(2) At a minimum, take the following steps for decontamination after exposure:

a. If clothing was directly exposed, remove and dress in clean outer garments or disposable type coveralls and booties, place exposed clothing in a plastic bag for later decontamination;

b. Remove shoes and socks and place in a plastic bag for later decontamination; put on clean shoes and socks or disposable booties;

c. Wash exposed skin thoroughly with soap and water or antibacterial wipes;

d. As soon as possible, shower thoroughly with soap and water.

(d) Medical Care after Exposure

If you develop any of the following symptoms during or after exposure to the methamphetamine laboratory, seek immediate medical attention: cough, chest pain, dizziness, headache, difficulty breathing, eye irritation, blurred vision, skin irritation, chemical burn, nausea, vomiting, diarrhea, abdominal pain, chest pain, difficulty swallowing, or change in voice. If possible, complete the decontamination procedures detailed above before presenting to the medical facility.

Complete form WC-4 within 24 hours of exposure or injury.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter A Administration – Fiscal and Personnel

Section .1000 Fixed Assets and Inventory Control

.1001 GENERAL PROVISIONS

(a) The purpose of this section is to provide a concise reference and application to the Community Corrections' operations for the acquisition, inventory, transfer and disposition of fixed assets, State and Federal, for Community Corrections, as established in the Division of Adult Correction and Juvenile Justice Fixed Asset Policy.

(b) Fixed assets are categorized as items having a purchase cost of more than $1000 and other special items requiring inventory control. Inventory control will be maintained on site at the Judicial District Manager level Responsibility Cost Center (RCC), for Community Corrections.

.1002 PACKING SLIPS AND EQUIPMENT CONTROL

(a) Upon receipt of fixed assets, the receiving location will immediately forward the *Packing Slip* to the appropriate requisitioner in order to be processed for payment. Receiver will note serial number on packing slip, date and sign. For items shipped without a packing slip, the receiving office will submit a substitute packing slip to the requisitioner.

(b) It shall be the responsibility of the Facility/Section to monitor pending actions relating to its fixed assets, until these actions are completed in their entirety. A suspense system shall be established for all pending actions.

(c) All RCC locations are responsible for following up on equipment information placed in suspense files to ensure that an asset number has been assigned.

(d) Each Facility/Section, comprised of multiple sections shall have accounting software (Excel or similar) that will be used to track and account for all assigned equipment.

.1003 FIXED ASSET TAGS

(a) For items greater than $1000.00 a fixed asset number *equipment tag* will be

issued by the DPS Central Accounting Office. It will be the responsibility of the RCC Manager to follow up on a fixed asset for which they have not received a tag in a timely manner or which has not been added to their fixed asset inventory.

(b) Upon receipt of the fixed asset number equipment tag at the RCC it is the responsibility of the RCC Manager or his/her designee to affix the tag to the corresponding piece of equipment.

(c) Maintaining a positive identification of fixed assets is the primary purpose of tagging. Tagging is important to:

1. Provide an accurate method of identifying individual assets;

2. Aid in the periodic inventory;

3. Control of all physical assets, and

4. Aid in maintenance of fixed assets.

(d) The Judicial District Manager is responsible and accountable for the inventory control of firearms. When making assignments of firearms to officers the receiving officer will sign a memorandum receipt to be maintained by the Judicial District Office. Firearms are considered a fixed asset.

.1004 EQUIPMENT REPORTS

(a) On an annual basis the DPS Central Accounting Office will furnish an updated *Equipment Report* to each RCC. This report must accurately reflect all equipment that is assigned to a District, which has a cost of greater than $1000.00.

(b) It is required that the RCC Manager carefully review the report in order to account for assigned equipment. The inventory must be conducted by a disinterested party who does not have custody of the assets or responsibility for any aspect of the assets, including receiving, tagging of assets. For this purpose, a Unit Office Assistant, Chief Probation/Parole Officer or identified Community Corrections Administrative and Division Office staff is considered a disinterested party. The RCC Manager will forward one signed copy each to Internal Auditors, DPS Central Accounting and the RCC Manager's supervisor.

One copy is to be retained at the RCC Manager's Office.

(c) Any discrepancies found on the Equipment Report will be reported using the provided form to make corrections. The proper form will be attached to the original and each copy of the Equipment Report before sending to Internal Auditors, DPS Accounting, and the RCC Manager's supervisor. The RCC Manager will also retain a copy of any forms attached to their copy of the Equipment Report.

(d) The RCC Managers will monitor the Equipment Report to ensure that corrections have been made on their respective reports.

.1005 TRANSFERRING EQUIPMENT

Any transfer of equipment that has a cost greater than $1000.00, or is a firearm, from one RCC to another requires the completion of a DC-272, *Transfer Equipment Form:*

(a)) The white copy will be sent to the DPS Central Accounting Office;

(b) The canary copy will be sent to the receiving RCC location;

(c) The shipping RCC location will retain a completed pink copy.

(e) The RCC Managers will monitor the Equipment Report to ensure that equipment has been removed from or added to their respective reports.

.1006 LOST, STOLEN, DAMAGED OR MISUSED EQUIPMENT (EMPLOYEE)

(a) In the event any state property has been lost, stolen, damaged or misused, the responsible employee must report, in writing, within three days of the incident to their immediate supervisor all the circumstances surrounding the incident. The Facility/Section Head shall make every effort to ascertain the location and/or disposition of assets that are considered to be missing. After all reasonable efforts have been made to locate the missing assets, the Facility/Section must complete the *Missing Asset Form (DC-518)* and the *State Property Incident Report (Form SBI-78)*.

(b) In addition, in all cases of lost, stolen, damaged or misused equipment, Community Corrections will investigate and if necessary, local law enforcement will be contacted and involved as established below:

(c) Local law enforcement will be notified in the event of a suspected theft or criminal damage or misuse of equipment.

(d) The RCC Manager will conduct an investigation into all incidents of lost, stolen, damaged or misused equipment.

(1) In the event of suspected crime against state property, to include evidence of an attempted arson, or arson, damage of, theft from, or theft of, or embezzlement from, or misuse of any state-owned property, the investigation will include the preparation of an SBI-78, *State Property Incident Report*. In addition to the information requested in the SBI-78, *State Property Misuse Report* form, the following information must be included:

a. Verification that the theft, damage or misuse is being, or has been, investigated by Community Corrections, and if applicable, local law enforcement agency; and

b. The estimated value of the stolen, damaged or misused equipment.

(2) The completed SBI-78, *State Property Incident Report* form and any completed investigation is to be electronically forwarded to:

a. DPS Internal Audit at stateproperyincidentreports@ncdps.gov;

b. The Division Office;

c. Community Corrections Administrative Office, Business Office at SVC_DPS.DCC_SBIReport;

d. The Deputy Director of Community Corrections;

e. The completed SBI-78, *State Property Incident Report* will be prepared and submitted in sufficient time to allow the form to be provided to the State Bureau of Investigation within ten days from notification to the RCC Manager of the theft, damage or misuse of equipment.

(3) For lost weapons and laptop computers, it is necessary to complete and submit an SBI-78, *State Property Incident Report*.

(4) All investigations, with recommendations, are to be forwarded to the RCC

Manager's supervisor. The Judicial Division Administrator, Assistant Division Administrator, Administrative Assistant or Community Corrections Administration will review the findings of the investigations and make a determination if:

a. Formal disciplinary action is recommended, the investigation will then be forwarded to the Deputy Director.

b. The employee is found negligent; the Deputy Director's office will provide directions to the manager regarding appropriate disciplinary action.

c. No formal disciplinary action is recommended, the investigation will be forwarded to the Community Corrections Administrative Office, Business Office. The RCC Manager will be notified of the Director or designee's decision.

d. Reimbursement is ordered, the RCC Manager's supervisor will establish a payment plan. The employee will be required to send a money order made out to the Division of Adult Correction and Juvenile Justice to the Division Office Administrative Assistant who will forward the money order to the Community Corrections Administration Business Office.

It is important that all staff understand their responsibility in the proper use, care and security of state issued equipment. Failure of an employee to do so may not only result in having to pay for the equipment but could result in disciplinary action for careless, negligent or improper use of state property or equipment in the performance of duties.

.1007 LOST, STOLEN OR DAMAGED EQUIPMENT (OFFENDER)

(a) The offender is responsible for all Electronic Monitoring equipment installed in their residence and on their person for the complete period of Electronic Monitoring Supervision. All instances of lost, damaged, or stolen equipment is to be reported and thoroughly investigated. An SBI-78, *State Property Incident Report* form will be completed and forwarded to:

(1) DPS Internal Audit at stateproperty incidentreports@ncdps.gov;

(2) The Division Office;

(3) Community Corrections Administrative Office, Business Office at SVC_DPS.DCC_SBIReport;

(4) The Deputy Director of Community Corrections.

(b) In addition to the information required on the form, the SBI-78, *State Property Incident Report* must include:

(1) A verification that the theft or damage is being, or has been, investigated by Community Corrections or local law enforcement; and

(2) The estimated value of the stolen or damaged item(s).

(c) The violation process is to be utilized to formally report lost, damaged or stolen Electronic Monitoring equipment to the Court or Post-Release and Parole Commission. In instances where damage to equipment is determined to be intentional, a formal report is to be made to the Court/Commission with a recommendation for a modification to supervision in order for the offender to reimburse the Department for all costs related to the repair or replacement of the equipment.

.1008 MISSING EQUIPMENT

For assets determined missing, after a thorough investigation, the RCC Manager will prepare the DC-518, *Missing Asset Form*, and send, through the chain of command, to the DPS Central Accounting Office. Thereafter, the RCC Manager is required to document all efforts to locate the missing asset for a period of one (1) year. If the asset is found, a memorandum stating that the asset has been located shall be sent, through the chain of command.

APPROVED.

Anne L. Precythe 08/01/2016

Director of Community Corrections Date

Chapter A Administration – Fiscal and Personnel

Section .1100 Safety Program

.1101 GENERAL PROVISIONS

Community Corrections will establish and maintain a Safety Program, which meets the requirements of the Department of Public Safety policy and the safety goals of the Division. The Division will develop safety and environmental health policies and procedures based on applicable laws, regulations, codes, standards and the needs and missions of the Division. Each employee of the Division is required to be a part of the Safety Program and is encouraged to incorporate safety procedures and practices in their work environment. Employees in management and supervisory positions are required to maintain a safe working environment and enforce the policies and procedures governing the Safety Program. The Safety Program is structured so that employees at the local level can address safety concerns and implement safety procedures to fit each unique situation. (*See Department of Public Safety - Safety and Environmental Health Policy and Procedure Manual.*)

.1102 SAFETY INSPECTION SCHEDULE

Monthly	The designated safety officer in each office location shall perform monthly safety inspections and complete the DC-428B, Monthly Facility Inspection Form. This form will be retained locally. The designated safety officer in each office location will perform monthly safety Inspections of Fire Safety Equipment and complete the DC-428C, Fire Safety Equipment Inspection Report. This form will be retained locally.

Semi-Annually	The designated safety officer in each office location will perform semi-annual safety inspections and complete the DC-428, Semi-Annual Inspection Checklist. The DC-428 must be submitted to the respective Judicial Division Office by June 15th and December 15th. The Judicial Division Office will forward the completed DC-428 Form to the DOC Safety Director.

Quarterly	Each Judicial District will submit an OSHA-200 Log to their respective Division Office. The Judicial Division Office will compile a Division report and submit to DPS Safety Officer. (OSHA forms available from the Department of Labor at www.dol.state.nc.us). Each DCC office location will establish a safety committee and hold quarterly meetings with minutes recorded. Copies of the minutes will be sent to the DCC Administrative Personnel Office and to the DPS Safety Office and a copy will be retained locally. Each DCC office location will conduct quarterly fire drills.

Annually	The designated safety officer in each office location will perform annual safety Inspections of Fire Safety Equipment and complete the DC-428C, Fire Safety Equipment Inspection Report. This

.1103 BOMB THREATS

a. Response time and action to a bomb threat is essential and is the key element to saving lives. *(Refer to the North Carolina Department of Correction Bomb Threat Procedures and the DPS Safety and Environment Health Policy and Procedure Manual)*

b. Notification of office closure due to a bomb threat will be reported up the chain of command to the office of the Director.

.1104 WORKPLACE VIOLENCE

It is the intent of Community Corrections to provide a workplace for state employees, which is free from violence. In doing so, the Division is complying with and supporting Federal Occupational Safety and Health Act of 1970 which requires that employers provide their employees with a safe and healthy work environment. To this end, it is the policy of the Division to prohibit any form of workplace violence. It is also intended that all useful management tools such as the disciplinary policy and State Employee's Assistance Program be employed to secure the workplace from violence and reasonably protect employees from its effects. (*See the DPS Unlawful Workplace Harassment Policy*)

APPROVED.

Anne L. Precythe — 08/01/2016

Director of Community Corrections — Date

Chapter A Administration – Fiscal and Personnel

Section .1200 Internal Audit

.1201 GENERAL PROVISIONS

The purpose of this policy is to establish a uniform system of inventory control, individual accountability and compliance with DPS fiscal policies and procedures.

.1202 COMPLIANCE ISSUES

In addition to conducting the usual change-of command audits, the Internal Audit Section has re-established, as time and resources will allow, the practice of conducting schedule i.e., unannounced audits, scheduled at times other than at change-of-command audits. The purpose of both the change-of- command and scheduled audits are to evaluate the effectiveness of the system of management control by:

(a) Reviewing and appraising the adequacy, accuracy and soundness of accounting, financial and operating controls;

(b) Determining the extent of compliance with established policies and procedures; and,

(c) Determining the extent of which assets and resources are accounted for and safeguarded.

A list of areas considered to be typical of those to be reviewed is:

(a) Equipment Control;

(b) Firearms;

(c) Payables;

(d) Payroll;

(e) Administrative Areas, and

(f) Miscellaneous.

At the conclusion of the audit, the Internal Audit Section will coordinate an exit conference by notifying the Judicial District Manager, Division Administrator and Community Corrections Business Office. The Division will have representatives from all sections present at the conference. The Internal Audit Section will review the preliminary findings of the audit. Community Corrections management may inquire about, agree or disagree with any findings discussed at the conference.

Within two weeks from the date of the exit conference, the Judicial District Manager must provide written explanations or objection to findings or recommendations provided during the exit conference.

Judicial District Managers are required to prepare written responses to address and correct all findings and recommendations contained in the final audit report. Responses must be completed within thirty (30) days of the date indicated on the final audit report. One copy of these responses will be maintained at the Judicial District Manager's Office; other copies must be forwarded to the respective Division Office and the Community Corrections Business Office.

The Internal Audit Section will perform follow-up audits at Community Corrections facilities when areas have been identified with significant findings that represent the greatest risks. The follow-up audits will be conducted within three to six months after the date of the final audit report.

If the audit is conducted at the Division Office, all responses will be forwarded to the Director's Office and Community Corrections Business Office.

.1203 RISK ASSESSMENTS

Risk Assessment audits are intended to provide management with an overview of current fiscal operations and to increase staff's awareness of audit requirements. They are designed to provide management with a tool to determine areas of need separate from the scheduled or change of command audit.

The Risk Assessment Audit will be used as a tool to determine the level and extent of subsequent auditing that may need to be done at a specific location. Subsequent auditing may range from no audit work necessary, follow-up needed, audit of specific areas needed, or a full scheduled audit needed.

Fiscal areas to be covered have been identified as:

(a) Firearms

(b) Equipment Control

(c) Accounts Payable

(d) Employee Time Reports

(e) Supplemental Pay

(f) Vacation and Sick Leave

(g) Safes

(h) Telephones

(i) Expense Vouchers

(j) Miscellaneous (Stamps, Blood Borne Pathogens, Safety Reports & Meetings)

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter A Administration – Fiscal and Personnel

Section .1300 Work Schedules & Compensation

.1301 GENERAL PROVISIONS

Community Corrections will establish and maintain a time reporting system consistent with State and Federal laws, policies and procedures. Federal and state laws and personnel policy will determine and regulate compensatory time - whether the time is actual work time (i.e., time suffered on the job) or use of benefits (i.e., vacation leave).

G.S. 126 References State Personnel Policy and Procedure, DPS Personnel Policy and Procedure, Fair Labor Standards Act, DPS Fiscal Policy and Procedures

.1302 STANDARD WORK WEEK

Employees of Community Corrections who are subject to the State Personnel Act will have a standard work week for full-time employees of 40 hours per week five days per week, eight hours a day plus a meal period. Employees will account for an eight-hour day. Any deviation from an eight-hour day and/or more or less than the 40 total hours per week whether the hours are from work time (i.e., time suffered on the job) or a utilization of benefits (i.e., vacation, sick, etc.) will be accounted for on the employee's time sheet or in BEACON.

.1303 WORK SHIFTS

The definition of a 40-hour standard work week applies to all work shifts. All work shifts require a method of documentation and verification of the hours worked by the employee. Supervisors will be responsible for establishing a method of documentation and verification of the hours his/her employees work. All work shifts will be reviewed and approved by the supervisor. Work shifts will be set to meet the operational needs of the work unit and Community Corrections.

The four types of basic work shifts are as follows:

(a) **Day Work Shift**

Definition

The standard work week for full-time employees subject to the State Personnel Act is 40 hours per week. The normal work shift is five days per week, eight hours a day plus a meal period. The time frame for the day work shift is Monday

through Friday, 8:00 a.m. to 5:00 p.m.

All positions with Community Corrections are eligible to use the Day Work Shift when approved by the supervisor to meet the operational needs of the unit.

(b) **Variations in the Day Work Shift**

Definition

A variable work shift will allow employees flexibility in his/her daily work schedule. The employee will choose a daily work shift and meal period, subject to agency necessity within established limits. A variable work shift is 40 hours per week five days per week, eight hours a day plus a meal period during business hours (business hours are not to begin before 7:00 a.m. and will conclude by 6:00 p.m.).

All positions with Community Corrections are eligible to use a Variation of the Day Work Shift when approved by a supervisor to meet the operation needs of the unit.

(c) **Evening Work Shift**

Definition

An evening work shift is one in which over one half of the work hours occur between 4:00 p.m. and 8:00 a.m. on a regular and recurring basis. An evening work shift is 40 hours per week and the normal work shift is five days per week, eight hours a day plus a meal period. The five workdays will be scheduled Sunday through Saturday. Eligible employees (Probation/Parole Officers, Field Specialists and Information Processing Technicians) shall receive shift premium pay for all hours worked in the shift. The rate of shift premium pay shall be ten (10) percent of the regular hourly rate.

The following timeframes are the only approved Evening Work Shifts:

1:00 p.m. - 10:00 p.m.

1:30 p.m. - 10:30 p.m.

2:00 p.m. - 11:00 p.m.

2:30 p.m. - 11:30 p.m.

2:00 p.m. – 10:00 p.m. (Special Operations and Intelligence Unit employees only)

10:00 p.m. – 6:00 a.m. (Special Operations and Intelligence Unit employees only)

3:00 p.m. - 12:00 midnight

Probation/Parole Officers and Field Specialists are expected to use an evening shift during each month. The work shift must consist of an appropriate amount of 8- hour evening or split shift work days to supervise the offender population. Evening and weekend work is expected to provide officer presence in the community, making offender, family and collateral contacts. Monthly work shifts shall consist of not less than four and not more than 12 full evening or split shifts. Any variations must be justified by the Judicial District Manager.

(d) **Split Work Shift**

Definition

A split work shift requires employees to split hours over one day (24-hour period). An eight-hour daily work schedule requires an employee to work a minimum number of hours within a first shift time frame; take an extended break and return to work to complete the remainder of the workday. A split shift crosses first and second shifts.

The following timeframes are the only approved Split Work Shifts:

* 8:00 a.m. - 11:00 a.m.	4:00 p.m. – 9:00 p.m.
	5:00 p.m. – 10:00 p.m.
	6:00 p.m. - 11:00 p.m.

All hours are shift premium

* 9:00 a.m. - 12:00 noon	4:00 p.m. - 9:00 p.m.
	5:oo p.m. – 10:00 p.m.
	6:00 p.m. – 11:00 p.m.
8:00 a.m. - 12:00 noon	4:00 p.m. – 8:00 p.m.
	5:00 p.m. - 9:00 p.m.
	6:00 p.m. – 10:00 p.m.
	7:00 p.m. – 11:00 p.m.

4 hours are shift premium

9:00 a.m. - 1:00 p.m.	4:00 p.m. - 8:00 p.m.
	5:00 p.m. – 9:00 p.m.
	6:00 p.m. – 10:00 p.m.
	7:00 p.m. – 11:00p.m.

The only positions with Community Corrections that are eligible to use a Split Work Shift are Probation/Parole Officer and Field Specialist. These positions are eligible to use a split work shift when approved by a supervisor to meet the operational needs of the unit.

*Employees shall receive shift premium for all hours while utilizing the above (*) approved split work shift(s) since the majority of the hours are during evening shift schedule.

.1304 DEVIATIONS FROM THE FOUR BASIC WORK SHIFTS

Deviations from regular and recurring work shifts described above will be considered on a "case-by-case" basis. Such deviations from the basic work shifts will not be authorized by a supervisor as a standard work shift. Further, these types of deviations may have an impact on eligibility for supplemental pay. Deviations may require an employee to work on a scheduled day off. A six or seven day work schedule with daily variation in hours of work totaling 40 hours per week is not an authorized work schedule.

.1305 OVERTIME

The normal work schedule is five days per week, eight hours a day plus a meal period. If an employee works a daily schedule that exceeds eight hours a day; the supervisor will, when feasible, adjust the work schedule within the same work week to ensure that the total hours for the work week do not exceed 40 hours.

FLSA **subject** employees (Probation/Parole Officers, Field Specialists and Information Processing Technicians) who must physically work over 40 hours in any work week (Sunday thru Saturday) earn overtime. This time will go into the Comp Bucket for 30 days unless the leave off sets. If the comp hours are not used within 30 days, subject employees will be compensated at time and one half for these hours earned in the next available payroll.

If the subject employee works extra hours in a week when 9300/Holiday Leave, 9540/Other Management Approved Leave and/or 9550/Civil Leave is taken, the extra hours will be paid as Gap Hours (straight time) since these leave types are non-off settable.

FLSA **Not-subject/Exempt** employees who must physically work over 40 hours in any work week (Sunday thru Saturday) and/or work extra hours in a week they use non-offsettable leave (9300/Holiday Leave, 9540/Other Management Approved Leave and/or 9550/Civil Leave) the excess time will go into their comp bucket. Employees

will not be compensated for these additional hours. If the hours in the Comp Bucket are not used within 365 days, they are forfeited.

(a) **Operational Responsibilities**

Supervisors and managers must be able to justify their authorization of overtime for their employees.

The following examples of operational duties may justify overtime within the range of hours (5-20) or adjustment to the work schedule:

(1) Extended Court Sessions

(2) Emergency Call Backs

(3) Staff Shortages/Vacancies

(4) Emergency Assistance

a. Arrests
b. Transportation of Offenders
c. Extradition
d. Absconders
e. Catastrophic Events

(5) Special Projects

a. Community Policing Assignments
b. Meetings/Training
c. Adjunct Instructors

(6) Caseload/workload above the targeted Division goal/standard

(b) **Prior Approval**

An employee must obtain prior approval from their supervisor to earn overtime. The employee will justify the reason for overtime in writing in the comments and justification section of the timesheet or in BEACON.

When the supervisor is not available and the employee needs to work overtime the employee must justify the reason for the overtime in writing and present it to the supervisor at the beginning of the next workday.

When the supervisor is unavailable for an extended period of time, the next level of management will be responsible for approval of overtime.

(c) **Special Circumstances**

Special circumstances which require an employee to exceed 20 hours of overtime pay during the month will be justified in writing from the District Office and sent to the Judicial Division Office for approval. A written authorization from the District Office must be attached to the employee's time sheet for any month which exceeds 20 hours.

(d) **Documentation**

Travel logs, narratives, time sheets and documented pre-approval work schedules should reflect similar information to support the need for overtime.

Supervisors and Managers will be responsible for implementing reasonable and sound time management overtime practices, which include:

(1) Planning work schedules in advance;

(2) Ensuring staff use flex time when possible;

(3) Communicating with employees on a regular basis that prior approval of work schedules is required, and

(4) Ensuring that staff maintain time reports on a daily basis.

When an employee is promoted, the effective date of promotion will determine the appropriate designation for overtime as required under the provisions of the Fair Labor Standards Act. The effective date of the promotion will establish the date the employee will either no longer receive time and one-half or compensatory time for hours worked over 40 in a work week.

A Probation/Parole Officer who is promoted to Chief Probation/Parole Officer is not eligible for overtime pay after the effective date of the promotion since they are now in an exempt from overtime position. However, management may approve comp time.

.1306 SHIFT PREMIUM PAY

Shift Premium pay is a means to provide additional compensation to employees who will be required to work on a regular, recurring basis on evening or night shifts.

An employee is eligible for shift premium pay if required to work over one half of the work hours between 4:00 p.m. and 8:00 a.m. on a regular and recurring basis. In this case, the employee will receive shift premium pay for all hours worked in the shift.

Regular, recurring requires a daily schedule that is repeated at specific intervals for an indefinite period of time. This definition has been modified for Community Corrections to accomplish operational needs, which promote public safety. The schedule will require that designated employees of Community Corrections work an evening shift on a regular, recurring basis each month

The following positions are eligible for Shift Premium Pay:

(a) Probation/Parole Officer

(b) Field Specialist

(c) Information Processing Technician

The rate of shift premium pay shall be ten percent of the regular hourly rate.

.1307 SPLIT SCHEDULE AND SHIFT PREMIUM PAY

An employee working on a regular, recurring split schedule will receive shift premium pay in accordance with the shift premium policy:

(a) If more than one half of the hours occur between 4:00 p.m. and 8:00 a.m. all hours are shift premium.

(b) If one half or less of the hours are in the stated period, the employee will receive shift premium pay for the actual hours worked between 4:00 p.m. and 8:00 a.m.

See *1303 (d) Split Work Shift* for approved split shift schedules.

Record time worked during day schedule on time sheet or in ESS as day rate (06 –push code). Record time worked during evening schedule on time sheet or in ESS as evening.

(c) All positions eligible to work shift premium hours are subject to the provisions of the split work schedule and are expected to comply with the policy

concerning hours worked on a split daily schedule.

.1308 SHIFT PREMIUM LEAVE REQUESTS

Once a work schedule is designated as an evening work shift, ALL hours worked are paid at the shift premium rate, even if the employee has to leave for a portion of their shift.

.1309 REQUESTS FOR VACATION LEAVE

Vacation leave may be requested for vacation, personal reasons, absences due to adverse weather conditions, personal illness or illnesses in the immediate family in lieu of sick leave, time lost for late reporting, and donations to a recipient under the Voluntary Shared Leave Program. Vacation leave shall be taken only upon approval by the employee's supervisor or manager in the chain of command.

The employee must request vacation leave in advance and receive approval prior to taking leave. All work schedules are approved in advance by the employee's supervisor.

The employee's supervisor is authorized to approve 40 hours of vacation leave. Any request beyond 40 hours must be approved by the next level in the chain of command. Prior to approving a leave request the supervisor, manager or administrator will consider the number of vacancies and the workload to ensure no adverse impact on operations will occur by approving the request.

.1310 ADVERSE WEATHER

(For full explanation and guidelines, refer to the State Human Resources Manual, Section No. 5.

The Judicial District Manager/Section Manager is the designated authority for carrying out the above policy and responsibilities described in the adverse weather policy. Special consideration must be given to the operational needs and schedule of the Courts in order to meet our agency's responsibilities as well as concern for our employees' safety due to hazardous conditions. The decision to suspend non-mandatory operations will be based on consideration of adverse weather warnings issued by the National Weather Service for weather conditions that may adversely impact an employee's commute to and from work or may adversely impact the ability to provide non-mandatory operations. Adverse weather options only apply during the period of time designated by severe weather warnings issued by the National Weather Service.

Time lost due to adverse weather will be documented in BEACON via ESS or the

time administrator (Employee Time Sheet). Time lost from work shall be charged to accrued compensatory time (i.e., holiday, overtime, gap hours, callback, on-call, travel or emergency closing comp time). If the employee does not have accrued compensatory time or have sufficient compensatory time to cover the entire period of absence, then the employee has the following options to account for time lost from work:

(a) Use vacation leave,

(b) Use bonus leave, or

(c) Request approval to take leave without pay (LWOP).

Make up time shall only be approved by the supervisor in lieu of vacation leave, bonus leave or LWOP. Employees with sufficient accrued compensatory time to cover the adverse weather absence shall not be eligible to make up the adverse weather time. Make-up time should be scheduled within the same pay period as the adverse weather event, if possible. If make-up time cannot be scheduled within the same pay period, the supervisor shall schedule the make-up time within 90 days of the adverse weather absence. Make-up time may be scheduled in a workweek which results in overtime, if there is an operational need to schedule overtime work.

If time lost is not made up within 90 days, vacation or bonus leave shall be charged. If there is not sufficient vacation or bonus leave to cover the absence, payment for the time originally paid as adverse weather leave shall be deducted from the employee's next paycheck.

The Director has the discretion to deem positions and operations as mandatory during any adverse weather condition and as such, not subject to adverse weather provisions.

.1311 EMPLOYEES

Probation/Parole Officers

While engaged in routine supervision duties and responsibilities, the Probation/Parole Officer will work a flexible schedule to meet the needs of the caseload. The work schedule will vary between first and second shift including evening and weekend work.

These officers may work any of the four basic work schedules consisting of five days a week, 40 hours a week, eight hours a day plus a meal period. The five workdays will be scheduled Sunday through Saturday.

Probation/Parole Officers must work one weekend day per month.

Monthly work shifts shall consist of not less than four (4) and not more than twelve (12) full evening or split shifts. Any variations must be justified by the Judicial District Manager.

The Supervisor will adjust the work schedule according to operational needs.

.1312 ON-CALL AND CALLBACK COMPENSATION

Only specific positions are eligible for on-call compensation when the employee is required to be on-call and report to work in the event of an emergency.

Only employees that serve on the Electronic Monitoring House Arrest/SBM immediate response team or the Emergency Management Response Team are eligible for on-call compensation.

The Judicial District Manager will be responsible for designating the individuals who will be placed on call for the EHART. The Emergency Management Response Team designation is the responsibility of the Judicial Division Administrators and the Assistant Director, Special Operations.

On-Call is not considered work time for overtime purposes because the employee is free to engage in personal pursuits during any portion of the on-call shift. An employee who is working a regular work schedule does not receive on-call compensation during his/her regular work schedule including any meal period. On call compensation starts once the employee leaves work at the end of their shift and ends at 8:00 am unless the next day falls on a weekend or holiday.

(a) **Eligible Positions**

Within Community Corrections only the Probation/Parole Officer and Field Specialist position are eligible for Electronic Monitoring House Arrest/SBM Response Team On-Call.

Chief Probation/Parole Officers and Field Specialists may be required to participate in "on-call" when there is a shortage of eligible officers.

(b) **On-Call Hours for Subject Employees**

On-call hours will be recorded in Beacon using code 9517 or on the employee's time sheet as time on-call.

On-call hours will be paid at a rate of $2.00 per hour for subject and exempt

employees.

(c) **On-Call Hours for Exempt Employees**

At certain work unit locations the staffing pattern may require the Chief Probation and Parole Officer to serve on the Electronic House Arrest Response Team rotation and therefore, the Chief Probation and Parole Officer may be eligible to receive on-call pay. In these instances, the following on-call hours will be recorded on the employee's time sheet or in BEACON using code 9517.

(d) **Emergency Call Back**

The emergency call back policy provides for additional compensation for an employee who responds to an emergency in order to perform necessary work at a time other than during the employee's regularly scheduled hours of work. The time that an employee is on emergency callback is determined from the time the employee is notified to return to work until the time the work is completed.

Emergency callback is when an employee has left the work site and is requested to respond on short notice to an emergency work situation to:

1. Avoid significant service disruption,
2. Avoid placing employees or the public in unsafe situations, or
3. Protect and/or provide emergency services to property or equipment
4. Respond to emergencies with students, clients, inmates, patients, or residents

Emergency callback may involve either going back to work or responding via telephone/computer. This is called Remote Call Back.

Employees whose work continues following the end of the regularly scheduled hours of work are not eligible for the callback. Shift pay, holiday pay and overtime pay shall be received in addition to emergency call back pay, if applicable.

(e) **Call Back when Employee Returns to Work**

Employees who are subject to overtime and respond to a call by returning to work shall receive a minimum of two hours compensation additional pay at the straight- time rate of pay for each occasion of callback. Time actually worked and travel to the worksite shall be included in hours worked for determining overtime hours. Management shall determine a reasonable time for which preparation and travel to the worksite shall be compensated.

(1) **BEACON Procedure (when employee returns to work)**

Record ***actual time worked***, including travel time to the worksite for each occurrence of emergency call back using BEACON code 9516.

Each incident of call back should be recorded separately in BEACON.

Time on call back is subtracted from on-call hours for callback time less than two (2) hours, the minimum two (2) hours must be subtracted from on-call hours.

(2) **Compensation (when employee returns to work)**

If actual time worked is more than two hours, the officer is compensated for actual time worked.

If actual time worked is less than two hours, the officer (subject to OT) will be compensated for two hours. Exempt employees (CPPO) are compensated for actual time.

(f) **Remote Call Back when employee responds via phone/computer**

Employees who are subject to overtime and respond to a call by phone and/or computer shall receive a minimum of 30 minutes compensation additional pay at the straight-time rate of pay for each occasion of callback up to two hours total call back. Only time actually worked shall be included in hours worked for determining overtime hours.

(1) **BEACON Procedure (when employee responds via phone/computer)**

a. Record ***actual time worked*** for each occurrence of remote call back using BEACON code 9511.

b. Each incident of call back should be recorded separately in BEACON.

c. Time on call back is subtracted from on-call hours. If call back time less than 30 minutes, the minimum 30 minutes must be subtracted from on-call hours.

(2) **Compensation (when employee responds via phone/computer)**

a. If actual time worked is more than 30 minutes, the officer is

compensated for actual time worked.

b. If actual time worked is less than 30 minutes, the officer (subject to OT) will be compensated for 30 minutes. Exempt employees (CPPO) are compensated for actual time.

c. If the officer experiences multiple call backs within a given shift and officer accumulates more than 2 hours of remote call back, the time beyond 2 hours will be compensated for actual time worked.

d. If Subject employee (PPO) has worked more than 40 hours in the pay period, the actual time worked will be compensated at time and one half.

e. If Exempt employee (CPPO) has worked more than 40 hours in the pay period, the actual time worked will be compensated as comp time.

(3) **BEACON CODES**

The following codes are to be utilized in Beacon to document the type of call back and on-call:

a. 9517 - On Call

b. 9516 - Callback (when the employee leaves the residence or is called back to the work site)

c. 9511 - Remote Callback (responding via telephone or computer)

.1313 TRAVEL TIME

Refer to DPS Travel Policy.

.1314 PAY AND PAYROLL

State employees are paid once a month, usually on the last working day of each month. Fiscal policy requires automatic depositing of monthly checks into an employee's bank account. There is not an option of receiving a printed hard-copy paycheck for the monthly payroll. Instead, employees can view and print their monthly pay statement in BEACON.

(a) **Timesheets and Paychecks**

When Beacon ESS/MSS is not used, employees record their time on timesheets to track hours worked, leave earnings, leave balances and supplemental pay (shift premium, holiday and overtime pay). Timesheets cover weekly period of seven days. Pay periods for paychecks are based on the calendar month. Community Corrections receives 12 paychecks per year.

(b) **Other Paychecks**

Reimbursement checks for travel (lodging, food, gas, etc.) can sometimes be requested in advance, however, such checks are more often issued after travel. Direct deposit shall be used for reimbursement of travel related expenses.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter A Administration – Fiscal and Personnel

Section .1400 Office Management

.1401 GENERAL PROVISIONS

It is the responsibility of the Supervisor/Manager and/or the support staff to open, maintain, and close the Unit and/or Judicial District Office during normal business hours of 8 AM – 5 PM Monday - Friday. If the Supervisor/Manager and the support staff are away from the office at the same time, the Supervisor/ Manager is to designate a person in charge to open, maintain, and close the Unit and/or Judicial District Office. Unit and/or Judicial District Office may not close without prior approval of the Judicial Division Office.

Office closure due to adverse weather, bomb threats or any other emergency or life threatening situation shall be reported throughout the chain of command. The EHART on-call officer shall be notified by local management to turn on the EHART communication equipment. An updated Continuity of Operations Plan (COOP) should be supplied to every employee indicating emergency operations and actions.

Due to the nature of our business and the presence of offender population in offices, it is not appropriate for employees to bring children to the workplace for an extended period of time unless preapproved by the Judicial District Manager.

APPROVED.

Anne L. Precythe — 08/01/2016

Director of Community Corrections — Date

Chapter A Administration – Fiscal and Personnel

Section .1500 Disciplinary Actions

.1501 GENERAL PROVISIONS

(For Full explanation and guidelines, refer to the DPS Disciplinary Policy.)

Any employee, regardless of occupation, position, or profession, may be warned, demoted, transferred, placed on investigation placement/administrative reassignment, or dismissed. Any action taken will be based upon the sound and considered judgment of the appointing authority in accordance with the provisions of all relevant policies.

Employees will carefully review the Adult Correction's disciplinary policy and procedures. It contains an outline of the method of disciplining, demoting, and dismissing employees. This document must be made available to employees as needed and must be conveyed to new employees during orientation.

It is of critical importance that any disciplinary action be well documented in the employee's personnel file and reflected consistently on the performance management instrument. Disciplinary action is valid only when appropriate documentation supports the action. An employee subject to disciplinary action must be informed of disciplinary entries in his or her record by receipt of a copy of every disciplinary letter/memo as documentation.

.1502 CATEGORIES OF DISCIPLINE

The categories of discipline include the following:

(a) Unsatisfactory Job Performance or Grossly Inefficient Job Performance and;
(b) Unacceptable Personal Conduct

.1503 TYPES OF DISCIPLINARY ACTIONS

The types of disciplinary actions are as follows:

(a) Written Warnings
(b) Disciplinary Suspension without Pay
(c) Demotion or

(d) Dismissal

.1504 ADMINISTRATIVE REASSIGNMENT

Administrative Reassignment is the temporary assignment of an employee to new job duties and/or location, pending the outcome of an internal investigation.

Upon determination by management that there is a need for administrative reassignment, the Judicial District Manager will:

(a) Complete an Internal Investigation Form and obtain the employee's signature; (North Carolina Department of Public Safety Personnel Manual, Section No. 6)

(b) Provide the employee written notification of specific job duties, the date and location of assignment and to whom to report. The notification must state that the administrative reassignment is for the benefit of the employee and the agency to ensure a fair and objective investigation, does not constitute disciplinary action, and it is not subject to grievance or appeal; and

(c) Immediately take possession of the employee's state issued equipment to include firearm and badge/id.

.1505 INVESTIGATORY PLACEMENT STATUS

Investigatory placement status or investigation status is the temporary, total removal from work status, pending the outcome of an internal investigation.

Management must obtain approval throughout the chain of command and the DPS Personnel Director or designee to place an employee on investigatory placement.

Upon determination to place an employee on investigatory placement, the Judicial District Manager will:

(a) Complete an Internal Investigation Form and obtain the employee's signature; North Carolina DPS Personnel Manual, Section No. 6 pages 37-38.

(b) Immediately take possession of the employee's state-issued equipment to include firearm and badge/id.; and

(c) No later than the second day after the placement, provide the employee a letter detailing allegations, acts or omissions which are the reasons for the investigatory placement. The letter must state that investigatory placement does not constitute disciplinary action, so it is not subject to appeal.

The investigation status will last no longer than 30 calendar days without written approval for extension from both the Secretary and the State Personnel Director.

.1506 APPROVAL PROCESS

The approval process for all personnel actions is as follows:

(a) **Judicial District Manager** has the authority to administer job performance disciplinary action to all district employees; up to and including a second written warning for unsatisfactory job performance following the DPS disciplinary process. The Judicial Division Administrator will serve as an advisor and may be consulted during the investigation process.

(b) **Division Administrator** has the authority to administer job performance disciplinary action to all employees that report to Division Office staff; up to and including a second written warning for unsatisfactory job performance following the DPS disciplinary process.

(c) The **Deputy Director** has authority over the following:

(1) Grossly Inefficient Job Performance
(2) All Unacceptable Personal Conduct issues; forward details to Deputy Director for decision on who will perform the investigation

(d) The **Director** has authority over the following

(1) Transfers outside of jurisdiction for the good of the agency
(2) Demotions/Dismissals (preliminary approval)
(3) Separations other than resignations/retirements (preliminary approval)
(4) Copies of all coachings and written warnings should be sent to the Deputy Director's office.

APPROVED.

Anne L. Precythe — 08/01/2016

Director of Community Corrections — Date

Chapter A Administration – Fiscal and Personnel

Section .1600 Grievances

.1601 GENERAL PROVISIONS

For full explanation and guidelines, refer to the North Carolina Department of Public Safety Human Resources Employee Grievance and Mediation Policy.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter A Administration – Fiscal and Personnel

Section .1700 Professional Standards and Conduct of Employees

.1701 GENERAL PROVISIONS

All Community Corrections employees will adhere to the specific requirements as set out below which comply with Department of Public Safety Policy and Procedure and North Carolina Statutes.

.1702 ABSENCE FROM WORK

It is imperative that all personnel follow the chain-of-command for any absences from the employee's workstation. Notification to the employee's immediate supervisor will be made for any sick leave or tardiness prior to, or within thirty (30) minutes of the employee's designated time to report to his or her work station. If the immediate supervisor is not available, the employee will notify the next supervisor in the chain-of-command.

.1703 APPEARANCE STANDARDS

All employees will keep a neat, well-groomed, professional appearance while on-duty; attention to personal hygiene is required. Visible signs or symbols of apparent membership to a security risk group as evidenced by tattoos or other signs or symbols of membership is prohibited.

As a public service, public safety agency, it is expected that a professional image be displayed and maintained with offenders, collateral agencies, the courts, and the general public at all times.

Proper managerial judgment and oversight is expected regarding appropriate attire in their location. The Judicial District Manager will ensure consistent application of the appearance standards across the district. The appearance standards for all employees will be as follows:

(a) **Attire for Office Setting**

Appropriate attire for the office setting for all employees (except management level) is business casual.

Business casual is a crisp, neat, conservative classic look that is appropriate for a chance

meeting with the agency head or other senior leadership. Casual clothing that works for the beach, clubs, exercise/workout session or sporting events; that reveal cleavage, back, stomach, or underwear garments; or that is worn, frayed is not appropriate. Examples of business casual include a collared shirt (polo style or buttoned dress shirt), blouse, slacks, skirt, khakis, single color BDUs and appropriate shoes; which may include black soft sole shoes (i.e., Rockport, Nike type walking shoe).

Managers may designate "dress down" casual Fridays or dress down days for single occasions such as office moves, etc. depending on the operational needs of the work location.

Management. Management will dress in a manner that projects a professional image. Managers may wear either business casual or professional attire but it must fit the occasion. If the job requires an appearance in court, attendance to a meeting or representing the agency in an official capacity, business professional attire as described below for a courtroom setting is required.

(b) **Attire for Courtroom Setting – Business Professional**

Appropriate attire for the court setting and professional meetings is business professional.

(c) **Attire for Field Work**

Attire for field work may be professional or business casual. No jeans may be worn when conducting field work regardless of the shift. Field work attire may include:

(1) Casual slacks, khakis, cargos pants, single color BDUs;

(2) Appropriate shirt with a collar;

(3) Casual shoes (open toed, wedges, or high heels are not acceptable);

(4) Appropriate shirt/blouse (female)

(d) **Training Attire**

Attire for training may be business casual or casual. Casual attire to include non-tattered, un-frayed, clean jeans and tee shirts may only be worn during training requiring physical exertion (i.e., firearm training/qualification, Control Restraints Defense Tactics (CRDT) training or CPR training. Tennis shoes are also allowed in these training situations.

(e) **Unacceptable Attire - Any Setting**

Unacceptable attire for all Community Corrections employees includes:

(5) Blue jeans (see training exception above),

(6) Tee shirts, (see training exception above),

(7) Tank tops,

(8) Sport or casual sandals or sandal-like slides,

(9) Outfits or tops revealing the torso; low-riders or low-cut tops,

(10) Baggy pants,

(11) Shorts or cut offs,

(12) Athletic clothing (nylon jogging suits, sweats)

(f) **Division Issued Clothing**

(1) Any equipment or clothing issued to employees is for the designed job duty or duties and is not for personal use of the employee; unless otherwise specifically stated in other areas of this policy.

(2) Any equipment or clothing item purchased with State, Federal, or Grant funding is considered state owned and issued property.

(3) Alterations or modifications to State issued equipment and clothing are not permitted unless otherwise specifically stated in other areas of this policy.

(4) Use of the Department of Public Safety or Community Corrections emblem or logo on any item must have prior approval through the chain of command to the Director's Office.

(5) Not to be worn in a fashion that would misrepresent or discredit the agency.

(6) Not to be used for personal gain.

(7) Cap must be worn with bill forward.

(8) No pins or logos to be attached to clothing (unless department approved/issued).

(g) **Inventory Control for Division Issued Clothing**

(1) Control and inventory of employee clothing will be the responsibility of the employee and supervisor.

(2) Equipment Inventory Sheet will be prepared for each employee beginning on the date of issue. Upon separation from the Division, the employee will be required to return all issued clothing as listed on Employee Inventory Sheet.

(3) Issued items will be replaced on a wear/tear basis; these items must be submitted to the supervisor when replacement becomes necessary.

(h) **Jewelry**

(1) Conservative jewelry is authorized for all personnel and will be limited so as not to detract from the work environment or the official/professional presentation of the employee and should not present a safety hazard.

(2) Employees may wear up to two earrings, in or on each ear, while on duty. Earrings that detract from a professional appearance will not be worn.

(3) Body piercing jewelry, other than earrings as listed in this section, which is visible anytime while on duty, is prohibited.

.1704 REQUESTS FOR REASONABLE ACCOMODATION(S)

(For full explanation and guidelines, refer to the North Carolina Department of Public Safety – Human Resources Manual.)

Requests for reasonable accommodation(s) will be initiated in writing (DPS-RRA Request for Reasonable Accommodation) by the employee or the applicant and submitted through the appropriate chain of command. All employee requests, excluding mandatory Criminal Justice Education and Training Standards Commission Basic Training requirements, will be initiated using Form DPS- RRA "Request for Reasonable Accommodation" and must include the Nature of the Disability, including any specific limitation(s) and a description of requested permanent accommodation(s) and what, if any, temporary accommodation(s).

The Form DPS-RRA shall be forwarded to the Judicial Division Office. Temporary accommodation requests of six (6) weeks or less are approved at the Division level. In the instance of a permanent accommodation request, the form DPS-RRA is forwarded through the chain of command to the Community Corrections Personnel Section. Thereafter, when the Personnel Section has obtained all necessary information, the ADA request will be presented to the DPS ADA Office for a decision.

The ADA does not require an employer to modify the essential job functions as a reasonable accommodation; therefore, requests for a waiver of an essential job function(s) cannot be given consideration. All requests related to mandatory Criminal Justice Education and Training Standards Commission Basic Training requirements will be initiated using Form DC-730-VS.

.1705 SECONDARY/DUAL EMPLOYMENT

(For full explanation, refer to the North Carolina Dept of Public Safety Personnel Manual).

The employment responsibilities to the State and Division are primary for any employee working full-time. Any other employment in which that person chooses to engage is secondary. An employee must seek approval from the Division Administrator /Section Manager prior to engaging in any secondary employment.

The employee will submit a Request and Approval Secondary Employment Form through the chain of command. Once a disposition has been determined, the Request and Approval Secondary Employment Form shall be retained both at the Judicial Division Office/Section Manager and in the Judicial District Office/Personnel Office. The purpose of this approval procedure is to determine that the secondary employment does not have an adverse effect on the primary employment and does not create a conflict of interest. To be eligible for secondary employment, an employee must be adequately performing his or her duties and the appraisal process must reflect no performance problems, and there must be no active disciplinary action.

Secondary employment cannot occur at the same time that an employee is on-call, and the employee may be called off secondary employment at any time to handle primary job responsibilities.

Requests must be resubmitted for approval each January. All forms must be completed by the employee and signed by the manager. If any conflict occurs that interferes with the primary employment, the Judicial Division Administrator/Section Manager can revoke approval for secondary employment at any time. Employees with active disciplinary action may have approval revoked depending on the disciplinary issue and work performance.

RESTRICTIONS ON SECONDARY EMPLOYMENT:

(a) The employee may not take regular recurring leave that interferes with operations to perform secondary employment.

(b) Owners or partners within a company may not have funding sources directly or indirectly linked with the NC Department of Public Safety. Any funding arrangement that might meet this description must be explored by the employee with management **prior to** establishing the relationship in secondary employment.

(c) Community Corrections employees who work within the same Community Corrections program/facility may not also have employer/employee relationships in secondary employment.

For example, a probation officer may not work for a service provider as a CBI instructor for Community Corrections offenders.

(d) Community Corrections employees may engage in secondary employment with other law enforcement agencies; however there must be a clear delineation of duties between the two jobs. The authority granted under Community Corrections employment does not carry over into the secondary employment arena or vice versa.

For example, a probation officer working secondary employment with the Sheriff's Department cannot apply probation conditions to a person known to be under supervision; likewise, said employee cannot apply the duties of a Sheriff to an offender under supervision.

(e) Employees are not permitted to engage in secondary employment with vendors who are under contract with the Department of Public Safety.

.1706 OATH OF OFFICE

The administration of the Oath of Office for all Certified Officers by a Court of Record of the State of North Carolina is a requirement of Community Corrections, and it will be administered during the officer training graduation ceremony.

It is the responsibility of the Judicial District Manager/designee to ensure that an original Oath of Office (8 ½ x 11) is filed with the Clerk of Court for the county where the officer will be serving. A copy of the Oath of Office will be filed in the Judicial District personnel.

The employee will be given the Oath of Office, signed by the Commissioner of Adult Correction and Juvenile Justice, during the graduation ceremony from basic training. Judicial District Managers are also responsible to conduct a local ceremony upon completion of training as a part of the on-boarding of the new officer, including local press announcements.

.1707 PERSONAL DEALINGS WITH OFFENDERS

All employees will maintain professional relationships with offenders in accordance with the laws, regulations, and general statutes governing such relationships.

Relationships between an employee and an offender that existed prior to employment or incarceration, probation, etc. *(i.e., immediate family, relatives, significant other, former spouse, etc.)* will be reported by the employee to his/her supervisor as soon as the employee becomes aware that the individual is now an offender. A written follow-up to the supervisor is required and will be forwarded

through the chain of command to the administrator. Management will determine whether reassignment of the offender's case is necessary to avoid a conflict or any appearance of impropriety.

Employees are not to knowingly enter into a personal or business relationship with an offender under the jurisdiction/supervision of the department. Any other situations where an employee finds that an offender is involved in a relationship; ex. an employee (offender) of a business where the DPS employee has entered into an agreement to perform work, etc; must be reported verbally to the employee's supervisor followed by a written follow up.

Employees will be responsible for bringing the above-cited situations or any other situation that could be considered personal to the attention of their supervisor.

.1708 OFFENDER SEXUAL ABUSE AND HARASSMENT POLICY

AUTHORITY

This policy is issued by the Director of Community Corrections given the authority to manage and direct the total operations of the Division and to establish such rules and regulations as the Director prescribes.

PURPOSE

The purpose of this policy is to provide guidelines for the prevention, detection, response, investigation, prosecution and tracking of offender on offender and staff on offender sexual abuse and harassment as described in the Prison Rape Elimination Act of 2003 and G.S. 14-27.31.

APPLICABILITY

The policy applies to all offenders and to all persons employed by Community Corrections volunteers, and community partners providing services to offenders supervised by Community Corrections.

DEFINITIONS AS REQUIRED by the PREA ACT

Agency means the unit of a State, local, corporate, or nonprofit authority, or of the Department of Justice, with direct responsibility for the operation of any facility that confines inmates, detainees, residents, or supervises offenders in the community including the implementation of policy as set by the governing, corporate, or nonprofit authority.

Agency head means the principal official of an agency.

Community confinement facility means a community treatment center, halfway

house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre- trial release or post- release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility- approved programs during nonresidential hours.

Contractor means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.

Detainee means any person in a custodial status detained in a lockup, regardless of adjudication status.

Employee means a person who works directly for the agency or facility.

Facility means a place, institution, building (or part thereof), set of buildings,

structure, or area (whether or not enclosing a building or set of buildings) that is used by an agency for programming or supervision of individuals.

Facility head means the principal official of a facility.

Gender nonconforming means a person whose appearance or manner does not conform to traditional societal gender expectations.

Inmate means any person incarcerated or detained in a prison or jail.

Intersex means a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Jail means a confinement facility of a Federal, State, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges for sentences of one year or less, or persons adjudicated guilty who are awaiting transfer to a correctional facility.

Law enforcement staff means employees responsible for the supervision and control of detainees in lockups.

Lockup means a facility that contains holding cells, cell blocks, or other secure enclosures that are:

(1) Under the control of a law enforcement, court, or custodial officer; and

(2) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

Offender means a person, whether adult or juvenile, under the jurisdiction of an agency in post- adjudication status.

Pat-down search means a running of the hands over the clothed body of an offender, detainee, or resident by an employee to determine whether the individual possesses contraband.

Preliminary Investigation is an inquiry by the sexual abuse & harassment investigator to gather more information about the allegation. The purpose of the inquiry is to determine if the allegation is a form of sexual abuse or harassment; determine if law enforcement must be called; and determining the identity of the alleged abuser.

Prison means an institution under Federal or State jurisdiction whose primary use is for the confinement of individuals convicted of a serious crime, usually in excess of one year in length, or a felony.

Resident means any person confined or detained in a juvenile facility or in a community confinement facility.

Staff means employees, vendors, volunteers, treatment and contract agencies.

Strip search means a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia.

Transgender means a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

Substantiated allegation means an allegation that was investigated and determined to have occurred.

Unfounded allegation means an allegation that was investigated and determined not to have occurred.

Unsubstantiated allegation means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

Volunteer means an individual who donates time and effort on a recurring basis to

enhance the activities and programs of the agency.

Youthful inmate means any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.

Definitions related to sexual abuse.

Sexual abuse includes:

(1) Sexual abuse of an offender, detainee, or resident by another offender, detainee, or resident; and

(2) Sexual abuse of an offender, detainee, or resident by a staff member, contractor, or volunteer.

Sexual abuse of an offender, detainee, or resident by another offender, detainee, or resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

(1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(2) Contact between the mouth and the penis, vulva, or anus;

(3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and

(4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual abuse of an offender detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the offender, detainee, or resident:

(1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(2) Contact between the mouth and the penis, vulva, or anus;

(3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(4) Penetration of the anal or genital opening, however slight, by a hand,

finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;

(7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an offender, detainee, or resident, and

(8) Voyeurism by a staff member, contractor, or volunteer.

Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an offender, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an offender who is using a toilet to perform bodily functions (outside of collection of a drug screen); requiring an offender to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an offender's naked body or of an offender performing bodily functions.

Sexual harassment includes

(1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one offender, detainee, or resident directed toward another; and

(2) Repeated verbal comments or gestures of a sexual nature to an offender,

detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

POLICY

The NCDPS-Community Corrections is committed to a standard of zero-tolerance of sexual abuse and harassment toward offenders, either by staff or by offenders. Therefore, it is the policy of Community Corrections to provide a safe, humane and appropriately secure environment, free from the threat of sexual abuse for all offenders,

by maintaining a program of prevention, detection, response, investigation, prosecution and tracking.

Any sexual contact between an offender and a staff member, contractor, intern or agent (paid or non-paid) is considered sexual abuse, whether consensual or not; unless there is a "preexisting relationship". A sexual relationship with an offender will not be tolerated and may be prosecuted under state and federal statutes.

PROCEDURES

Employee Training

(a) All new employees will receive instruction related to the prevention, detection, and response to sexual abuse and harassment during new hire orientation and the mandatory Sexual Abuse and Harassment 101 training that addresses the following:

(1) The agencies standard of zero-tolerance of sexual abuse and sexual harassment toward offenders, either by staff, contractors, volunteers, or by offenders.

(2) Employees' responsibilities when responding to sexual abuse and harassment;

(3) Offenders' right to be free from sexual abuse and sexual harassment;

(4) Offenders' and employees' right to be free from retaliation for reporting sexual abuse and harassment;

(5) The dynamics of sexual abuse and sexual harassment in confinement;

(6) Common reactions of sexual abuse and sexual harassment victims;

(7) Detect and respond to signs of threatened and actual sexual abuse;

(8) How to avoid inappropriate relationships with offenders;

(9) How to communicate effectively and professionally with offenders, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates/ offenders;

(10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

(11) Relevant laws regarding age of consent; and

(12) Unique attributes of working with males and/or females in confinement/supervision;

(b) Annual Refresher: All staff shall receive annual refresher training on offender sexual abuse and sexual harassment issues emphasizing the zero-tolerance and duty to report, as well as covering current sexual abuse and sexual harassment policies and procedures.

(c) All materials provided to staff on the subject of sexual abuse and sexual harassment, and any lesson plans used during any presentations on this topic shall be approved by Department of Public Safety's PREA Office

(d) Additional training may be offered through the agency or through the Office of Staff Development and Training.

(e) Training for staff shall be offered by approved Staff Trainers certified as General Instructors unless an exception is given by the Director.

(f) Verification of employee training shall be documented on form OSDT-1 and in appropriate agency training tracking system.

(g) Certification of employee understanding of material shall be documented by signing the PREA Acknowledgement Form (OPA-T10); or electronic signature when completing the ELearning course authorized by the agency.

Offender Education

(a) All offenders placed on supervised/unsupervised probation shall receive during intake or supervision, information about offender sexual abuse awareness verbally and in writing. Offenders will receive the North Carolina Department of Public Safety "Sexual Abuse Awareness for the Offender" brochure which addresses:

i. Department's zero-tolerance against undue familiarity and sexual abuse
ii. Prevention and self – protection
iii. Facts about sexual abuse
iv. What to do if you are sexually abused
v. Duty to report
vi. Making false reports
vii. Right to be free from retaliation

(b) Appropriate provisions shall be made as necessary for offenders not fluent in

English or those with disabilities (including for example offenders who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment; and

(c) Reasonable steps shall be taken to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to offenders who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using necessary specialized vocabulary; and

(d) Shall not rely on offender interpreters, offender readers, or other types of offender assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the offender's safety, the performance of first responder duties under §115.64 or the investigation of the offender's allegations.

(e) Additional sexual abuse and sexual harassment information shall be provided through offender brochures, handbooks and posters.

(f) All offenders will be required to sign the North Carolina Department of Public Safety Offender PREA Education Acknowledgement Form.

Volunteer and Contractors Training Initial Training.

(a) Volunteers and contractors that have direct contact with offenders shall receive an introduction to PREA Training by receiving the North Carolina Department of Public Safety "A guide for the Prevention and Reporting of Undue Familiarity and Sexual Abuse with Offenders/Inmates" brochure which addresses:

(1) The mission of the North Carolina Department of Public Safety

(2) The objective and purpose of the Prison Rape Elimination Act of 2003 (PREA)

(3) NC General Statute stating that sexual abuse by a volunteer or contractor is a Class E Felony.

(4) Definition of Sexual Abuse

(5) Definition of Undue Familiarity

(6) Red Flag Behaviors

(7) A duty to report

(b) Volunteer and contractor agency heads will be responsible for sharing information received from the brochure to their current and new staff.

(c) Volunteers and contractor agency heads must sign the (OPA-T10) Prison Rape Elimination Act of 2003 (PREA) Information for Person(s) with Direct and Indirect Contact With Inmates/Offenders acknowledging receipt and understanding of the Prison Rape Elimination Act of 2003 and their responsibility of notification to their staff.

(d) The OPA-T10 form will be kept on file at the Judicial District Office and/or Community Corrections Administration whichever is in direct contact with the volunteer and/or contract agency for auditing purposes.

Annual Training.

Volunteer and Contractor Agencies: all volunteer and agency heads must review and sign the Form (OPA-T10) annually as part of the application process or Memorandum of Agreement renewal process.

Reporting Sexual Abuse and Harassment

(a) All staff has a duty to report any allegations of offender sexual abuse/harassment. Staff must report this information through the chain of command. Failure of staff to report alleged incidents of sexual abuse/harassment of offender may lead to disciplinary action up to and including dismissal.

(b) The following reporting procedures cover all incidents of offender abuse/harassment occurring at or reported to staff at a residential facility and/or Community Corrections Program/Office i.e. Black Mountain, DART, transitional housing, TECS or Community Intervention Programs.

(1) Prison Facility - For an incident of inmate sexual abuse or harassment at a prison facility; immediately prepare a detailed incident report and forward through the chain of command. The manager will immediately forward the incident report to the appropriate facility superintendent where the alleged incident took place.

(2) Local Jail - For an incident at a local jail, immediately prepare a detailed incident report and forward through the chain of command. The Judicial District Manager will send the incident report to the Sheriff of that facility, Division Administrator, and to the DPS PREA Office. A copy of the report should be maintained locally.

(3) Residential Facilities - For an incident of offender sexual abuse/harassment at a residential facility, immediately prepare a detailed incident report and forward through the chain of command. In addition to the reporting procedures as outlined above district management will notify the head of the program/facility, local law enforcement and contact medical or mental health professionals if the victim is in need of immediate assistance. To maintain control of the situation and prevent further incidents, management will ensure separation between the victim and the alleged assailant.

(4) Employee or agent - For an incident of staff on offender sexual abuse/harassment involving an employee or agent of NCDPS, immediately prepare a detailed incident report and forward through the chain of command. The division administrator will immediately submit the report to the Deputy Director and a memo requesting an SBI investigation. Notification will be made to the DPS PREA Office.

(5) **Upon receiving an allegation that an offender was sexually abused while confined at another facility**, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.

(6) Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.

(7) The facility head shall document that it has provided such notification.

(8) **Upon receiving notification from another facility or agency that an allegation of sexual abuse or sexual harassment has been reported**, the facility head shall ensure that the allegation is investigated in accordance with these standards

Investigating Sexual Abuse and Harassment

(a) **General Provisions.**

(1) If an alleged act of sexual abuse/harassment is reported or discovered, an immediate preliminary investigation shall occur to determine if the allegation is Sexual Abuse, Sexual Harassment. The investigation shall be conducted by a trained PREA investigator.

(2) In order to preserve the integrity of the investigation, the Sexual Abuse and Harassment investigator, or a specific team, shall be designated to investigate an incident, and only that person (or team) shall be involved in the collection of evidence and interviewing of potential witnesses. A

thorough investigation is necessary to ensure the potential for prosecution if it is determined that a crime has been committed.

(3) A determination shall be made, based upon the amount of time that has passed since the alleged incident and other factors, whether there is a possibility of evidence still existing at the crime scene. If it is determined that evidence may still exist, when possible, the crime scene shall be secured and any potential evidence shall remain in place for law enforcement examination and investigation. If the crime scene cannot be secured, the crime scene shall be photographed and the evidence, if any, collected, placed in an evidence bag with a NCDPS Chain of Custody form (OPA-I21) attached.

(4) All PREA Investigations shall be consulted (referred) to the Deputy Director for final decision. If the investigation turns out to be a personal conduct /work performance issue the investigation will be referred to the Deputy Director for further action if needed. All investigations will be forwarded to the NCDPS PREA Office.

(5) The Sexual Abuse and Harassment investigation shall be completed and decided upon within 30 days of the initial Sexual Abuse and Harassment report. An extension of 30 days may be given by the Deputy Director in instances where the investigation requires additional time for the collection of evidence or determination of validity.

(b) **Investigation of Offender on Offender Sexual Abuse and Harassment**

(1) A determination shall be made, based upon the amount of time that has passed since the alleged incident and the possibility of evidence still existing, as to whether the alleged offender, aggressor, if known, should be separated and/or detained to preserve forensic evidence.

(2) If there is evidence that Offender on Offender Sexual Abuse may have occurred, the Judicial District Manager, Judicial Division Administrator, Community Supervision Administration and the NCDPS PREA Office through the chain of command shall be notified immediately.

(3) If there is evidence or suspicion that a crime may have been committed, local law enforcement should be contacted to conduct the criminal investigation and emergency services dispatched to address medical needs. Once local law enforcement arrives on the scene, the investigator will continue with the Department of Public Safety's administrative investigation, but must not impede on the criminal investigation.

(4) The alleged abuser shall be detained until the preliminary investigation is complete, or until law enforcement arrives on the scene. During the course of the investigation the alleged victim and the alleged abuser shall remain separated.

(c) **Investigation of Staff on Offender Sexual Abuse or Staff on Offender Sexual Harassment.**

(1) If an alleged act of staff on offender sexual abuse is reported or discovered, an immediate preliminary investigation shall be conducted.

(2) In any incident involving a staff member as an abuser, the staff member shall remain separated from the victim until the conclusion of the investigation. This may require reassignment or placement on administrative assignment pending the investigation.

(3) All substantiated reports of staff on offender sexual abuse shall be reported in writing to the Judicial Division Administrator who will in turn forward the report to the Deputy Director. The written report shall include evidence to support the substantiation. The Director's Office will forward all substantiated incidents of staff on offender sexual abuse to the Secretary of the Department of Public Safety, or designee, for referral to the State Bureau of Investigation (SBI) or other law enforcement agency for further handling.

In cases where forensic evidence may be available, or injury has occurred and there is not sufficient time to forward the report for referral to the SBI, local law enforcement may be contacted to conduct the initial criminal investigation.

(d) **Post Incident Review (PIR)**

(1) A PIR shall be completed for all **substantiated and unsubstantiated** allegations of sexual abuse.

(2) The PIR is completed with input from upper-level management officials, investigators, and medical or mental health practitioners.

(3) The PIR shall be completed within 30 days of the conclusion of the sexual abuse investigation.

(4) Upon completion, the PIR will be forwarded through chain of command to the Division Administrator and Director's Office.

(5) Upon completion, a copy of the PIR will be provided to the DPS PREA Office for data collection and analysis.

(e) **Disciplinary Sanctions for Staff**

(1) Staff shall be subject to disciplinary sanctions up to and including dismissal of violating agency sexual abuse or sexual harassment policies.

(2) Dismissal shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.

(3) Disciplinary sanctions for violations of agency policies related to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstance of the acts committed, by the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

(4) All dismissals for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing body.

(f) **Corrective actions for contractors and volunteers**

(1) Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with offenders and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

(2) The facility shall take appropriate remedial measures and shall consider whether to prohibit further contact with offenders, in case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

(g) **Confidentiality and Resolution.** The Sexual Abuse and Harassment Investigator and all others involved in the investigatory process will strive to maintain to protect offenders who make allegations of sexual abuse and harassment from retaliation and assure the impartial resolution of Sexual Abuse and Harassment complaints in accordance with the Prison Rape Elimination Act of 2003. The Community Corrections Investigator and all others involved in the PREA process, to the extent possible, will ensure the confidentiality of the PREA complaints as well as all data collected through the investigation of those complaints except as

required in the following circumstances:

(1) To cooperate with law enforcement in any investigation and prosecution of the incidents alleged in such complaints.

(2) To take and enforce disciplinary action against any staff member as a result of the incidents alleged in the compliant.

(3) To defend against claims brought by the offender for violation of the offender's rights for having been subjected to sexual abuse.

(4) To otherwise comply with the law.

(h) **Retaliation.** The Department has a zero-tolerance policy for retaliation towards an offender or employee who reports offender sexual abuse and harassment. District/Division Management is responsible for monitoring and ensuring that retaliation is not taken by either staff or offenders.

(i) **False reports.** Pursuit to NCGS 14-225 any person who shall willfully make or cause to be made to a law enforcement agency or officer any false, misleading or unfounded report, for the purpose of interfering with the operation of a law enforcement agency, or to hinder or obstruct any law enforcement officer in the performance of his duty, shall be guilty of a Class 2 misdemeanor.

Staff making false reports may result in disciplinary action up to and including dismissal.

(j) **Prosecutions.** District/Division Management will work with localcounty prosecutor's to assure appropriate criminal prosecution of cases of sexual violence. Every care is to be taken to ensure that evidence is not contaminated, and that the crime scene is preserved, if at all possible. The investigation shall be done in a very thorough manner to ensure that the most complete case possible can be provided to the local District Attorney's office to aid in any prosecution.

.1709 NOTIFICATION OF UNLAWFUL WORKPLACE HARASSMENT, SEXUAL HARASSMENT AND WORKPLACE VIOLENCE

(For full explanation, refer to the North Carolina Human Resources Policy and DPS Personnel Manual)

Prohibited unlawful workplace harassment includes unwelcome or unsolicited speech or conduct based upon race, sex, creed, religion, national origin, age, color or

handicapping condition and which creates a hostile work environment or constitutes quid pro quo sexual harassment.

Workplace violence includes, but is not limited to, intimidation, threats, physical attack, domestic violence or property damage and includes acts of violence committed by State employees, clients, customers, relatives, acquaintances or strangers against State employees in the workplace.

Therefore, any employee alleging hostile workplace harassment, sexual harassment or violence in the workplace shall report the complaint through the chain of command, and/or directly to the DPS EEO Office using the EEO On-line Complaint Form. For complaints made locally, the Judicial District Manager will **immediately** notify the Division Office. The Division Office/Section Manager will be responsible for notifying the Deputy Director. The Deputy Director's office will notify the appropriate section.

.1710 USE OF FORCE

(a) **Policy**

This policy establishes guidelines related to the use of force, reporting, and review.

Community Corrections recognizes and respects the value and special integrity of each human life. By vesting officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Therefore, it is the policy of Community Corrections that officers shall use only that force which is reasonably necessary to effectively bring an incident under control while protecting the lives of the officer or another. Officers shall use physical force in arrest and custody situations only in strict conformance with the United States Constitution, the Constitution and laws of North Carolina, and this policy.

(1) **Approved Weapons**

An officer while on duty shall only carry weapons and ammunition authorized or approved by Community Corrections.

(2) **Chemical Agents**

a. Only Community Corrections issued chemical agents may be carried and used by officers of Community Corrections

b. Prior to the issuance of Oleoresin Capsicum Spray (O.C. Spray), all officers shall receive training in its use. Any use of O.C. Spray other than in a training situation shall be reported as required by this directive. The spraying of animals for protection shall be reported to the Division Office.

(3) **Issuance of Authorized Weapons**

a. Prior to the issuance of any lethal or less than lethal weapon, Community Corrections Armorer shall review, inspect, and approve all weapons intended for use by officers in the performance of their duties. Any weapon found to be unsafe shall be removed from service until such time it is repaired. A record of each approved weapon issued by Community Corrections shall be maintained by Community Corrections Armorer.

b. When a weapon is turned in due to staff leaving employment, their weapon shall be inspected by a division approved armorer prior to being put back into service or stock.

(4) **Use of Weapons**

Weapons shall be used or displayed in accordance with the officer's training and Community Corrections policy. Careless or imprudent use of weapons is prohibited. The term deadly is synonymous with lethal and the term non-lethal and non- deadly are synonymous with less than lethal.

(5) **Remedial Training**

An officer who fails to demonstrate required proficiency with either a lethal or non-lethal weapon shall receive remedial training with said weapon by a certified weapons instructor prior to resuming official duties.

(b) **Use of Lethal Force**

(1) **General Guidelines**

a. Officers have authority to make an arrest pursuant to G.S. § 15-205 and G.S. § 15A-1345 and shall be guided in the use of force by the United States Constitution and state law.

b. Imminent shall be synonymous with the term immediate.

c. With respect to a probationer or supervisee, an officer is justified in using deadly, physical force upon another person only when it is or appears to be reasonably necessary to defend himself or a third person from what he reasonable believes to be the use or imminent use of deadly physical force.

d. Nothing in this subdivision constitutes justification for willful, malicious, or criminally negligent conduct by any person which injures or endangers any person or property, nor shall it be construed to excuse or justify the use of unreasonable or excessive force.

(2) **Warning Required**

Prior to using lethal force, officers must give a verbal warning if feasible.

(c) **Use of Less Than Lethal Force**

(1) **General Guidelines**

a. Where lethal force is not authorized, an officer should assess the situation in order to determine which less than lethal technique or weapon will best de-escalate the incident to bring it under control in a safe manner.

b. An officer is authorized to use department-approved less than lethal force techniques and issued equipment for resolution of incidents as follows:

1. To protect the officer or another from physical harm;

2. To restrain or subdue a resistant probationer or supervisee;

3. To bring an unlawful situation safely and effectively under control; or

4. To effect an arrest of a probationer whom the officer reasonably believes has violated a condition of probation;

5. To effect an arrest of a supervisee for whom the officer has a warrant issued by the Post Release Supervision and Parole Commission (order of temporary or conditional revocation).

c. The amount of force, which may be used in attaining a lawful compliance, will be determined by the surrounding circumstances, including but not limited to:

1. The nature of the offense

2. The behavior of the subject against whom force is to be used

3. Actions by third parties who may be present

4. The feasibility or availability of alternative actions

d. Officers are not permitted to use a less than lethal defensive weapon unless qualified in its proficient use as determined by training procedures. All officers authorized to carry weapons are required to receive in-service training at least annually on the agency's use of force policies and demonstrate proficiency with all approved lethal and less than lethal weapons that officer are authorized to use. In-service training for lethal and less than lethal weapons will be documented.

e. The following less than lethal defensive weapons are authorized for on and off duty use: Controls, Restraints and Defensive Tactics (CRDT) and O.C. Spray issued by Community Corrections. All personnel will follow proper reporting procedures as outlined in Section (H) of this directive.

(d) **Medical Assistance**

Officers shall make the scene as safe as practical and shall afford medical assistance to injured persons considering:

(1) Amount and type of force used;

(2) Any apparent or probable injuries;

(3) Statements made by the person(s).

(e) **Review**

(1) Any officer whose actions or use of force results in death or serious physical injury to anyone, after consultation between the officer's supervisor, shall be removed from his/her normal duty assignment immediately. The officer shall be placed on Administrative Duty. The supervisor shall follow-up in writing in the form of a memorandum outlining the reason(s) for the Administrative Duty and the officer's limitations while on Administrative Duty. The memorandum shall be completed no later than the first scheduled workday after placing the officer on Administrative Duty. The memorandum shall immediately be forwarded via the chain-of-command. Administrative Duty is not limited to shootings but shall include actions or uses of force which result in a death or serious injury.

(2) The Deputy Director shall approve the drug screening of an officer following any use of weapon where the officer discharges his/her firearm resulting in bodily injury to himself/herself or another or discharges any other weapon resulting in serious bodily injury, as defined in N.C.G.S. 14-32.4, to any person.

(3) An officer on Administrative Duty shall be required to surrender his/her issued vehicle and safety equipment package.

(4) An officer on Administrative Duty may not operate or ride as a passenger in an assigned state-owned vehicle unless authorized by the Deputy Director of Community Corrections.

(5) Officers who are involved in any critical incidents shall be referred for evaluation of fitness-for-duty determination.

Investigation and Reporting of Firearms Incidents

(1) An officer shall immediately report to his/her supervisor every display of a firearm in the performance of his/her duty, either intentional or unintentional not related to training. Any time an officer removes his/her pistol from its holster (except in a low ready position), such action shall be deemed either *display of firearm* or *use of firearm*. A firearm solely held at low ready shall not be deemed display. A use of firearm shall be documented on a Form DCC-107.

(2) An officer involved in a shooting incident, which results in death, or serious personal injury to anyone shall immediately be relieved from normal duty and assigned to administrative duties. The officer shall also be ordered to submit to a drug test. The supervisor shall immediately begin to collect pertinent information necessary for a preliminary investigation and shall contact the Deputy Director for consultation.

(3) After debriefing of the officer, if it reasonably appears that the shooting was justified, the officer may be re-assigned to normal duty by the Deputy Director after a fitness-for-duty determination has been made.

(f) **Firearms Procedures**

(1) An officer shall never fire warning shots.

(2) An officer shall not remove side arms from holsters except for authorized use in accordance with this directive, for inspection by a superior or authorized officer, or for other authorized purposes.

(3) An officer shall not permit any person, other than another officer, to use State- issued firearms.

(4) The killing of an animal is justified:

a. For self-defense;

b. To prevent harm to the officer or another person;

c. When the animal is so badly injured as to require that it not continue to suffer. In the case of livestock, a reasonable effort must be made to contact and notify the owner. If the owner cannot be contacted within a reasonable period, the officer may take the necessary action after contact with a supervisor. Incidents involving game and non-game animals under the jurisdiction of the Wildlife Resources Commission will be reported to that agency. Incidents involving domestic animals and livestock will be reported to the nearest animal control agency. A memorandum outlining the officer's action shall be sent to the officer's immediate supervisor within twenty-four (24) hours

of the incident and ammunition shall be replaced as soon as possible.

Shooting at Moving Vehicles

(1) Discharging a firearm at a moving vehicle involves a possible risk of death or serious injury. There may be a risk of harm to occupants of the vehicle who may not be involved, or involved to a lesser extent.

(2) Officers shall not fire at unarmed probationers or supervisees or third person in a moving vehicle unless the officer reasonably believes that the oncoming vehicle presents an imminent threat of death or serious physical harm to the officer or third person, and no other means are available at that time to avoid or eliminate the danger.

(3) No officer shall intentionally position him/herself into the path of a vehicle that is attempting to flee. Whenever possible, the affected officers shall make a reasonable effort to get out of harm's way if a vehicle is moving toward him/her.

(g) **Oleoresin Capsicum Spray Procedures**

(1) **General Guidelines**

a. Use of O.C. Spray is a form of less than lethal force. When practical, O.C. Spray should be used in place of striking the subject with a fist, elbow, knee, or weapon in order to avoid injury to the subject and the officer.

b. No officer shall use O.C. Spray on any person who knowingly is being subjected to the effects of a Conducted Electrical Weapon (CEW).

(2) **Decontamination**

a. After spraying a subject the officer must monitor the subject's physical condition for up to forty-five (45) minutes or until the subject is turned over to jail personnel.

b. After handcuffing and searching the subject, the officer should instruct the subject to stay still, not to rub his/her eyes, breathe normally, and relax as much as possible.

c. When circumstances permit, an officer should wait a period of fifteen (15) minutes before transporting the subject to allow natural evaporation to reduce the effects of the O.C. Spray in Community Corrections vehicles.

d. An officer must decontaminate the subject at the scene of the arrest when the officer or subject's safety is not jeopardized.

e. Decontamination includes:

1. Moving the subject into an uncontaminated area as soon as possible;

2. Facing the subject into the wind;

3. Spraying the subject's face and eyes utilizing the issued spray bottle and water.

f. While transporting the subject, the officer shall provide ventilation to the subject by opening the window and/or directing the air-conditioning vent toward the subject's face.

g. Upon arrival at the detention facility, the officer shall allow the subject to flush his/her face and eyes with cool water. A non-oil based soap or detergent should be used and will help remove the resin from the skin.

h. Do not use any commercial eyewash during the decontamination process.

i. Personnel at the jail must be informed that the subject has been sprayed with O.C. Spray.

(3) **Medical Attention to Arrestees**

a. Unless a detention facility requires a subject who has been sprayed with O.C. Spray to be checked by medical personnel, an arrestee who has been sprayed will not usually require medical attention

b. An arrestee who meets any of the following criteria must be taken for immediate medical attention:

1. Gagging or breathing difficulties persist beyond 2-4 minutes;

2. Loses consciousness, sweats profusely without reason, appears very sick;

3. Suffers from the effects of O.C. Spray more than forty-five (45) minutes after use;

4. Displays signs of or declares an allergy to capsicum (pepper);

c. An arrestee who is known to meet the following criteria must be closely monitored for at least forty-five (45) minutes or until turned over to jail personnel. Closely monitored means the arrestee should not be left alone for any significant periods of time, and the physical and mental condition of the arrestee should be observed:

1. Old or frail persons, diabetics, asthmatics;

2. Have known history of heart or lung problems, seizure disorders;

3. Are substantially impaired by drugs or alcohol;

4. Have run or fought with officer or violently resisted arrest;

5. Are breathing very rapidly, sweating heavily, or exhibiting pale skin;

6. Engaging in deranged or irrational conduct or speech;

7. Are very obese;

8. Complain of dizziness or being lightheaded

(h) **Documentation on Use of Force**

(1) **Firearms**

Use of a Firearm shall be reported and documented on the DCC-107 in accordance with this directive.

(2) **Other Use of Force**

a. An officer shall complete the DCC-107 on each occasion the officer strikes a person with any part of his/her body (e.g. fist, elbow, knee, or neck restraint) or uses any defensive tool in order to control a subject.

b. An officer involved in a Use of Force incident, if physically able, must notify his/her immediate supervisor as soon as feasible after the incident. The officer shall submit the DCC-107 to his/her immediate supervisor within three days of the incident. If the officer is unable due to injuries, the immediate supervisor will complete the DCC-107 within thirty (30) days, provided the supervisor has sufficient information.

(i) **Review and Critique of Use of Force (DCC-107)**

(1) **Review by Supervisor**

a. The officer's supervisor shall review the DCC-107 for completeness with the officer prior to submission and make an initial determination about whether the officer followed policy and established training practices. A supervisor involved in the incident shall not conduct the review.

b. The following dissemination process shall be followed when submitting the DCC-107:

Step 1: Officer completes and submits report to supervisor for approval. (due

within three (3) days of the incident)

Step 2: Supervisor reviews report for accuracy and clarification. If issues are found:

1. Communicate with officer for clarification;
2. Review resubmission from officer;
3. Approve and forward through chain of command

Step 3: The chain of command forwards the DCC-107 to the Deputy Director.

(2) **Review by Use of Force Board**

a. The Use of Force Board shall consist of:

1. Deputy Director - Chair
2. Special Operations Administrator
3. Division Administration/District Manager (3 year term)
4. Field Specialist (2 year term)
5. Chief PPO Instructor (2 year term)
6. PPO Instructor (1 year term)
7. Attorney
8. PPO (1 year term)

b. If an officer is involved in three or more Use of Force incidents in a quarter, or six or more within a consecutive twelve (12) month period, the Use of Force Review Board and Deputy Director will review the reports to determine if a pattern of improper behavior is apparent.

(j) **Detention of Third Parties**

(1) Officers are authorized to detain third parties pursuant to G.S. §15A-404 only when they have probable cause to believe that a person has committed the following in their presence:

a. A felony;

b. A breach of peace;
c. A crime involving physical injury to another person, or
d. A crime involving theft or destruction of property.

(2) If the situation permits, the officer shall first make contact with the appropriate law enforcement agency via phone or issued radio and monitor from a safe distance until the arrival of law enforcement.

(3) Once a third party is detained, the officer must immediately notify law enforcement if he/she has not already done so and must surrender the detained person to a law enforcement officer upon arrival.

(4) Upon releasing the detained person to a law enforcement officer, the officer will immediately notify his/her supervisor. The incident will be reported through the chain of command to the Judicial Division Administrator within 24 hours. The officer will document the incident in writing and submit the documentation to their supervisor within 72 hours to be forwarded through the chain of command.

(k) **POST-INCIDENT PROCEDURES**

INCIDENTS INVOLVING LETHAL FORCE, RESULTING IN PERSONAL INJURY

(1) **Officer Responsibilities**

An officer involved in any incident, in which lethal force is used, resulting in personal injury, will **immediately** take the following action, once de-escalation and safety has been obtained:

a. Call 911 for immediate medical and law enforcement assistance;

b. Provide reasonable assistance to the injured person(s), practicing Universal Precautions against blood-borne pathogens;

c. Notify the supervisor or designee to respond to the scene as soon as possible;

d. Make no formal written or recorded statement until the supervisor is available on the scene;

e. Make no comments to the media; *and*

f. Submit a *Use of Force Incident Report* DCC-107 **within 3 days** to the supervisor, to be forwarded through the chain of command to the Director. The Director's Office will forward to the Secretary's Office. The officer will obtain a

written extension of the deadline if unable to complete.

(2) **Supervisor Responsibilities**

Upon notification by or on behalf of the officer involved in the incident, the officer's supervisor will:

a. Contact the next-level supervisor and respond to the scene immediately;

b. Notify the investigating law enforcement officer(s) of their presence and inform them of our procedures. The Secretary of DPS will request an outside investigation by the State Bureau of Investigation at the appropriate time;

c. Attend to the officer's mental and physical needs and assign another officer to stay with the officer involved in the incident;

d. If possible, create some distance between the officer and the scene and explain to the officer what may happen, administratively, during the next few hours; the officer involved may be asked to participate in a follow-up interview with law enforcement authorities and may request to have a personal attorney present;

e. Ensure that a law-enforcement investigation is being conducted;

f. Determine the location of the officer's weapon; if taken as evidence, obtain a receipt; if not taken as evidence by law enforcement or prior to their arrival, secure the weapon (evidence) as is for local law enforcement, do not unload. Once turned over to law enforcement obtain a receipt.

g. If the officer is not injured, ensure that he/she has contacted the family; if the officer is injured, ensure that a co-worker known to the family provides transportation for the family to the hospital;

h. Begin a preliminary Division internal investigation; *and*

i. In the event of an officer's death or life-threatening injury, dispatch a Division Notification Team as soon as possible to the officer's family (see Chapter A .1811, *Employee Death or Life-Threatening Injury Notification*).

(3) **Next Level Supervisor Responsibilities**

Upon notification, the next level supervisor will:

a. Contact the Division Administrator or Assistant Division Administrator immediately;

b. The Judicial District Manager (or the supervisor if notification was not made with the Judicial District Manager) will contact DCI at 919-324-1159;

c. Begin a formal Division internal investigation;

d. In writing, remove the officer from active field duty status and place on administrative duty.

(4) **DCI Operator Responsibilities**

The DCI Operator will immediately contact the following sections:

a. The respective Division Office (Division Administrator or Assistant Division Administrator) if not already notified by the Judicial District Manager or supervisor;

b. Community Corrections Administration (Deputy Director);

c. DPS Administration (Deputy Secretary or Secretary of DPS), if unable to contact Community Corrections Administration;

d. DPS Communications Office (Director or designee), if unable to contact Community Corrections Administration.

(5) **Management Follow Up Responsibilities**

As follow-up to the incident, Division management will:

a. Require a confidential debriefing with a licensed mental health professional for the officer, as soon as possible following the incident and prior to returning to duty; allow for the possibility of follow-up sessions and a delayed return to duty as determined by the mental health professional;

b. To dispel rumors and misinformation, notify staff state-wide with factual information regarding the incident and send follow-up notification at the close of departmental investigation;

c. Keep the officer's interests foremost in providing information for media releases; all media releases will originate from the Director.

d. Encourage a critical incident stress debriefing.

INCIDENTS INVOLVING NON-LETHAL FORCE, RESULTING IN PERSONAL INJURY

An officer involved in any incident, in which non-lethal force is used, resulting in personal injury, will **immediately** take the following action, once de-escalation and safety has been obtained:

(1) If needed, call 911 for immediate medical and law enforcement assistance;

(2) Provide reasonable assistance to the injured person(s), practicing universal precautions against blood-borne pathogens;

(3) Notify the supervisor or designee to respond to the scene as soon as possible;

(4) Make no formal written or recorded statement until the supervisor is available on the scene;

(5) Make no comments to the media; *and*

(6) Submit a *Use of Force Incident Report* **within 3 days** to the supervisor, to be forwarded through the chain of command to the Judicial Division Administrator and forwarded to the Deputy Director.

INCIDENTS INVOLVING LETHAL FORCE, NOT RESULTING IN PERSONAL INJURY

An officer involved in any incident in which lethal force is used, not resulting in personal injury, will **immediately** notify the supervisor or designee to respond to the scene as soon as possible; the supervisor will **immediately** notify the Judicial Division Administrator chain of command; then the officer will submit a *Use of Force Incident Report* **within 3 days** to the supervisor to be forwarded, through the chain of command, to the Judicial Division Administrator and forwarded to the Deputy Director. Any officer involved in an incident in which the issued firearm was discharged will be immediately removed from active field duty status and placed on administrative duty until a full investigation has been conducted and a finding made by the office of the Director.

INCIDENTS INVOLVING NON-LETHAL FORCE, NOT RESULTING IN PERSONAL INJURY

An officer involved in any incident in which a perceived threat requires the use of OC pepper spray, CRDT, or any incident involving the pointing of a firearm at a

person, not resulting in personal injury, will submit a *Use of Force Incident Report* **within 3 days** to the supervisor to be forwarded, through the chain of command, to the Judicial Division Administrator and forwarded to the Deputy Director.

(l) POST-INCIDENT INVESTIGATION

All use of force incidents are subject to investigation. All incidents requiring the use of lethal force, CRDT, or OC pepper spray will be formally investigated.

a. Investigation Procedure

Upon receipt of each *Use of Force Incident Report*, the supervisor will perform a preliminary investigation to determine if reports of the involved staff are factual and complete. If the incident involved the use of lethal or non-lethal force resulting in personal injury *or* if the incident involved lethal force not resulting in personal injury; the supervisor will obtain written statements from the involved staff, all witnesses, and the medical personnel who examined and/or treated any injured person(s). The Judicial District Manager will prepare a written investigation report and submit, with all required written statements attached, to the Judicial Division Administrator **within 48 hours** of receiving the *Use of Force Incident Report*.

b. Final Disposition

Upon receipt of the *Use of Force Incident Report* and corresponding investigation report, the Judicial Division Administrator will:

1. Determine if the force used was in accordance with this policy and, if not, initiate a formal investigation;

2. Report the final disposition of the incident back to the officer(s) involved, through the chain of command, including positive feedback on the officer's performance as appropriate; and

3. Forward a copy of the *Use of Force Incident Report*, statements, investigation and determination to the Deputy Director for review and training considerations.

(m) ALLEGATION OF PERSONAL INJURY OR PROPERTY DAMAGE

Any citizen complaint of personal injury or property damage as a result an employee's action will be referred to the Judicial District Manager. The Judicial District Manager will refer the citizen to the Attorney General Tort Claims

Section (919) 716-6820. The manager is to inform the chain of command regarding the complaint. No employee will comment on behalf of the Division.

.1711 DEATH or LIFE-THREATENING INJURY NOTIFICATION

In the event that an employee of the NCDPS Community Corrections dies or experiences a life-threatening injury while on duty, *or* if Community Corrections personnel are the first to know of an employee's death or life-threatening injury while off duty, it is the responsibility of the Division to notify the next-of-kin and subsequently to provide as much assistance as possible. This notification will be made in a timely, personal, and compassionate manner.

(a) **NOTIFICATION GUIDELINES**

(1) When the life-threatening injury or death of an employee is first reported, the following persons or their designees will be notified **as soon as possible** through the chain of command:

a. Chief Probation and Parole Officer

b. Judicial District Manager

c. Assistant Judicial Division Administrator

d. Judicial Division Administrator

e. Deputy Director of Community Corrections

(2) Under normal circumstances, information pertaining to the death or life-threatening injury of an employee will not be given or taken over any mobile or portable radio.

(3) All press releases will be issued from or approved by the Director of Community Corrections.

(4) Community Corrections personnel will make the next-of-kin notification in person with the assistance of local law enforcement, regardless of the location of the next-of-kin. An exception would be an out-of-state location of such a distance to warrant the assistance of another law enforcement agency.

(5) When possible, the lead member of the Division Notification Team will be a Chief Probation/Parole Officer or higher management-level employee.

(6) The Division Notification Team will be composed of at least two people, and will include a co-worker or close personal friend of the deceased or injured employee.

(7) In death cases, when possible, assistance will be obtained from the clergy.

(8) The notification will be made **as soon as possible** after the initial information is confirmed.

(b) **NOTIFICATION PROCEDURE**

(1) The Chief Probation/Parole Officer or higher management-level employee will:

a. Confirm the identity of the deceased or injured employee;

b. Gather details about the circumstances surrounding the death or injury;

c. Determine any health considerations of the person(s) to be notified;

d. Determine if assistance from the clergy is needed, and make the necessary contacts;

e. Determine which personnel will take part in the notification, *and* determine if there are personnel who should not take part in the notification; *and*

f. Determine if other persons are likely to be present at the notification.

(2) Members of the Division Notification Team will travel in separate vehicles to allow more flexibility in the type of support and assistance that may be provided. Examples of this assistance include keeping children for the spouse to go to the hospital, transporting a family member to the next-of-kin's home, and/or transporting another family member to the hospital to meet the employee's spouse.

(3) Prior to arrival, the Division Notification Team will discuss:

a. Who will be the primary spokesperson;

b. What will be said; *and*

c. How much detail will be provided.

(4) Upon arrival at the location of next-of-kin, members of the Division Notification Team will:

a. Identify them through the designated spokesperson;

b. Determine the identity of the next-of-kin;

c. Locate a private setting;

d. Ensure that minor children are not present for the notification;

e. Use straightforward and direct language in explaining the reason for the visit;

f. Calmly and professionally answer questions.

(5) After the initial notification has been given, the Division Notification Team will:

a. Offer support and assistance to the family;

b. Assist in making calls to relatives, friends, and clergy;

c. Make a written record for the family of all persons contacted on their behalf; *and*

d. Offer transportation to the hospital and/or other locations.

(6) The Division Notification Team will not leave until all possible assistance has been provided. Prior to leaving the location of next-of-kin, the Division Notification Team will:

a. Leave names and telephone numbers where members of the Division Notification Team can be reached;

b. In the event that the death or injury occurred out-of-state, provide names and telephone numbers of persons and agencies who may be contacted for additional information;

c. Advise the next-of-kin of follow-up information and assistance they will receive, which may include, as appropriate:

1. Additional information and/or details concerning the circumstances surrounding the death or injury not immediately known to the team;

2. Answers to questions posed by family members;

3. Assistance to the family with day-to-day activities for the next several days;

4. Assistance with funeral arrangements if desired; and

5. Assistance with employee benefits issues; *and*

6. Re-contact the next-of-kin in person the next day.

.1712 EMERGENCY MANAGEMENT

During times of emergency or disaster, the Department of Public Safety, Community Corrections, is dedicated to serving the State of North Carolina as requested through the North Carolina State Emergency Management. The department will deploy members of the Community Corrections Emergency Management Responder Teams to assist law enforcement when requested by the North Carolina State Emergency Response Team. The Community Corrections Emergency Management Responder Coordinator will initiate action as soon as the possibility of an emergency situation is known.

(a) **SPECIAL OPERATIONS**

Special operations consist of two primary duty types:

(1) Emergency Response

An emergency or a disaster is any unplanned event that can:

a. Cause death or significant injuries to employees or the public;

b. Interrupt mission-critical Departmental services;

c. Shut down or disrupt Department operations or,

d. Cause physical or environmental damage.

Numerous events can be emergencies or disasters including: fire, flood or flash flood, hurricane, tornado, earthquake, winter storm, communications failure, hazardous materials incident, civil disturbance, explosion, and other similar events. Upon request from the State Emergency Management Team Coordinator, the Director will deploy the Division's Emergency Management Responder Teams to assist.

(2) Special Law Enforcement Duty

A formal request for assistance may be requested by a Federal, State, or

local law enforcement agency to assist with special projects, emergencies or disasters. Special projects may include rallies, protests, festivals, or similar events. The Director must approve special law enforcement duty.

(b) **EMERGENCY MANAGEMENT RESPONDER TEAMS**

Two teams comprised of ten members each will be established within each Judicial Division. Each team will have a team leader and assistant team leader and the Judicial Division Officer- in-Charge will coordinate each of their teams. Each team will be on active standby ready at all times.

(c) **EMERGENCY MANAGEMENT CHAIN OF COMMAND**

(1) Director

(2) Emergency Management Responder Coordinator

(3) Judicial Division Officer-in-Charge in collaboration with the Division Administrator

(4) Team Leader

(5) Assistant Team Leader

(6) Responder Members

(d) **EMERGENCY MANAGEMENT RESPONDER READINESS LEVELS**

(1) Level 4

Emergency Management Responder Coordinator has been notified by the State Emergency Response Team Coordinator of an impending threat and to prepare for limited or full-scale activation. Initiate the Emergency Management Response chain of command.

(2) Level 3

State Emergency Operations Center is partially activated with key agencies.

a. Coordinator will contact each Judicial Division Officer-in-Charge with information of an impending threat and notify of a 72-hour readiness for possible activation. If the Emergency Management Responder Coordinator is unable to reach the Officer-in-Charge, he/she will contact the on-call Electronic House Arrest Response Team (EHART) on-call officer who may be used as point of contact during emergency or disastrous situations.

b. Officer-in-Charge immediately contacts the team leaders to notify team members. All personnel at this point will be in on-call status. (*See .1300 Work Schedules and Compensation Policy.*)

c. All responder members will contact their respective supervisor to advise of the activation of Readiness Level 3 and every time thereafter of changes in level.

d. Responder members must be available at all times.

e. Responder members will keep their state vehicle fueled and ready for departure.

f. While in on-call status for Readiness Level 3, state vehicles may be stationed at the responder's residence.

(3) Level 2

All identified State Emergency Response Team agencies are notified to report to the State Emergency Management Headquarters Emergency Operations Center for a full-scale activation.

a. Coordinator contacts each Officer-in-Charge.

b. Team leaders will contact the responder members to be on 48-hour readiness for activation.

c. Instructions will be given to have all necessary provisions ready.

(4) Level 1

As conditions permit, emergency response and recovery teams deploy as requested by State Emergency Management.

a. Coordinator contacts each Officer-in-Charge with deployment instructions

b. Officer-in-Charge contacts the team leaders with reporting instructions

(e) **EMERGENCY MANAGEMENT RESPONDER MEMBER QUALIFICATIONS**

In order to become an Emergency Management Responder member, an officer must meet the following criteria:

(1) Employed as an officer with Community Corrections for a minimum of two years;

(2) Current on all required training;

(3) Firearms certified;

(4) Complete Emergency Management Responder Training;

(5) Available for deployment twenty-four hours a day, seven days a week, travel and overnights as required.

(6) Should a responder member find that they can no longer serve, the member must notify their Officer-in-Charge in writing and return all issued equipment within five (5) working days. The Judicial Division Officer-in-Charge and the Division Administrator will select a replacement officer and notify the Security Services Office.

(7) If a responder member fails to perform the necessary duties required or maintain good standing, the Division Administrator may remove the officer from the Emergency Management Responder Team.

(8) The Judicial Division Officer-in-Charge and the Division Administrator will select a replacement officer and notify the Security Services Office.

(f) **EMERGENCY MANAGEMENT RESPONDER SPECIALIZED EQUIPMENT**

Responder members will receive specialized equipment and training. When a responder member leaves team service, all state-issued equipment will be turned over to the Judicial Division Officer-in-Charge. When on deployed assignment, all responder members will display Community Corrections identification by wearing standard issued clothing specifically: hat, coat, and/or shirt in accordance with policy and procedures.

(g) **EMERGENCY MANAGEMENT RESPONDER TRAVEL**

All responder members will comply with department policy regarding travel, meals, and lodging.

.1713 MEDIA CONTACT

All inquiries in the field from the news media are to be directed to the Judicial District Manager. The Judicial District Manager will report the inquiry throughout the chain of

command and on the appropriate response. They may seek advice through the chain of command. All contact and conversations with the media must be made in a courteous and professional manner, consistent with the Division's goal to be accessible to the public.

In general, Judicial District Managers, Assistant Division Administrators, or Division Administrators will serve as the primary media contacts for operational issues in their areas. The DPS Communications Office staff will respond to issues of departmental policy and state budget related inquiries.

When an employee has completed an interview with a media representative, the employee must notify the Judicial District Manager, Division Office, Deputy Director and communicate the information to the DPS Communications Office at 919-733-5027 within 24-hours providing the following information:

(a) Date and time of media contact

(b) Name of media outlet

(c) Reporter's name

(d) Summary of questions asked

(e) Who responded

(f) Summary of response

A Media Contact Form for providing the above information may be downloaded at DPS Home Page\Communications Office\Media Contact Form.

.1714 SUMMONSES, SUBPOENAS AND RELEASE OF INFORMATION

Unless specifically authorized, only the named recipient should accept service of a summons or subpoena.

(a) **Summonses** (Notice of filing of a law suit)

Immediately upon receipt of a state or federal summons, the recipient must notify the State Attorney General's Office in the following manner:

(1) Call the Attorney General's Office, Public Safety Section, at (919) 716-6526.

(2) Provide the following information:

a. Case name;

b. Case number;

c. The person who accepted the summons;

d. Date served (personally served, delivered or signed for),

e. How it was delivered (certified mail, Deputy, Service Processor)

(3) Fax the summons and complaint to the Attorney General's Office at (919) 716-6563;

(4) Mail the original hard copy of the summons and complaint to the Attorney General's Office, P. O. Box 629, Raleigh, NC 27602.

(5) In order to expedite the internal notification and review process, the direct recipient of a summons must forward all notifications to their chain of command by immediately scanning and e-mailing a copy of the summons and complaint documents to the CPPO, Judicial District Manager, Judicial Division Administrator and the Deputy Director.

(b) **Subpoenas** (Order to appear and/or provide documents)

To be effective, a subpoena must be properly served. Proper service of a subpoena can only occur through personal delivery by a non-party who is at least 18 years of age, by a Sheriff/Deputy or designee, or by certified mail. Never agree to accept a subpoena by fax.

Only a Sheriff/Deputy may serve a subpoena by telephone. In this instance the Sheriff/Deputy must speak directly with the addressee of the subpoena and they should be asked to fax a copy of the subpoena.

(1) Immediately upon receipt the following must occur:

a. Provide a copy of the subpoena to your immediate supervisor;

b. Scan and e-mail the subpoena to the Judicial District Manager and the Judicial Division Administrator and provide all relevant facts.

c. The Judicial Division Administrator will review the subpoena, determine if it was properly served, and make appropriate decisions regarding the subpoena.

d. The Administrator will act as the point of contact with the DPS General Counsel's Office and will call only if there are questions or concerns about the subpoena.

1. If the Judicial Division Administrator needs assistance, the DPS Office of the General Counsel can be reached at 919-825-2705 (ensure verbal contact is made; do not rely on voice mail, e-mail or fax confirmation), then fax the subpoena to 919-715-8477.

2. When contacting the DPS Office of the General Counsel, the JDA will provide documents/information as required to include:

i. The name of the person who accepted the subpoena;

ii. The date it was received;

iii. How the subpoena was delivered (certified mail, Deputy, Service Processor);

iv. Details of any prior communication the addressee has had with the issuer of the subpoena.

3. The JDA will advise field staff of appropriate action as directed by the DPS Office of the General Counsel.

(2) If an officer receives notification of an out of state subpoena, notify the Interstate Compact office immediately for assistance.

(c) **Court Orders and Release of Information**

A court order is signed by a judge requiring specific information to be released by the parties as designated in the order.

G.S 15-207 Records Treated as Privileged Information

All information and data obtained in the discharge of official duty by any probation officer shall be privileged information, shall not be receivable as evidence in any court, and shall not be disclosed directly or indirectly to any other than the judge or to others entitled under this Article to receive reports, unless and until otherwise ordered by a judge of the court or the Secretary of Public Safety.

The employees of Community Corrections are to treat offender records as privileged information. Prior to releasing the probation file pursuant to a court order, the officer will forward the record to the JDM for review. The JDM will determine if there is any

sensitive information in the file, i.e., victim information, confidential informant information, counseling notes from mental health treatment or medical information. If sensitive information is found in the file, it will be placed in a sealed envelope, with the Community Corrections In-Camera Inspection form letter attached (DCC-148). The letter will inform the judge of the sensitive information which should be reviewed in chambers before release. Questions about court orders or sensitive information should be directed to the DPS Office of the General Counsel. See Chapter C Section .0904 Confidentiality for matters of public record.

.1715 RESIDENCY AND PERSONAL TELEPHONE CONTACT INFORMATION

Employee Residency. Community Corrections use of zone supervision requires the following residency policy:

(a) Management will maintain current residence (not a Post Office Box) information for all employees and any change of residence address must be immediately reported to employee's supervisor.

(b) All caseload-carrying officers will live within thirty (30) miles of the county/counties to which they are assigned and reside in the state of North Carolina.

(c) Certified officers are expected to respond to offenders and business needs in a timely manner.

(d) All applicants are to be informed of the policy during the interview process.

(e) All new hires will comply with this residency policy within ninety days of their start date. Extension of an additional ninety days must be approved by the Division Administrator.

(f) Requests for extensions beyond the combined 180 days described in (e) above must be approved by the Director.

Personal Telephone Contact Information

(a) All employees will provide a personal telephone contact number to management.

(b) All officers will provide a personal telephone contact number to each offender under their supervision; this number may be the state issued cell phone number.

(c) The officer's printed business card will contain the following information; office address, office and state issued cell phone number and a work e-mail address.

.1716 CERTIFIED POSITION - TWO YEAR LATERAL TRANSFER RULE

Due to operational needs and training, employees in either a Probation/Parole Officer or Probation/Parole Associate position, who are within their initial twenty-four months of employment with Community Corrections, must remain in that position for a period of twenty-four months before a lateral transfer outside of the employee's current county of assignment.

Chief Probation/Parole Officers must remain in that position for a period of twenty-four months before a lateral transfer outside of the employee's current county of assignment.

Field Specialists must remain in that position for a period of twenty-four months before a lateral transfer outside of the employee's current district.

.1717 EXCEPTION TO THE TWO YEAR LATERAL TRANSFER RULE

Employees in either a Probation/Parole Officer or Probation/Parole Associate position who are within their initial twenty-four months of employment with Community Corrections or Chief Probation/Parole Officer or Field Specialist who have been in their current position less than 24 months and are experiencing extreme personal hardship, may request an exception to the two-year lateral transfer rule to apply for a lateral transfer to a county other than the one initially assigned.

The guidelines established for requests for an exception to the two-year lateral transfer rule include the following parameters:

(a)) The employee must be performing at the "Meets Expectations" level or above, and

(b) The employee must not have received any disciplinary action.

The process for requesting an exception to the two-year lateral transfer rule follows:

(a) Any employee who desires a hardship transfer will forward a written request through the chain of command to the Judicial District Manager as soon as the hardship is known. The request must be specific and indicate the nature of the hardship.

(b) Upon approval by the Manager, the request with supporting documentation will be forwarded to the Judicial Division Administrator.

(c) The Administrator will review the request and forward to the Deputy Director's Office with a recommendation for final approval.

(d) When requests cross Division lines, the appropriate Division Administrator will be copied on correspondences.

(e) The Deputy Director will review the request and notify the Judicial Division Administrator of the final decision and copy Personnel.

(f) If the hardship exception request is not approved, Personnel will notify the employee in writing of the decision.

(g) If the hardship exception request is approved through the chain of command, Personnel will notify the employee in writing of the final decision. The employee may then submit an application for consideration for the lateral transfer.

.1718 NEW OFFICER RESTRICTIONS AND ORIENTATION

Pre-Basic

New officers, who have not attended and completed basic training, will:

(a) Provide no direct offender services unless a certified officer is present. The officer may assist in processing new cases out of court.

(b) Not go in the field for the first 30 days on the job.

(c) After 30 days, field work is approved provided that:

1. The officer is OC pepper spray certified and has been issued OC pepper spray;

2. The officer has been issued body armor;

3. The officer has completed radio training and has been issued a radio.

(d) Not go in the field unless accompanied by a certified officer approved by the CPPO. New hires may observe how to conduct home contacts with an approved certified PPO in the field. (Note: new hire may not <u>conduct</u> home or field visits <u>alone</u> until completion of BASIC training)

(e) Not issue violation reports, testify in court, or participate in arrests and searches.

(f) Not complete assessments or present pre-sentence investigations to the court. The new officer may assist the certified officer in gathering information.

(g) Not administer drug screens but the new officer may observe the specimen

collection. (See New Officer Checklist – DCC 123)

Post-Basic

New officers, who have attended and completed basic training, will:

(a) Be introduced to the caseload gradually and not be placed in the rotation case assignment for first 30 days.

(b) Conduct a minimum of four field shifts under the supervision of a certified CPPO, PO or Field Specialist with at least two being evening shifts.

(c) Upon completion of the four required field shifts, conduct home contacts under the supervision of a CPPO to demonstrate proficiency to the CPPO's satisfaction prior to unsupervised field work.

The New Officer Checklist – DCC 123 will be used when used when acclimating new officers to their roles

.1719 JSC DUTIES AND NEW JSC ORIENTATION

Judicial Services Coordinators must communicate effectively using motivational interviewing techniques; must exercise independent judgment as emergency situations arise; must maintain a professional demeanor while interacting with potentially volatile and assaultive offenders; must maintain a professional relationship with all community partners, offenders and the general public, and must have sufficient communication and writing skills to include typing and use of computer software.

Judicial Services Coordinators shall keep detailed records of their work. Judicial Services Coordinators will record accurate detailed narratives and contact notes on all offender contacts as they are made, but no later than the end of the next working day;

In all engagements with offenders, Judicial Services Coordinators will operate in a professional manner and will:

(1) Be prepared, having reviewed the case file;

(2) Know the status of community service hours and monetary obligations;

(3)Work to gain the offender's trust;

(4) Show respect;

(5)Maintain eye contact;

(6) Avoid undue familiarity

The New JSC Orientation Checklist – DCC-123J will be used when acclimating new JSC's to their roles.

.1720 BASIC AND IN-SERVICE TRAINING

(a) Attendance for staff scheduled to attend training is mandatory; exceptions must be approved through the chain of command

(b) Appropriate professional conduct is expected at all times

(c) Trainers are in authority while training is in session.

(d) Failure to pass the Basic Training retest will result in dismissal.

(e) Certified staff must complete 40 hours of in-service training per year.

(1) Employees may request to attend additional in-service training functions that are directly related to the duties and responsibilities currently performed by the employee. (Training provided by a source outside of Community Corrections)

(2) The employee making the request will explain how the proposed training will help them perform their duties and should include any brochures, pamphlets or literature describing the training as well as all anticipated costs.

(3) No training functions may be attended without prior approval, even if there are no fees involved.

(4) Permission will be obtained from the Judicial Division Administrator for the employee to be away from their normal duties to attend such functions, and approval must be obtained to utilize state owned vehicles for transportation.

(5) The Division Director must approve all out-of-state training.

Employee Training Request (CNTR 001a). Training Authorization (CNTR 001a) and Travel Authorization (CNTR 001) must be submitted with supporting documentation through the chain of command to the OSDT Director/designee for

approval no later than thirty (30) days prior to the event.

(a) The chain of command and approving authority, the Judicial Division Administrator and OSDT Director/designee, will review the request to determine timeliness and appropriateness of the training as well as the impact of the employee's absence on operations.

(b) Any concern regarding the appropriateness of the training will be referred to the Correctional Training Instructor or Division Training Coordinator for guidance.

(c) If not approved, the approving authority will write, "disapproved" on the CNTR 001a and return to the employee.

(d) All Training Authorizations (CNTR 001a) approved or disapproved, will be copied and sent to the Correctional Training Instructor by the Judicial District Manager for auditing purposes.

(e) Within 60 days of completion of the approved training and in order to receive course credit, the employee must login to LMS and add the training to their transcript.

.1721 RECERTIFICATION FOLLOWING SEPARATION

Within Two Years of Separation

(a) Previously certified officers, returning to a certified position within two years of separation from a certified position (with a separation in service from Community Corrections) will be re-enrolled in a subsequent delivery of Basic Training. These individuals will be required to attend Basic Training classes and complete all practical skill evaluations to include firearms qualification; however, they will not be required to sit for the state examination at the conclusion of the course.

(b) Previously certified officers, returning to a certified position within two years of separation from a certified position (with no separation in service from Community Corrections) will be re-enrolled in a subsequent delivery of Basic Training at the discretion of the Division Administrator. These individuals, if required, will attend Basic Training classes and complete all practical skill evaluations to include firearms qualification; however, they will not be required to sit for the state examination at the conclusion of the course.

After Two Years of Separation

(c) Previously certified officers, returning to a certified position after two years of separation from a certified position, will be required to complete the entire Basic Training curriculum and will be required to take the exam.

.1722 USE OF MOURNING BANDS FOR BADGES

The issued mourning bands are to be placed over the Community Corrections badge upon the death of a fellow officer (this includes Law Enforcement, Correctional, etc.) When a state officer dies in the line of duty the bands should be displayed for a period of thirty (30) days. When a local law enforcement officer dies in the line of duty, the officers in that district should display their bands for a period of two weeks.

.1723 CONDITIONS OF CONTINUED EMPLOYMENT

Conditions of continued employment for all employees are detailed in the DPS Personnel Policy Manual.

(a) The Division expects all employees to represent the agency in a professional manner with high standards at all times, both on and off duty. All employees are required to report civil and criminal charges and citations, as well as the resulting court dispositions, to their immediate supervisor within twenty-four hours.

(b) Employees are expected to fully cooperate with all internal investigations, and to maintain confidentiality at all times.

(c) Investigations resulting from civil and/or criminal charges may consider evidence such as the charging documents, pleas, prayers for judgments, deferred prosecution agreements, etc. and any other aggravating or mitigating factors.

(d) The use of drugs and alcohol by employees while on duty is prohibited. Detailed information may be found in the DPS Personnel Manual.

(e) Employees are expected to pay their just debts and handle financial obligations in a manner as to not discredit or embarrass the division or department. Employees are discouraged from borrowing money or lending or becoming financially obligated to another member of the division.

(f) Romantic, intimate, or personal relationships between Division employees are discouraged. Supervisor and management level employees are not to engage in such relationships with a subordinate level employee at the same work location.

Relationships between Division employees must be reported by both employees to the appropriate level of the chain of command.

(g) Bail Bond/Surety Prohibited. G.S. 15A-541(a) provides that no sheriff, deputy sheriff, other law enforcement officer, judicial official, attorney, parole officer, probation officer, jailer, assistant jailer, employee of the General Court of Justice, other public employee assigned to duties relating to the administration of criminal justice, or spouse of any such person may in any case become surety on a bail bond for any person other than a member of his immediate family. In addition, no person covered by this section may act as agent for any bonding company or professional bondsman. No such person may have an interest, directly or indirectly, in the financial affairs of any firm or corporation whose principal business is acting as bondsman. Violation of this section is a misdemeanor. Violations shall be investigated in the same manner as any other arrest, citation, warrant, and/or conviction. An investigation independent of any legal or pending legal action into the allegations/circumstances surrounding the incident shall be conducted and violations shall be considered unacceptable conduct and may result in disciplinary action up to and including dismissal.

(h) Social Media

Social Media

Defined

Social Media includes all means of communicating or posting information or content of any sort on the Internet, including a personal web log or blog, journal or diary, web site, social networking or affinity web site, web bulletin board or a chat room as well as any other form of electronic communication. Examples of social media sites include but are not limited to Facebook, Twitter, MySpace, Pinterest, YouTube, Tumblr, LinkedIn, Wikipedia, Periscope, Snapchat, Instagram and Flickr.

Professional Use

The use of social media for any NCDPS business purpose must receive approval throughout the chain of command to the Director. Social media use shall be coordinated with the NCDPS Communications Office and shall be in compliance with NCDPS Social Media Policy.

Personal Use

(1) It is recognized that many employees may have personal social networking

sites. These sites should remain personal in nature and be used to share personal opinions or **non-work related** information.

(2) Employees shall not use NCDPS/Community Corrections email addresses to register on social networks, blogs, or other online services designed for personal use.

(3) Employees may use personal social networking for limited family or personal communications while at work. Those communications should occur on break times and must not interfere with their work.

(4) When an employee uses social media, good judgment should be followed as the employee may be perceived by the public as representing the agency and state government. Employees are free to express themselves as private citizens on social media sites to the degree that their posted information:

a. Must remain professional in nature and should always be conducted in accordance with NCDPS/Community Corrections policies and expectations.

b. Must be honest, meaningful and respectful.

c. Shall not be derogatory and must not include any forms of profanity, obscenity or copyright violations.

d. Must respect proprietary information. Confidential and non-public information will not be shared. This includes but is not limited to offender supervision records, employee records and NCDPS logos.

e. Shall not include photographs, artwork, videos, audio or comments which may bring discredit to the agency or could be viewed as malicious, obscene, threatening or intimidating.

f. Shall not include information pertaining to any other employee without his/her permission.

g. Shall not include information involving themselves or other employees reflecting behavior that would reasonably be considered reckless or irresponsible.

h. Shall not include any work related information or information gained by reason of their authority.

j. Shall not negatively affect the public perception of NCDPS.

(5) Employees are prohibited from joining, liking, posting, broadcasting, or otherwise disseminating material, comments, pictures, artwork, video or other references that are sexual, violent, racial, or ethnically derogatory or that negatively affect the public perception of NCDPS.

(6) Harassment, bullying, discrimination, or retaliation that would not be permissible in the workplace is not permissible outside of the workplace through the use of social media or any other type of electronic communication.

(7) Employees shall not post anything on the Internet in the name of NCDPS/Community Corrections or in a manner that could reasonably be attributed to NCDPS without prior written authorization from the Director or the Director's designated agent.

(8) Employees should be aware that privacy settings and social media sites are constantly changing, and it should never be assumed that personal information posted on such sites is protected.

(9) Any employee becoming aware of or having knowledge of a posting or of any website or web page in violation of the provision of this policy shall notify his or her supervisor immediately for follow-up action.

Inappropriate postings in violation of the established guidelines or that may include discriminatory remarks, harassment, or threats of violence or similar inappropriate or unlawful conduct will not be tolerated and may be subject to disciplinary action up to and including dismissal. Social media conduct that adversely affects job performance or the performance of other employees or otherwise adversely affects the agency may be subject to disciplinary action up to and including dismissal.

(i) Political Activity

The division follows all applicable state and federal laws and regulations concerning political activities by employees, see DPS Policy Manual.

(1) No state employee can engage in political activities of any manner while on duty or within any period of time during which services are performed for compensation from the state; and employees cannot use the authority of their position, utilize state funds, supplies, equipment, or vehicles for political activities.

(2) Any employee who intends to seek an elective office, either partisan or non-partisan, shall prior to filing for elective office notify their supervisor in writing of such intent. This notification shall include:

a. Employee's name, position and work location;

b. Title of the elective office the employee is seeking, whether it is partisan or non- partisan, the required timeframes (i.e., full-time, part-time, time-limited, etc), and the filing period;

c. The date of the election and any subsequent elections (i.e., primary, general, etc);

d. Any anticipated leave request, (i.e., LWOP, etc.)

(3) Upon receipt the manager shall review the employee's notification to determine the following and forward to the Judicial Division Administrator:

a. If the elective office would create any conflict of interest for the employee and/or the Department;

b. If the elective office would be a full-time, part-time, or time-limited; full-time: approximately thirty or more hours per week; part-time: less than thirty hours per week; time-limited: either full-time or part-time for a specific timeframe, i.e., 2 months, 6 months, etc.

.1724 FOSTERING CHILDREN OF OFFENDERS

Staff are prohibited from fostering children of offenders under active supervision. When entering into fostering relationships, Community Corrections staff shall inform the agent from the Department of Social Services that they are employees of Community Corrections and because of the undue familiarity with offenders policy they are unable to foster children of active offenders. In the event the biological parent becomes an active offender, there should be an exit strategy in place that removes the child from the care of our staff.

.1725 DUTY TO REPORT ABUSE, NEGLECT, DEPENDENCY OR DEATH DUE TO MALTREATMENT

Officers have a duty to report to the Department of Social Services any abuse, neglect, dependency or death due to maltreatment of any juvenile under the supervision or care of an offender under Community Corrections' authority. G.S. 7B-301

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter B Investigations

Section .0100 General Provisions

.0101 PURPOSE

This section sets out the basic policy for conducting pre and post sentence investigations for offenders. The facts gathered during this process provide valuable decision making information about an offender for various entities within the Department of Public Safety.

.0102 ORGANIZATION

Responsibility

Investigation policy is subject to review by the Deputy Director of Community Corrections. Any variation in the policies and procedures specified herein must immediately be reported to the Deputy Director for review and approval. Administrative directives and updates to the offender supervision guidelines will be issued by the office of the Director as required to specify and update this policy.

Duties

A probation officer shall keep informed concerning the conduct and condition of each person under his or her supervision, using all practicable and suitable methods, consistent with the conditions imposed by the controlling authority, to aid and encourage persons on probation to bring about improvement in their conduct and condition. G.S. 15-205

Officers shall keep detailed records of their work. *G.S. 15*-205 Officers will record accurate detailed narratives on all offender contacts as they are made, but no later than the end of the next working day;

In all engagements with offenders, officers will operate in a professional manner and will:

Be prepared, having reviewed the case file;

Know the results of drug screens and treatment status;

Be aware of the offender's goals;

Work to gain the offender's trust;

Show respect;

Maintain eye contact;

Avoid undue familiarity

The principal purposes of supervision are:

To hold offenders accountable for making restitution;

To ensure compliance with the court's judgment;

To effectively rehabilitate offenders by directing them to specialized treatment or education programs; and

To protect the public safety. G.S. 15A-1343.2(b).

Staff

Investigations are performed by probation officers certified by the North Carolina Criminal Justice Education and Training Standards Commission. Officers must communicate effectively using motivational interviewing techniques; must exercise independent judgment as emergency situations arise; must maintain a professional demeanor while interacting with potentially volatile and assaultive offenders; must be able to defend self and others; must pass firearms testing and self-defense course; must maintain a professional relationship with all community partners, offenders and the general public, and must have sufficient writing skills to include typing and use of computer software.

Review

The judicial district manager will review offender investigations to ensure policy is followed based on the standards established by the Deputy Director as approved by the Director of Community Corrections.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter B Investigations

Section .0200 Probation Investigations

.0201 GENERAL PROVISIONS

Probation/Parole Officers will conduct probation investigations only on cases referred by the judiciary, the Secretary of Correction or designee, or the District Attorney in Deferred Prosecution cases. Unless otherwise directed, Probation/Parole Officers will report investigation results in writing. G.S. 15-205

Confidentiality
All probation investigations are confidential and are not public record. The findings of a pre-sentence or pretrial investigation will be available only to the defendant, defense counsel, the District Attorney, and the Court. G.S. 15-207; G.S. 15A-1333

.0202 PRE-SENTENCE INVESTIGATIONS

A pre-sentence investigation provides the Court with information concerning the conduct of the defendant and is used to aid the judge in sentencing. The Court may order a Probation/Parole Officer to make a pre-sentence investigation of any defendant. The Court may order the investigation only after conviction unless the defendant moves for an earlier pre-trial investigation. When the Court orders a pre-sentence investigation, the Probation/Parole Officer will promptly investigate all circumstances relevant to sentencing and submit either a written report or an oral report either on the record or with defense counsel and the District Attorney present. The offender will be afforded the opportunity to challenge or supplement the contents of a pre-sentence report at the sentencing hearing. G.S. 15A-1332 (b); G.S. 15A- 1334

The pre-sentence investigation will consist of those sections of the DCC-113 *Pre-sentence Investigation Report* specifically requested by the Court. When the Court requests a brief, written report with recommendation, Section 1 only may be used. Section 1 contains basic record information and will be completed for all written pre-sentence investigations.

Detailed written information will be provided in narrative form. The report will contain suggested special conditions, if needed, to control and meet the treatment needs of the offender. All information contained in the *Pre-sentence Investigation Report* will be verified unless otherwise indicated.

.0203 PRE-SENTENCE DIAGNOSTIC EVALUATIONS

Upon the order of a District or Superior Court Judge, an offender may be committed to the Diagnostic and Classification section of the Division of Prisons for a maximum period of 90 days for diagnostic evaluation. After having the offender sign a DCC- 28 *Consent for the Release of Confidential Information*, the Probation/Parole Officer will conduct a written field investigation of the offender using the *Pre- Sentence Investigation Report* and will forward this report within 10 working days of the request to:

Director, Pre-Sentence Diagnostic Classification Program North Carolina Department of Public Safety - Prisons
831 West Morgan Street Raleigh, North Carolina 27603

Mailing Address: PO Box 29540
Raleigh, North Carolina 27626

A cover letter noting the sentencing judge, the maximum term, the crime, and any specific questions asked by the Court will accompany the DCC-113 *Pre-Sentence Investigation Report*. If the investigation is delayed until after commitment, the report will be forwarded to the appropriate Prisons institution.

The Probation/Parole Officer will include the following information in the *Pre-Sentence Investigation Report*, in addition to information specifically requested on the form:

(a) **Section 1 - Coversheet.** Probation/Parole Officer's evaluation, comments, and perception of problems the offender is currently experiencing with possible solutions; Probation/Parole Officer's perception of how the crime will affect the offender's present circumstances

(b) **Section II - Family and Social History.** Names, ages, addresses, occupations, prior records, and education levels of family members, and any of the offender's prior record information the Probation/Parole Officer deems pertinent

(c) **Section III - Criminal History.** Comments from the District Attorney and investigating law enforcement officers

(d) **Section IV - Physical/Mental Health.** Significant childhood diseases, surgeries, injuries, hospitalizations, current medications, physician's names, addresses and phone numbers, along with any other information the Probation Officer deems pertinent

(e) **Section V - Substance Abuse.** Psychiatric reports, if available, and any other information the Probation/Parole Officer deems pertinent

(f) **Section VI - Victim Information**. Any additional pertinent information

(g) **Section VII - Financial/Employment/Education/Military**. Detailed previous employment history reflecting contacts with as many previous employers as possible; detailed educational history reflecting comments from as many instructors and administrators as possible

Upon completion of the diagnostic evaluation or the end of the 90-day period, whichever occurs first, the Prisons will release the defendant to the sheriff of the county in which the case is docketed. The Pre-Sentence Diagnostic Classification Program will forward the results of the diagnostic evaluation to the Clerk of Court in that county, including whatever recommendations Prisons believes will be helpful to a proper resolution of the case. G.S. 15A-1332 (c)

.0204 PRETRIAL INVESTIGATIONS

A pretrial investigation follows the same format and has the same requirements as a written pre-sentence investigation, but is only completed upon order of the Court and only after the defendant requests an earlier pre-sentence investigation. A request for pretrial investigation may be addressed only to the judge of the session of court for which the case is calendared or, if the case has not been calendared, to a Resident Superior Court Judge if the case is in the jurisdiction of the Superior Court or to the Chief District Court Judge if the case is in the jurisdiction of the District Court. G.S. 15A-1332 (b)

.0205 DEFERRED PROSECUTION INVESTIGATIONS

The District Attorney's office may refer defendants to the Probation/Parole Officer for investigation prior to granting Deferred Prosecution. The investigation may be submitted orally or in writing, and will contain the following:

a. Background information and criminal record check;

b. Defendant interview and statement;

c. Law enforcement officer interview and statement, including law enforcement information regarding the crime and District Attorney file information;

d. Victim interview, including restitution and insurance information and attitude;

e. Community interviews, including employer or school, family and associates; *and*

f. Financial assessment, including income verification and restitution agreement.

The Probation/Parole Officer will use the appropriate sections of the DCC-113 *Pre-Sentence Investigation Report* form for the Deferred Prosecution investigation report. The Probation/Parole Officer will report the results to the District Attorney.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter B Investigations

Section .0300 Post Release and Parole Investigations

.0301 GENERAL PROVISIONS

Probation/Parole Officers will conduct post release and parole investigations only on cases referred by the Post Release Supervision and Parole Commission or the Secretary of Public Safety or designee. Unless otherwise directed, Probation/Parole Officers will report investigation results in writing.
G.S. 15-205; G.S. 148-53; G.S. 148-57

Confidentiality
All parole investigations are confidential and are not public record. The findings of a pre-parole investigation will be reported only to the Post Release Supervision and Parole. G.S. 15-207

.0302 ASSIGNMENTS

The Chief Probation/Parole Officer will consult the OPUS offender tracking system daily for a cumulative summary of parole investigative assignments and/or related alerts (see *OPUS Manual*).

In the event that a Probation/Parole Officer receives a post release or parole investigation request for an inmate who does not plan to reside in the Probation/Parole Officer's assigned geographic area, or if the request is received in error, the Chief Probation/Parole Officer will forward the request to the appropriate Chief Probation/Parole Officer and notify the Post Release Supervision and Parole Commission.

.0303 CRIME VERSION INVESTIGATIONS

A crime version investigation requires the Probation/Parole Officer to report the comments and recommendations of law enforcement officers, district attorneys, victims, Probation/Parole Officers and/or other individuals, in order to provide the

Post Release Supervision and Parole Commission with as much information as possible regarding the details of what actually happened and why. The Chief Probation/Parole Officer will review the crime version investigation report for completeness and timeliness.

Upon receipt of a crime version request from the Chief Probation/Parole Officer, the investigating Probation/Parole Officer will:

(a)) Investigate the court records in the appropriate Clerk of Court's office using the docket number provided by the Parole Case Analyst;

(b) Contact the arresting and/or investigating law enforcement officer, district attorney, victim or other appropriate sources to obtain the necessary information; and

(c) Prepare and submit to the Parole Case Analyst via the OPUS offender tracking system all information requested (see *OPUS Manual*); The report will address the following elements of the crime:

(1) Date, hour, location, and type of offense;

(2) Name, age, race, gender, and address (if known) of victims of physical or sexual assault; the relation (if any) between victim(s) and offender;

(3) Extent of bodily injuries and medical expenses incurred by victim;

(4) Weapons involved and how they were used;

(5) Alcohol and/or drug consumption by offender, co-defendants and/or victim;

(6) Name and age of co-defendant(s); their role in the offense and the disposition of their case(s);

(7) Quantity and value of property damaged or stolen and the amount of restitution ordered or recommended; property recovered;

(8) Name, quantity and approximate value of any drug(s) seized;

(9) Motive;

(10) Plea bargain, including original charge and circumstances of the plea;

(11) Sources of information;

(12) Any other pertinent crime information or recommendations that could assist the Post Release Supervision and Parole Commission in decisions regarding parole and special conditions

.0304 SEX OFFENDER CRIME VERSION INVESTIGATIONS

Sex Offender crime versions must be entered by the county of conviction on all reportable sex offenses within the first 30 days of probation supervision. (See OPUS manual for entry instructions)

The report will address the following:

(a) Sentence number (BA-001, 01-001, 02-001, etc.), type of offense, docket #, and county of origin;

(b) Date, hour, and location of offense;

(c) Name of victim (if the victim is a juvenile use the victim's initials rather than the full name);

(d) Gender of victim;

(e) Date of birth and/or age of victim at the time of offense;

(f) The relationship between the victim and offender;

(g) Whether there was any type of penetration (vaginal, anal, oral, digital);

(h) Whether force or the threat of serious violence was used;

(i) Weapons involved and how they were used;

(j) Extent of bodily injuries;

(k) Whether the sexual offense(s) were "consensual";

(l) Alcohol and/or drug consumption by offender, co-defendant(s), and/or victim;

(m) Name and age of co-defendant(s); their role in the offense and disposition of their case(s);

(n) Motive;

(o) Plea bargain, including original charge and stipulations of the plea (include whether the offender pled to 'penetration');

(p) Sources of information; and

(q) Whether or not a determination concerning satellite based monitoring was made and if so, what the determination was, as well as the Findings (Predator, Recidivist, Aggravated, Offense Involving the Physical, Mental, or Sexual Abuse of a Minor). If the court failed to make a determination, state that "SBM was undetermined".

The crime version should only provide the facts of the case. Recommendations concerning release are not necessary. The victim's address and names of minor victims are not to be included in the crime version.

.0305 RESIDENCE AND EMPLOYMENT INVESTIGATIONS

A residence and employment investigation requires the Probation/Parole Officer to report details regarding the residence and employment plans of the inmate, in order to provide the Post Release Supervision and Parole Commission with as much information as possible to assist in their decision-making regarding parole. The Probation/Parole Officer will make an effort to develop residence and employment plans in cases where none exist. The Chief Probation/Parole Officer will review the residence and employment investigation report for completeness and timeliness.

Upon receipt of a request from the Chief Probation/Parole Officer, the investigating Probation/Parole Officer will:

(a) Visit at home the individual(s) specified as provider(s) of the residence, noting the following:

1. The environment of the home (Is it in a delinquency area? Are there factors within the community that would inhibit the offender's successful re-entry?);

2. The attitude, cooperation and reputation of the individual(s) offering the residence; and

3. An overall impression of the residence and the provider(s).

4. The DCC-53 Residence Plan Investigation form may be used to help gather pertinent information.

(b) Visit at the work site the individual(s) specified as provider(s) of employment, noting the following:

1. The environment of the work site (Are there inherent factors that would inhibit the offender's successful job performance?);

2. The reliability and established reputation of the employer;

3. The employer's attitude toward the offender's parole supervision; and

4. An overall impression of the proposed job and the employer.

(c) After acceptance of a residence plan, complete a follow-up with the family member and/or friends at ninety and at thirty days prior to release, to ensure that the residence plan remains stable.

(d) Contact the case manager for alternate plans, in the event that the proposed residence and/or employment plans fail to materialize; Develop and document residence and/or employment plans for inmates who have no plans or whose plans have deteriorated.

Update OPUS (see Administrative Memo 01.04.06-09), including supporting reasons when a residence and/or employment plan is not appropriate.

.0306 DIRECT RELEASE REVIEW (DRR) INVESTIGATIONS

A Direct Release Review (DRR) Investigation requires a probation/parole officer to determine if an offender being released under Post Release or parole supervision is eligible for direct release (see Chapter E .0302 Release Eligibility Requirements) and to complete the direct release process according to the release procedures in Chapter E .0300.

Upon receipt of a Direct Release Review (DRR)Investigation, the chief probation/parole officer or designee will:

(a) Assign the DRR investigation to the designated release officer;

(b) Update the DRR investigation to "NE – Not Eligible for Direct Release" if it is determined by the designated release officer that the offender does not meet the criteria for direct release.

Upon assignment of a Direct Release Review (DRR) Investigation, within 5 days, the release officer will:

(a) Determine if the case meets the direct release criteria (see Chapter E .0302 Release Eligibility Requirements);

(b) If the case is not eligible for direct release, notify the chief probation/parole officer, and follow the appropriate release procedures in Chapter E .0300;

(c) If the case is direct release eligible, follow the appropriate procedures for direct release (see Chapter E .0304 Release Procedure)

.0307 DART/BLACK MOUNTAIN ELIGIBLE (DBE) INVESTIGATIONS

A DART/Black Mountain Eligible (DBE) Investigation requires a probation/parole officer to meet with an offender serving an active DWI sentence in the SMCP that is eligible for a DWI parole to determine their willingness to participate in a 90 day treatment program at DART or Black Mountain upon their release.

Upon receipt of a DART/Black Mountain Eligible (DBE) Investigation, the chief

probation/parole officer or designee will assign the DBE Investigation to the designated release officer.

Upon assignment of a DART/Black Mountain Eligible (DBE) Investigation, within 5 days, the release officer will complete the investigation according to the procedures in Chapter E .0307 DWI Parole From SMCP.

APPROVED.

Anne L. Precythe 08/01/2016

Director of Community Corrections Date

Chapter B Investigations

Section .0400 Clemency Investigations

.0401 GENERAL PROVISIONS

Probation/Parole Officers will conduct clemency investigations only on cases referred by the Post Release Supervision and Parole Commission, the Governor's Clemency Administration or the Secretary of Public Safety or designee. Unless otherwise directed, Probation/Parole Officers will report investigation results in writing.

G.S. 143B-720

Confidentiality

All clemency investigations are confidential and are not public record. The findings of a commutation, pardon, or death row investigation will be reported only to the Post Release Supervision and Parole Commission, the Governor's Clemency Administration or the Secretary of Public Safety or designee.

G.S. 15-207

.0402 COMMUTATION INVESTIGATIONS

A commutation investigation requires the Probation/Parole Officer to report details regarding the crime and the inmate's proposed residence and employment plans, in order to provide the Post Release Supervision and Parole Commission with as much information as possible to assist in the Governor's consideration of a request for commutation and immediate parole eligibility. The Chief Probation/Parole Officer will review the commutation investigation report for completeness and timeliness.
G.S. 147-21,23,24,25

Upon receipt of a commutation investigation request from the Chief Probation/Parole Officer, the investigating Probation/Parole Officer will:

(a) Conduct a crime version investigation;

(b) Conduct a residence and employment investigation;

(c) Contact the victim for an opinion regarding the possible commutation;

(d) Contact the victim's spouse, children, and parents for opinions regarding the possible commutation; *and*

(e) Contact at least 3 individuals from the community for opinions regarding the possible commutation; these individuals must not be law enforcement, court, or other criminal justice personnel.

The commutation investigation report will include all findings and will be submitted in narrative form to the Post Release Supervision and Parole Commission for consideration by the Governor within 30 calendar days following the original request for an investigation.

.0403 PARDON INVESTIGATIONS

A pardon investigation requires the Probation/Parole Officer to report details regarding the crime and the inmate's proposed residence and employment plans, in order to provide the Governor with as much information as possible to assist in the consideration of a request for pardon. The Chief Probation/Parole Officer will review the pardon investigation report for completeness and timeliness.

G.S. 147-21,23,24,25

Upon receipt of a pardon investigation request from the Chief Probation/Parole Officer, the investigating Probation/Parole Officer will:

(a) Conduct a crime version investigation;

(b) Conduct a residence and employment investigation;

(c) Contact the victim for an opinion regarding the possible pardon;

(d) Contact the victim's spouse, children, and parents for opinions regarding

the possible pardon; *and*

(e) Contact at least 3 individuals from the community for opinions regarding the possible pardon; these individuals must not be law enforcement, court, or other criminal justice personnel.

The pardon investigation report will include all findings and will be submitted in narrative form to the Post Release Supervision and Parole Commission for consideration by the Governor within 30 calendar days following the original request for an investigation.

.0404 DEATH ROW INVESTIGATIONS

Upon request by the Parole Case Analyst, the Judicial District Manager will conduct a death row investigation and prepare a report for the Governor's use in consideration of commutation or execution for a death row inmate who has exhausted all legal appeals. Death row investigation reports must be thorough, accurate, factual and objective. The Division Administrator will review the death row investigation report for completeness, objectivity and accuracy.

The Judicial District Manager will not allow personal emotion or opinion to be reflected in the death row investigation report. Any recommendation by the investigating Judicial District Manager that the death penalty is not warranted in a particular case will be made as an appendix to the death row investigation report and will be supported with justification.

Upon receipt of a request for a death row investigation, the investigating Judicial District Manager will:

(a) Obtain an official crime version from law enforcement, the District Attorney's office, and/or other appropriate sources. If applicable and available, obtain a copy of the inmate's confession. If available without cost, obtain a trial transcript and use to summarize the state and defense cases.

(b) Conduct a social and economic background investigation by interviewing family members, employers, teachers, friends and co-workers for information regarding the inmate's previous conduct, reliability, work performance and respect for authority. Include in the report:

(1) Childhood training and parental supervision;
(2) Education;
(3) Work habits, job performance, employment record;
(4) Associates;
(5) Previous criminal record;
(6) Substance abuse history;
(7) Military record, if applicable; and
(8) Marital status.

In the event that common sources of social and economic information are not readily available, contact the Post Release Supervision and Parole Commission to determine if the inmate's records indicate alternative sources. Interview the inmate if necessary to obtain this information.

(c) Obtain medical and psychiatric history information. The results of any pretrial psychiatric examinations may be available through the courts.

(d) Gather and include pertinent newspaper clipping or other media reports.

(e) Tactfully and discreetly interview the victim(s) of the crime. In murder cases, interview members of the victim's family if possible.

(f) Include any previously undisclosed information that could have had a bearing on the inmate's degree of guilt.

Report all findings of the death row investigation in narrative form for the Governor's consideration.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter C Offender Supervision

Section .0100 General Statement on Officer Expectations

.0101 ORGANIZATION

Responsibility

Offender supervision policy is subject to review by the Deputy Director of Community Corrections. Any variation in the policies and procedures specified herein must immediately be reported to the Deputy Director for review and approval. Administrative directives and updates to the offender supervision guidelines will be issued by the office of the Director as required to specify and update this policy.

Duties

(a) A probation officer shall keep informed concerning the conduct and condition of each person under his or her supervision, using all practicable and suitable methods, consistent with the conditions imposed by the controlling authority, to aid and encourage persons on probation to bring about improvement in their conduct and condition. *G.S. 15-205*

(b) Officers shall keep detailed records of their work. *G.S. 15-205* Officers will record accurate detailed narratives on all offender contacts as they are made, but no later than the end of the next working day;

(c) In all engagements with offenders, officers will operate in a professional manner and will:

(1) Be prepared, having reviewed the case file;

(2) Know the results of drug screens and treatment status;

(3) Be aware of the offender's goals;

(4) Work to gain the offender's trust;

(5) Show respect;

(6) Maintain eye contact;

(7) Avoid undue familiarity

(d) The principal purposes of supervision are:

(1) To hold offenders accountable for making restitution;

(2) To ensure compliance with the court's judgment;

(3) To effectively rehabilitate offenders by directing them to specialized treatment or education programs; and

(4) To protect the public safety. *G.S. 15A-1343.2(b).*

Staff

Offender supervision is performed by probation officers certified by the North Carolina Criminal Justice Education and Training Standards Commission. Officers must communicate effectively using motivational interviewing techniques; must exercise independent judgment as emergency situations arise; must maintain a professional demeanor while interacting with potentially volatile and assaultive offenders; must be able to defend self and others; must pass firearms testing and self defense course; must maintain a professional relationship with all community partners, offenders and the general public, and must have sufficient communication and writing skills to include typing and use of computer software.

Review

The judicial district manager will review offender supervision operations to ensure policy is followed based on the standards established by the Deputy Director as approved by the Director of Community Corrections.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter C Offender Supervision

Section .0200 Definitions

.0201 PURPOSE

This section sets out definitions of terms and concepts that appear in multiple sections of Chapter C, *Offender Supervision*.

.0202 GENERAL DEFINITIONS

AOC. The Administrative Office of the Courts.

Case planning. The cornerstone of offender supervision – a continuous process of monitoring an offender's compliance with conditions and identifying, prioritizing, and matching offender needs to available resources. The Division uses a web-based Case Planning System to aid in the development and review of an offender's case plan. The system generates an offender-specific case plan based on the offender's probation judgment, the risk-needs assessment, and the supervising officer's observations and impressions. The case plan, which is styled as a contract between the officer and the offender, sets out standard and individual action steps and goals for the offender in a range of major life areas. A detailed description of the Case Planning System is set out in the Division's *Case Planning Guide.*

Cognitive behavioral intervention. Cognitive based intervention (CBI) programs are those that teach offenders new ways of thinking that lead to changes in their behavior. CBI programs help offenders eliminate antisocial beliefs that lead to criminal behavior by teaching skills such as problem solving, social skills, anger management, and empathy training.

Offenders may be ordered to complete CBI programs by order of the court or Commission, pursuant to an officer's delegated authority under *G.S. 15A-1343.2(e)(7) and(f)(4)* or intermediate condition of probation number 4 for offenses with an offense date on or after 12/01/09.

Collateral contacts. Information gathering by an officer from sources other than the offender, such as family members, employers, and associates.

Commission. The Post-Release Supervision and Parole Commission.

Community Punishment. A sentence in a criminal case that places an offender on unsupervised or supervised probation which does not include an active punishment, assignment to a Drug Treatment Court, or Special Probation as defined in *G. S. 15A-1351(a)*. It may include any one or more of the conditions set forth in G.S. 15A-1343(a1).

Controlling authority. The entity that placed the offender under supervision: the court, the Post-Release Supervision and Parole Commission, or other jurisdiction.

Coordinator. A judicial services coordinator (JSC).

CJLEADS - Criminal Justice Law Enforcement Automated Data Services - integrates and provide up-to-date criminal information from a variety of law enforcement agencies in a centralized location via a secure connection.

Criminogenic needs. Factors in an offender's life that lead him or her to commit crime. The Division considers the "big four" criminogenic needs to be antisocial values, antisocial personality, criminal peers, and dysfunctional families. The Division considers the "lesser two" criminogenic needs to be low self- control and substance abuse.

Delegated Authority. The authority of an officer to impose specific additional conditions to an offender when the offender has failed to comply with one or more conditions of probation imposed by the court or the offender is assessed as High Risk (OTI-R score 50 or higher). *G.S. 15A – 1343.2 (e) (f).*

Department, or DPS. The Department of Public Safety.

Division. Adult Correction and Juvenile Justice of the Department of Public Safety.

Domestic violence offenders. Offenders identified by the court on a judgment suspending sentence as being responsible for acts of domestic violence, as that term is defined in *G.S. 50B-1.* Generally, crimes of domestic violence involve assaults or threats where the offender and victim have or had a personal relationship.

Intermediate Punishment. A sentence in a criminal case that places an offender on supervised probation. It may include assignment to Drug Treatment Court, Special Probation as defined in G. S. 15A-1351(a), and one or more of the conditions as set forth in G.S. 15A-1343(a1).

Interstate Compact, ICAOS. The Interstate Compact for Adult Offender Supervision. *See Chapter F, Interstate Compact*

Month. 30 day timeframe.

Offender Management Model. A strategy of offender supervision: managing offenders' risks and meeting offenders' needs through collaboration and cooperation among key partners in the criminal justice system. An offender management team (OMT) consisting of a probation officer and community resource partners such as TASC, the Department of Social Services, the treatment and service providers, work together under the terms of local memoranda of understanding to enrich offender supervision. *G.S. 15-206.*

By statute, it is the "duty of every city, county, or State official or department to render all assistance and cooperation within his or its fundamental power which may further the objects of [probation supervision]. The Division of Adult Correction, the Secretary of Public Safety, and the probation officers are authorized to seek the cooperation of such officials and departments, and especially of the county superintendents of social services and of the Department of Health and Human Services." G.S. 15-206.

Recidivism Reduction Services (RRS). Competitive bid initiative of the Justice Reinvestment Act administered through the Department of Public Safety, Community Corrections, to award contracts for service providers for treatment and evidence based programming to address (L1-L3) offenders' criminogenic needs. (Previously known as TECS)

Residential programs. A program in which the offender is required to reside in a facility for a specified period and to participate in activities such as counseling, treatment, social skills training, or employment training. Effective December 1, 2011 through the Justice Reinvestment Act residential programs are no longer considered an intermediate sanction but may be ordered as a condition or special conditions of supervision. Examples of residential programs are DART, SATC Black Mountain, (Chapter H-Programs)

Risk-Needs Assessment or RNA. The collective battery of assessment tools used to evaluate an offender's risk level and criminogenic needs, including:

Offender Self Report

Offender Traits Inventory Revised (OTI-R)

Officer Interview and Impressions

Static-99

Juvenile record

Security Risk Group. Defined by G.S. 14-50.16(b) as any ongoing organization, association, or group of three or more persons, whether formal or informal, that:

(a) Has as one of its primary activities the commission of one or more felony offenses, or delinquent acts that would be felonies if committed by an adult;

(b) Has three or more members individually or collectively engaged in, or who have engaged in, criminal street gang activity; and

(c) May have a common name, common identifying sign or symbol.

Sex offender. An offender under supervision for a crime identified by the court as

an offense requiring registration under Article 27A of Chapter 14 of the General Statutes, the Sex Offender and Public Protection Registry. The court will indicate its finding that an offender has been convicted of a reportable offense. Only offenders currently under supervision for a reportable conviction will be supervised by the Division as sex offenders.

Offenders required to register based on an earlier crime for which they are no longer under supervision will not be supervised as sex offenders.

Offenders subject to the special conditions of probation under *G.S. 15A-1343(b2)* for persons convicted of non-reportable offenses involving physical, mental, or sexual abuse of a minor will not be supervised as sex offenders.

Treatment Accountability for Safer Communities (TASC). TASC is an intervention program for adult offenders with substance abuse and/or mental health problems. TASC programs offer screening and assessment; referral and placement; care planning, coordination, and management, and progress reporting to the criminal justice system.

.0203 SUPERVISION CONTACTS

There are six types of offender supervision contacts: curfew contacts, home contact, field contact, office contact, offender management contacts, and offender accountability reports. When this policy calls for a particular type of contact, the officer must perform in such a manner that includes all the essential elements set out in the definitions below.

(a) **Curfew Contact (CC).** An offender interaction used to monitor and control an offender's activities and behavior by requiring the offender to remain in one or more specified places for a specified period each day. Curfew contacts are required for offenders not being electronically monitored. Curfew contacts will be completed by the supervising officer and must include the following essential elements:

(1) The officer must attempt to interact with the offender in person at the offender's residence during the curfew period;

(2) The officer must note any known criminal associates present;

(3) The officer must attempt to interact with any family members or

other residents during the visit;

(4) The officer must document the contact in a detailed narrative in OPUS.

This policy does not override a court's authority to specify how the curfew is to be monitored.

(b) **Home contact (HC).** An offender interaction conducted to assess an offender's living conditions, to monitor an offender's compliance with conditions of supervision, to address offender needs and to encourage support and involvement from the offender's household members.

(1) Every HC must verify that the offender lives at his or her stated residence;

(2) An HC may include a search (either by consent, or pursuant to a warrantless search condition if ordered). If the offender shares the residence with others, the search should be limited to areas within the offender's exclusive control and area of common authority to which the offender has routine access *See §C.0800 Searches.*

(3) An initial HC must also include the following essential elements:

a. Familiarize household members with the rules and expectations of probation supervision;

b. Document the names and relationships of those household members willing to provide them;

c. Obtain the offender's consent to complete a walk-through of the residence. The walk-through may be conducted pursuant to the warrantless search regular condition of probation. An officer should not conduct a walk-through if he feels the residence is unsafe;

d. Note entrances, exits, common areas, and private areas for future searches.

(4) Upon receiving notice of the offender's address change conduct a home contact within 30 days.

(5) The officer must complete a narrative of the HC in OPUS or the Case Planning System;

(c) **Field Contact (FC)**. A face to face offender interaction at a place other than the residence or the office. An interaction conducted to assess and monitor an offender's compliance with conditions of supervision and/or to address offender needs.

(d) **Office Contact (OC)**. A face to face contact by any employee with the offender at the office that does not include all of the mandatory elements of an Offender Management Contact (OMC).

(e) **Offender Management Contact (OMC).** The primary interaction between an officer and an offender, through which an officer monitors an offender's compliance with conditions of supervision and addresses offender needs. An OMC must satisfy the following requirements:

(1) An OMC must be a face-to-face meeting between an officer and offender;

(2) An OMC must take place in the DCC office, at the offender's residence or in the field;

(3) An OMC must include a discussion between the officer and offender on each of the following essential elements:

a. The offender's residence;

b. The offender's employment and/or enrollment in educational programming;

c. The status of any pending criminal charges;

d. The status of any monetary obligations;

e. The status of any special probation conditions;

f. Identified red flags (such as substance abuse, criminogenic needs, changes in behavior, family problems or 50-B orders);

g. Noncompliance with conditions;

h. Case plan agreements.

(4) In conjunction with an OMC, an officer must independently verify each of the elements listed above. Verification can occur before, during, or after the OMC.

(5) The officer must complete the OMC in the Case Planning System, including a description of how each of the essential elements was verified.

(f) **Offender Accountability Report Contact.** A means of monitoring low-risk offenders' compliance with conditions of supervision by means other than face-to-face officer-offender interaction.

(1) Offender accountability reports may be submitted by mail, through the internet, or hand- delivered to the supervising officer.

(2) In each accountability report, the offender will provide the following information:

a. A physical and mailing address;

b. Home and mobile telephone numbers;

c. Employment and/or educational status;

d. Employer address and phone number;

e. School(s) attended during the reporting period;

f. Sources of income;

g. Status of compliance with conditions of supervision, including any monetary obligations;

h. Any contact with law enforcement.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter C Offender Supervision

Section .0300 Terms and Conditions of Probation

.0301 PURPOSE

This section sets out policies, rules, and standards on the various supervision conditions to which offenders are subject. All conditions are outlined within. Downloadable chart of all conditions.

.0302 REGULAR CONDITIONS OF PROBATION

Regular conditions of probation apply to each defendant placed on supervised probation unless the presiding judge specifically exempts the defendant from one or more of the conditions in open court and in the judgment of the court. It is not necessary for the presiding judge to state each regular condition of probation in open court, but the conditions must be set forth in the judgment. *G.S. 15A- 1343(b)*. The regular conditions of probation are in every circumstance valid. *G.S. 15A-1342(g).*

(a) **Commit no criminal offense in any jurisdiction.** *G.S. 15A-1343(b)(1)*. Officers should consult the district attorney before alleging a probation violation based on a pending criminal charge that has not yet resulted in a conviction, as described in *Chapter D Noncompliance.*

The bare fact that an offender has a new criminal charge pending does not constitute a violation of this condition. The offender must have been convicted of the new offense, State v. Guffey, 253 N.C. 43 (1960), or the court holding the violation hearing must make an independent finding that the offender violated probation by committing a new criminal act, State v. Monroe, 83 N.C. App. 143 (1986). Probation should not be revoked based on a criminal charge of which the probationer has been acquitted. State v. Hardin, 183 N.C. 815 (1922). By statute, probation may not be revoked solely for conviction of a Class 3 misdemeanor. G.S. 15A-1344(d).

(b) **Remain within the jurisdiction of the court unless granted written permission to leave by the court or a probation officer.** *G.S. 15A-1343(b)(2)*. The jurisdiction of the court includes the entire state of

North Carolina. Donoghue v. N.C. Dep't of Corr., 166 N.C. App. 612 (2004). Unless the court orders otherwise, officers may grant offenders permission to leave the jurisdiction as described in Chapter *C .0617 Out of State Travel.*

(c) Report as directed by the court or his probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit him at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of any change in address or employment.

(d) Not abscond by willfully avoiding supervision or by willfully making the defendant's whereabouts unknown to the supervising probation officer. G.S. 15A – 1343 (b) (3a).

(e) Satisfy child support and other family obligations as required by the court. If the courts require the payment of child support, the amount of the payments shall be determined in G.S. 50-13.4(c).

(f) Possess no firearm, explosive device other deadly weapon listed in G.S. 14-269 without written permission of the court.

(g) Pay a supervision fee as specified in subsection (c1).

(h) Remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training shall that will equip him for suitable employment. A defendant pursuing a course of study or of vocational training shall abide by all of the rules of the institution providing the education or training, and the probation officer shall forward a copy of the probation judgment to that institution and request to be notified of any violations of institutional rules by the defendant.

(i) Notify the probation officer if offender fails to obtain or retain satisfactory employment.

(j) Pay any costs and/or fines ordered by the court, and make restitution or reparation as provided in subsection (d).

(k) Pay the State of North Carolina for the costs of appointed counsel, public defender, or appellate defender to represent him in the case(s) for which he was placed on probation.

(l) Attend and complete an abuser treatment program if (i) the court finds the defendant is responsible for acts of domestic violence and (ii) there is a program, approved by the Domestic Violence Commission, reasonably available to the defendant, unless the court finds that such would not be in the best interest of justice.

(m) Submit at reasonable times to warrantless searches by a probation officer of the probationer's person and of the probationer's vehicle and premises while the probationer is present, for purposes directly related to the probation supervision, but the probationer may not be required to submit to any other search that would otherwise by unlawful. *See Chapter C .0800, Searches*.

(n) Submit to warrantless searches by a law enforcement officer of the probationer's person and of the probationer's vehicle, upon a reasonable suspicion that the probationer is engaged in criminal activity or is in possession of a firearm, explosive device, or other deadly weapon listed in G.S. 14-269 without written permission of the court. *See Chapter C .0800, Searches*.

(o) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for him or her by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors, or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept or used.

(p) Supply a breath, urine or blood specimen for analysis of the possible presence of prohibited drugs or alcohol when instructed by the defendant's probation officer for purposes directly related to the probation supervision. If the results of the analysis are positive, the probationer may be required to reimburse the Division of Adult Correction of the Department of Public Safety for the actual costs of drug or alcohol screening and testing.

(q) Waive all rights relating to extradition proceedings if taken into custody outside of this State for failing to comply with the conditions imposed by the court upon a felony conviction. (**effective for offenses committed on or after**

12/01/16)

(r) Submit to the taking of digitized photographs, including photographs of the offender's face, scars, marks, and tattoos, to be included in the probationer's records. (**effective for offenses committed on or after 12/01/16**)

.0303A INTERMEDIATE SANCTIONS OF PROBATION

(Effective for offenses committed prior to December 1, 2011)

Intermediate punishment is a sentence in a criminal case that places an offender on supervised probation and includes at least one of the six conditions of probation described below. An offender generally may only be made subject to intermediate conditions of probation if he or she falls within a cell on the misdemeanor (*G.S. 15A-1340.23*) or felony (*G.S. 15A-1340.17(c)*) sentencing chart that includes an "I" among the acceptable dispositions. *G.S. 15A-1340.11(6)*. There is an exception to this rule for certain domestic violence cases: if the court determines that a defendant and victim have a personal relationship, it may order house arrest with electronic monitoring under *G.S. 15A-1343(b1)(3c)* in a community punishment case. *G.S. 15A-1382.1*.

Upon a finding that an offender sentenced to community punishment has violated one or more conditions of probation, the court may add intermediate sanctions. *G.S. 15A-1344(a)*

The six intermediate conditions of probation are listed in order from most to least controlling. An intermediate-punished offender need not be subject to an intermediate condition during the entirety of his or her period of probation. Officers should know the Division's recommended supervision period for each intermediate sanction and should be prepared to express that recommendation to the court when an intermediate sanction is being considered.

(a) **Special probation** (split sentence). A court may sentence an offender eligible for an intermediate punishment or an offender convicted of impaired driving (DWI) to a period of confinement followed by a term of probation. *G.S. 15A-1351(a)* The court may also order special probation in response to a violation of probation. *G.S. 15A-1344(e)*

(1) For cases sentenced under Structured Sentencing, the period of special probation confinement may not exceed one-fourth of the

maximum sentence of imprisonment *imposed* for the offense.

(2) For DWI cases, the period of special probation confinement may not exceed one-fourth the statutory maximum penalty *allowed by law* for the offender's particular level of DWI punishment.

For example, a person convicted of a Level One DWI, which has a statutory maximum penalty of 2 years, may be required to submit to up to 6 months of special probation confinement. A person convicted of a Level Three DWI, with its 6-month maximum penalty, may only be required to submit to up to 1.5 months of special probation confinement.

(3) The court may order that periods of special probation confinement be served continuously or non-continuously.

a. Continuous periods of incarceration may be served in either prison or a local jail.

DWI cases placed on probation on or after January 1, 2015, the period of incarceration can only be served in a local jail.

b. Non-continuous periods of incarceration must be served in a local facility. In cases where the court delegates to an officer the responsibility of scheduling the offender's active time, the Division takes the position that the active time should be completed as soon as possible within the parameters set out in the judgment, taking offender's employment schedule into consideration.

In non-DWI cases, periods of imprisonment pursuant to special probation must be completed within two years of the offender's conviction. G.S. 15A-1351(a).

(b) **House arrest with electronic monitoring or electronic house arrest (EHA).** Probation in which the offender is required to remain at his or her residence. The offender must wear a device which permits the Division to monitor the offender's compliance with the condition.

(1) The court may authorize the offender to leave his or her residence for employment, counseling, a course of study, vocational training, or other specific purposes.

(2) A probation officer may authorize offenders to leave their residence for specific purposes not authorized by the court upon approval of the chief probation/parole officer. *G.S. 15A- 1340.11(4a)* This leave must be earned by exhibiting compliance with the rules and regulations of the program and overall compliant behavior. This can be incentive based to encourage compliance through the duration of the program. Such leave will be considered with public safety in mind.

(3) Offenders subject to EHA will abide by the following rules:

a. Pay the $90.00 fee and a daily fee required under *G.S. 15A-1343(c2)* unless the court exempts the offender upon the offender's motion for good cause;

b. Remain at his or her residence. If the offender must leave due to an emergency, he or she will first try to get permission from the supervising officer. The offender will furnish documentation to verify the purpose of any emergency departure;

c. Agree to wear electronic technology during the entire period of house arrest;

d. Agree not to move, disconnect, or remove the monitoring device;

e. Maintain basic landline telephone service if there are technical or geographic limitations that result in poor cellular coverage. The offender may not use an answering machine or have additional services on the line and may not use the line for internet service during the monitoring period; If all measures have been exhausted, by the offender, and a landline is not able to be installed, the probation officer should use the chain of command and their CPPO will contact Special Operations for authorization.

f. Agree to cooperate with officers other than the supervising officer who might respond to indications of noncompliance.

g. Agree to pay the State of North Carolina for any damage to the equipment.

(4) The recommended supervision period for offenders ordered to EHA is no more than 120 days.

(c) **Residential programs.** A program in which the offender, as a condition of probation, is required to reside in a facility for a specified period and to participate in activities such as counseling, treatment, social skills training, or employment training.

(1) Examples of residential programs include:

a. Triangle Residential Options for Substance Abusers (TROSA), Durham.

b. Drug Alcohol Recovery Treatment (DART)–Cherry, Goldsboro. See *Chapter H .0300, DART/Black Mountain Program*.

c. Black Mountain Residential Substance Abuse Treatment Center for Women, Black Mountain. Chapter H .0300, DART/Black Mountain Program

d. Delancey Street Foundation, Greensboro.

e. FIRST at Blue Ridge, Inc., Ridgecrest.

f. Summit House, multiple locations.

g. Oxford House, multiple locations.

(2) A list of additional programs and detailed program descriptions can be found in the North Carolina Sentencing and Policy Advisory

Commission's annual Compendium of Community Corrections Programs in North Carolina, available at http://www.nccourts.org

(3) The recommended supervision period for offenders in a residential program varies depending on the program.

(d) **Drug treatment court (DTC)**. A program requiring offenders to comply with guidelines adopted by the Administrative Office of the Courts under Article 62 of Chapter 7A of the General Statutes, available at Drug Treatment Court Guidelines . DTC participants can be sentenced offenders or, under *G.S. 15A-1341(a2)(a5)*, participants in a deferred prosecution or conditional discharge program. Officers supervising offenders ordered to DTC will work as part of a core court team that includes a judge, a prosecutor, a defense lawyer, a TASC coordinator, and treatment representatives. The recommended DTC supervision period is 12–24 months.

(e) **Day-reporting centers.** Day-reporting centers (DRC) are facilities to which offenders are required to report on a daily or other regular basis at specified times for a specified length of time to participate in activities such as counseling, treatment, social skills training, or employment training. Officers supervising offenders assigned to a DRC will lead the offender's DRC management team (OMT), with duties to include helping orient newly- assigned offenders and participating in monthly OMT staffing sessions.

(f) **Intensive supervision.** Probation that requires the offender to submit to rules adopted by the Division for intensive supervision, including multiple contacts by a probation officer per week, a curfew, and requires that the offender remain gainfully employed or faithfully pursue a course of study or vocational training that will equip the offender for suitable employment. *G.S. 15A-1340.11(5)*. (**Repealed for offenses committed on or after December 1, 2011**)

(1) Offenders subject to intensive supervision will adhere to rules, established by the Division under the authority of *G.S. 15A-1340.11(5)* and *G.S. 15A-1343(b1)(3b)*:

a. Submit at reasonable times to warrantless searches by a probation officer of the defendant, and of the defendant's vehicle and the premises while the defendant is present.

b. Not use, possess or control any illegal drug or controlled substance unless it has been prescribed for the defendant by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any illegal drugs or controlled substances; and not knowingly be present at or frequent any place where illegal drugs or controlled substances are sold, kept or used.

c. Supply a breath, urine and/or blood specimen for analysis of the possible presence of a prohibited drug or alcohol, when instructed by the probation officer.

d. Complete not less than a specified number of hours of community service or reparation as determined by the probation officer, and under the direction of the judicial services coordinator and pay the fee prescribed by *G.S 143B-708* within specified days of the judgment.

e. Participate in any evaluation, counseling, treatment or education program as directed by the probation officer, faithfully keep all scheduled appointments, and abide by all rules, regulations and direction of each program.

f. Not be away from the defendant's place of residence between the specified times unless authorized in writing by the probation officer.

g. Not leave the defendant's county of residence without prior approval of the probation officer.

(2) The recommended period of intensive supervision is 4–6 months.

.0303B OFFENDERS SUBJECT TO INTERMEDIATE PUNISHMENT

(Effective for offenses on or after December 1, 2011; replaces intermediate sanctions)

(a) **Special probation** (split sentence). A court may sentence an offender eligible for an intermediate punishment or an offender convicted of impaired driving (DWI) to a period of confinement followed by a term of probation. *G.S. 15A-1351(a)* The court may also order special probation in response to a violation of probation. *G.S. 15A-1344(e)*

(1) For cases sentenced under Structured Sentencing, the period of special probation confinement may not exceed one-fourth of the maximum sentence of imprisonment *imposed* for the offense.

(2) For DWI cases, the period of special probation confinement may not exceed one-fourth the statutory maximum penalty *allowed by law* for the offender's particular level of DWI punishment.

For example, a person convicted of a Level One DWI, which has a statutory maximum penalty of 2 years, may be required to submit to up to 6 months of special probation confinement. A person convicted of a Level Three DWI, with its 6-month maximum penalty, may only be required to submit to up to 1.5 months of special probation confinement.

(3) The court may order that periods of special probation confinement be served continuously or non-continuously.

a. Continuous periods of incarceration may be served in either prison or a local jail.

DWI cases placed on probation on or after January 1, 2015, the period of incarceration can only be served in a local jail.

b. Non-continuous periods of incarceration must be served in a local facility. In cases where the court delegates to an officer the responsibility of scheduling the offender's active time, the Division takes the position that the active time should be completed as soon as possible within the parameters set out in the judgment, taking offender's employment schedule into consideration.

In non-DWI cases, periods of imprisonment pursuant to special probation must be completed within two years of the offender's conviction. G.S. 15A-1351(a).

(b) **Drug Treatment Court**, if applicable by county. **Drug treatment court (DTC)**. A program requiring offenders to comply with guidelines adopted by the Administrative Office of the Courts under Article 62 of Chapter 7A of the General Statutes, available at Drug Treatment Court Guidelines . DTC participants can be sentenced offenders or, under *G.S. 15A- 1341(a2)(a5)*, participants in a deferred prosecution or conditional discharge program. Officers supervising offenders ordered to DTC will work as part of a core court team that includes a judge, a prosecutor, a defense lawyer, a TASC coordinator, and treatment representatives. The recommended DTC supervision period is 12–24 months.

.0304A OFFENDERS SUBJECT TO INTERMEDIATE PUNISHMENT

(Effective for offenses committed on or after December 1, 2009)

Offenders on probation for an offense that occurred on or after December 1, 2009, who are subject to intermediate punishment must abide by the following conditions unless the court specifically exempt the defendant from one or more of them in its judgment or order. It is not necessary for the judge to state each of these conditions in open court, but the conditions must be set forth in the court's judgment or order. *G.S. 15A-1343(b4)*.

(a) If required in the discretion of the supervising officer, perform community service and pay the community service fee;
(b) Not use, possess, or control alcohol;
(c) Remain within the county of residence unless granted written permission to leave by the court or the supervising officer;
(d) Participate in any evaluation, counseling, treatment, or educational program as directed by the probation officer, keeping all appointments and abiding by the rules, regulations, and direction of each program.

.0304B COMMUNITY AND INTERMEDIATE CONDITIONS

(effective for offenses committed on or after December 1, 2011)

In addition to any conditions a court may be authorized to impose pursuant to G.S. 15A-1343(b1), the court may include any one or more of the following conditions as

part of a community or intermediate punishment:

(a) House Arrest with electronic monitoring.

(b) Perform Community Service.

(c) Submission to a period or periods of confinement in a local confinement facility for a total of no more than six days per month during any three separate months during the period of probation. The six days per month confinement provided for in this subdivision may only be imposed as two- day or three-day consecutive periods.

(d) Substance abuse assessment, monitoring, or treatment.

(e) Abstain from alcohol consumption and submit to continuous alcohol monitoring when alcohol dependency or chronic abuse has been identified by a substance abuse assessment. *(offenses committed on or after 12/1/2012)*

(f) Participation in an educational or vocational skills development program, including an evidence-based program.

(g) Submission to satellite-based monitoring, pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14- 208.40(a)(2).

.0305 OTHER SPECIAL CONDITIONS OF PROBATION

In addition the regular conditions of probation, the court may add the special probation conditions set out in *G.S. 15A-1343(b1)*.

When the trial judge imposes one of the special conditions of probation enumerated by N.C. Gen. Stat. § 15A-1343(b1), the condition need not be reasonably related to defendant's rehabilitation because the Legislature has deemed all those special conditions appropriate to the rehabilitation of criminals and their assimilation into law- abiding society. State v. Lambert, 146 N.C. App. 360, 367 (2001).

(a) Compensate the Department of Environment and Natural Resources or the North Carolina Wildlife Resources Commission for the replacement costs of any marine or wildlife resource affected by a crime. *G.S. 15A-1343(b1)(5)*. The replacement costs for covered animals is set out in Title 15A of the North Carolina Administrative Code, Environment and Natural Resources, available at http://ncrules.state.nc.us/ncac.asp.

(b) Any other condition determined by the court to be reasonably related to the offender's rehabilitation. *G.S. 15A-1343(b1)(10)*. Ad hoc conditions of probation must be reasonably related to the offender's rehabilitation, and to the offender's crime. State v. Cooper, 304 N.C. 180 (1981). Judges have substantial discretion in crafting ad hoc conditions of probation. State v. Johnston, 123 N.C. App. 292 (1996).

(c) Undergo available medical or psychiatric treatment and remain in a specific institution if required for that purpose.

(d) Attend or reside in a facility providing rehabilitation, counseling, treatment, social skills, or employment training, instruction, recreation, or residence for persons on probation. A list of additional programs and detailed program descriptions can be found in the North Carolina Sentencing and Policy Advisory Commission's annual Compendium of Community Corrections Programs in North Carolina, available at http://www.nccourts.org

(e) Participate in and successfully complete a Drug Treatment Court Program, if available.

(f) Submit to imprisonment required for special probation under G.S. 15A- 1351(a) or G.S. 15A-1344(e).

(g) Remain at his or her residence. The court, in the sentencing order, may authorize the offender to leave the offender's residence for employment, counseling, a course of study, vocational training, or other specific purposes and may modify that authorization. The probation officer may authorize the offender to leave the offender's residence for specific purposes not authorized in the court order upon approval of the probation officer's supervisor. The offender shall be required to wear a device which permits the supervision agency to monitor the offender's compliance with the

condition electronically and to pay a fee for the device as specified in subsection (c2) of this section.

(h) Surrender his or her driver's license to the clerk of superior court, and not operate a motor vehicle for a period specified by the court.

(i) Perform community or reparation service under the supervision of Community Corrections and pay the fee if required by G. S. 143B-708.

(j) Purchase the least expensive annual statewide license or combination of licenses to hunt, trap, or fish listed in G.S. 113-270.2, 113-270.3, 113-270.5, 113-271, 113-272, and 113-272.2 that would be required to engage lawfully in the specific activity or activities in which the defendant was engaged and which constitute the basis of the offense or offenses of which he was convicted.

(k) If the offense is one in which there is evidence of physical, mental or sexual abuse of a minor, the court should encourage the minor and the minor's parents or custodians to participate in rehabilitative treatment and may order the defendant to pay the cost of such treatment.

(l) Any and all of the following conditions relating to street gangs, for offenses committed on or after December 1, 2011, as defined in G.S. 14-50.16(b):

(1) Not knowingly associate with any known street gang members and not knowingly be present at or frequent any place or location where street gangs gather or where street gang activity is known to occur.
(2) Not wear clothes, jewelry, signs, symbols, or any paraphernalia readily identifiable as associated with or used by a street gang.
(3) Not initiate or participate in any contact with any individual who was or may be a witness against or victim of the defendant or the defendant's street gang.

(m) Participate in any Project Safe Neighborhood activities as directed by the probation officer.

(effective for offenses committed on or after December 1, 2011)

(n) Satisfy any other conditions determined by the court to be reasonably related to his rehabilitation.

(o) Submit to Continuous Alcohol Monitoring *(effective for offenses committed on or after December 1, 2012)* – see CAM policy-Chapter G Technology

.0306 SPECIAL CONDITIONS OF PROBATION FOR SEX OFFENDERS AND PERSONS CONVICTED OF OFFENSES INVOLVING PHYSICAL, MENTAL, OR SEXUAL ABUSE OF A MINOR

(a) If the offender is convicted and placed under supervision for an offense that requires registration under Article 27A of Chapter 14 of the General Statutes (the Sex Offender and Public Protection Registration Program), or if the offender is convicted of a non-reportable offense that involves the physical, mental, or sexual abuse of a minor, the court should check the appropriate boxes on page two, side two of the judgment form regarding the mandatory conditions of probation under *G.S. 15A-1343(b2).*

(b) "Offense involving physical, mental, or sexual abuse of a minor" is an undefined term. North Carolina's appellate courts have considered several cases involving that language and have deemed the following crimes to involve physical, mental, or sexual abuse:

(1) Statutory rape under G.S. 14-27.7A. State v. Smith, N.C. App. , 687 S.E.2d 525 (2010).

(2) Taking indecent liberties with children under G.S. 14-202.1. State v. Causby, N.C. App. , 683 S.E.2d 262 (2009).

(3) Other crimes likely fall within the category of offenses involving abuse of a minor. The Division takes the position that, at a minimum, the offenses listed in *G.S. 7B-101(1)(d)*, defining *abused juvenile* in the context of the Juvenile Code, should be considered as offenses involving abuse of a minor. If an offender is placed under supervision for a conviction of one of those crimes and the mandatory conditions of probation are not checked on the judgment form, the officer will consult with the chief probation/parole officer, who will,

in his or her discretion, bring the matter to the attention of the district attorney or the court.

A probation condition prohibiting an offender convicted of an offense involving sexual abuse of a minor from residing with a minor child, including his or her own child, does not violate the defendant's due process rights. State v. Strickland, 169 N.C. App. 193 (2005).

.0307 SPECIAL CONDITIONS OF PROBATION FOR SECURITY RISK GROUP

Once an offender has been identified and validated as a security risk group (SRG) member, the officer will have the conditions of probation/post release modified to include the conditions of the Security Risk Group Agreement (SRG-05) as follows:

(a) Agree to work with officer to address the patterns in your life contributing to criminal behavior. Your officer will provide instruction and direction for the tools available to include homework assignments, Thinking Reports and practice sessions to build your skill sets in coping with difficult situations.

(b) No unauthorized contact with any known gang members.

(c) Do not post or otherwise display any hand signs, symbols, clothing or pictures associated with any perceived street gang on social media of any kind.

(d) No clothes, jewelry, signs, or symbols/paraphernalia/documents commonly identified with a gang.

(e) Allow scars, marks, tattoos to be photographed.

(f) Do not appear in court unless you are a witness or a party to a case or without prior approval from your officer.

(g) Do not engage or participate in any gang activity and not frequent any high risk areas specified as gang locations.

(h) No voluntary contact with any individual who was or may be a witness/victim against you.

(i) Participate in Project Safe Neighborhood Offender Notifications/Call-Ins or Community Initiative if available.

(j) Do not leave your county of residence without prior approval from your officer.

(k) Do not use or possess any firearms or firearm ammunition and shall not be found in any place where firearms and ammunition are stored.

Phase I Expectations-Engagement in Services and Community Resources

This phase is a minimum of 90 days and the following will be required:

(a) Participate in any counseling, treatment or Cognitive Behavioral Intervention Services which are required by the officer, a court order or as a result of the TASC assessment. These services shall include but are not limited to:

(1) Anger Management

(2) Cognitive Behavior Intervention

(3) Substance Abuse Treatment

(4) Parenting/Family counseling

(5) Mental Health Counseling

(6) Domestic Violence Treatment

(b) Actively participate in any high school/educational programs/vocational programs and/or be gainfully employed or pursue employment by participating in services such as:

(1) Registering with Division of Employment Security

(2) Community College Human Resource Development programs

(3) Vocational Rehabilitation

(4) NC Works or

(5) Other local employment services

(c) Abide by mandatory curfew. Remain at the place of residence between the hours of____am/pm and_____am/pm unless authorized by the officer.

(d) Report to the officer as directed, at a minimum twice a month.

(e) Report to the officer as directed for required drug screens. (minimum one per month)

Note: Failure to satisfactorily comply with Phase I expectations may prevent the offender from progressing to Phase II.

Phase II Expectations-Maintenance and Completing Services

This Phase is for the remainder of supervision:

(a) Maintain and/or complete counseling, services, school, education, employment and continue to provide verification.

(b) Report at a minimum of once a month to the probation officer or as directed.

(c) Random drug screening will be required at the discretion of your officer.

(d) Completion of a minimum of four worksheets to include (Thinking Reports and/or suggested Carey Guides: Maximizing Strengths, Preventing Violations, Your Guide to Success, Problem Solving, Rewards & Sanctions)

(e) Develop positive leisure time activities and work with the probation officer to increase positive supports in the community.

.0308 PERIOD OF PROBATION

(a) **Default period of probation.** In Structured Sentencing cases, unless the court makes specific findings at the time of sentencing that a longer or shorter period of probation is necessary, the probation period must fall within the ranges set out below:

(1) Misdemeanants sentenced to community punishment: 6 – 18 months;

(2) Misdemeanants sentenced to intermediate punishment: 12 – 24 months;

(3) Felons sentenced to community punishment: 12 – 30 months;

(4) Felons sentenced to intermediate punishment: 18 – 36 months.

If the court makes a finding that a longer period is necessary (by checking box #1 in the "Suspension of Sentence" block on the judgment form) it may order probation for up to five years in any case. *G.S. 15A-1343.2.* In impaired driving cases, an offender may be placed on probation for five years.

(b) **Deferred prosecution cases.** The maximum period of probation in a deferred prosecution case is two years. *G.S. 15A-1342(a).*

(c) **Multiple terms of supervision**. A period of probation commences on the day it is imposed and runs concurrently with any other period or probation, parole, or imprisonment to which the offender is subject. Periods of probation may not be run consecutively or "stacked." A judge may, however, run a period of probation consecutive to an active sentence under *G.S. 15A- 1346*, which the Division refers to as "contingent probation" cases in OPUS, or consecutive to a period of post-release supervision under *G.S. 15A-1368.5*, which the Division refers to as "contingent release."

The Administrative Office of the Courts interprets G.S. 15A-1368.5 to allow a judge to run a probation period consecutive to a period of post-release supervision, and includes a box on the judgment form allowing the judge to do so (box #4 in the Suspension of Sentence block on page one, side one of the judgment). Because North Carolina "permits concurrent crediting of supervision time"—indeed, requires it under G.S. 15A-1346(a)—the Division favors an alternative interpretation that would require periods of post-release supervision to run concurrently with any period of probation.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter C Offender Supervision

Section .0400 Supervision Stage 1: Intake

.0401 PURPOSE

Offenders newly sentenced to Community Corrections will complete a preliminary introduction to supervision before final assignment is made. Except in unusual circumstances, these processes will be completed within seven calendar days from the day of sentencing. The purpose of intake is to obtain basic information about the offender, notify the offender of the conditions of their sentence, assign the offender to an appropriate probation officer, and begin any court ordered sanctions that are necessary to further public safety.

.0402 INTAKE INTERVIEW

A probation officer or judicial service coordinator will conduct a face-to-face interview with an offender on the same day the offender is placed under supervision. If a same-day interview is impossible, the officer or coordinator will follow the procedure in *0402(d).*

(a) Before the intake interview, the officer or coordinator will:

(1) Obtain two copies of the probation judgment if available;

(2) Review the judgment to be sure the period of probation falls within statutory guidelines, as described in *.0308, Period of Probation.* If the probation period is improper, bring the file to the attention of the appropriate court personnel for corrective action.

(3) Set up a physical file, following the procedure set out in *.0900, Maintenance of Case Records*, that includes a copy of the probation judgment(s), and any documents incorporated by reference into the judgment (e.g., AOC-CR-611, *Restitution Worksheet*); and if the offender is convicted of a registerable sex offense, obtain a copy of the AOC-CR-615, Judicial Findings And Order For Sex Offenders.

(4) Search the sex offender registries (NC) (National), as required under *G.S. 15A-1341(d)*, and document in OPUS that the search was completed.

(b) During the intake interview, the officer or coordinator will:

(1) Collect all intake information (DCC-1 information and judgment and complete any local intake forms);

(2) Designated staff will enter all intake information into OPUS;

(3) Photograph the offender;

(4) Explain to the offender the conditions of probation under which he or she will be supervised;

(5) Give a copy of the judgment, if available, and any documents incorporated by reference into the judgment to the offender.

An offender must receive a written statement explicitly setting forth the conditions of probation. G.S. 15A-1343(c). Probation may not be revoked based on a condition of which the offender did not receive written notice; oral notice is insufficient. State v. Suggs, 92 N.C. App. 112 (1988).

(c) At the conclusion of the intake interview, the officer or coordinator will:

(1) If the offender is subject to house arrest with electronic monitoring or an electronically monitored curfew, complete form DCC-70. Obtain the offender's signature and provide him or her with a copy. If the offender is subject to satellite based monitoring, complete form DCC-44. Obtain the offender's signature and provide him or her with a copy.

(2) Immediately notify the assigned Probation Officer or county of supervision if the offender has been ordered to house arrest with electronic monitoring, an electronically monitored curfew or

satellite based monitoring.

Offenders ordered to house arrest with electronic monitoring will be enrolled in the program within 24 hours of being placed under supervision. Offenders ordered to an electronically monitored curfew or satellite based monitoring will be enrolled in the program within 72 hours of being placed under supervision. For all programs, the equipment will be inspected by the assigned officer within 72 hours of installation.

(3) If the offender resides in a North Carolina county other than the county of conviction, follow the transmittal procedure set out in *.0404* below. If the offender was living in another state at the time of sentencing, follow the Interstate Compact procedure set out in *Chapter F, Interstate Compact*;

(4) Assign the offender to an appropriate supervising probation officer;

(5) Give the offender reporting instructions with the supervising officer, being sure to provide details on the time and location of the appointment.

(d) If same-day processing is not feasible, the officer or coordinator should:

(1) Register the offender in *OPUS*, including the offender's name, sex, date of birth, social security number, and race;

(2) Obtain the offender's current address and directions to his or her residence;

(3) Generally explain the conditions of probation to the offender;

(4) Schedule an appointment with the offender, if needed, for a full intake interview within seven calendar days.

.0403 SPECIAL ATTENTION OFFENDERS

(a) *Sex offenders*. If the offender was convicted of an offense requiring registration under Article 27A of Chapter 14 of the General Statutes (the Sex Offender and Public Protection Registration Program), assign the offender to an appropriate officer as dictated by local practice.

(b) *Gang-affiliated offenders*. If the court designated the offender's crime as "criminal street gang activity" on the judgment form, refer the offender to a security risk group documentation officer for further processing.

(c) *Domestic violence offenders*. If the court found at sentencing that the offender committed acts of domestic violence assign the offender to an appropriate officer as dictated by local practice.

(d) *Female Offenders Convicted of Prostitution*. Female offenders who are convicted of prostitution and placed on probation will be assigned to a female probation officer. G.S. 14-205.4

.0404 TRANSMITTALS

Offenders must be supervised in their county of residence. If, at the time of sentencing, an offender resides in a county other than that in which he or she was convicted, the case must, upon completion of the intake interview, be transmitted to the county of residence.

(a) The county of residence must accept the case, unless it shows that the offender does not, in fact, live there;

(b) The officer or coordinator in the county of conviction will, upon completing intake functions, give the offender instructions to report to the chief probation/parole officer in the county of residence within three calendar days for assignment to a supervising officer;

(c) For cases in which the offender is placed on house arrest with electronic monitoring, the county of supervision will enroll the offender in the program within 24 hours of being placed under supervision. For cases in which the offender is ordered to an electronically monitored curfew or satellite based monitoring for sex offenders, the county of supervision must enroll the offender within 72 hours of being placed under supervision. The supervising officer must set up zones and schedules within 24 hours of

acceptance for cases subject to any electronic monitoring program;

(d) When the case has been accepted by the county of residence, the designee in the county of conviction will forward the physical case file to the CPPO in the county of residence.

.0405 CONTINGENT CASES

An offender who is subject to probation supervision upon completion of an active term of imprisonment is said to have a contingent case.

(a) When an officer or coordinator learns that an offender has a contingent case, he or she will attempt to contact the offender before he or she is incarcerated. The officer or coordinator will register the offender in *OPUS*, coding the offender as "unavailable" during the incarcerated period;

(b) The officer or coordinator will verbally instruct the offender to report to the Probation/Parole Office in the county of residence within three calendar days of his or her release.

(c) Immediately send the transmittal request if the offender plans to reside in another county.

(d) Offenders who are being released on contingent probation for an offense that requires registration under Article 27A of Chapter 14 of the General Statutes (the Sex Offender and Public Protection Registration Program), or if the offender is convicted of a non-reportable offense that involves the physical, mental, or sexual abuse of a minor, shall be picked up from the Prisons facility by a probation/parole officer.

.0406 SPECIAL PROBATION (SPLIT SENTENCES)

Offenders sentenced to special probation under *G.S. 15A-1351* for *continuous* periods of imprisonment (as described in *.0303(b)*) will be handled in the same manner as contingent cases.

.0407 CONTEMPT CASES

If a judge holds a person in criminal contempt, imposes a suspended sentence, and orders supervision by a probation officer, the officer or coordinator will notify the chief probation officer immediately. The CPPO will discuss the matter with the judge and the district attorney to request further guidance.

Criminal contempt sentences may be suspended, but there is no clear authority for a judge to impose supervised probation as a punishment for criminal contempt. G.S. 15A- 1341(a) states only that probation may be imposed for offenses sentenced under Structured Sentencing and for offenders convicted of impaired driving under G.S. 20- 138.1. (UNC SOG Probation for Contempt)

.0408 INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION (ICAOS) CASES

If a defendant resides in another state at the time he or she is sentenced for a crime in North Carolina, the officer or coordinator will conduct an intake interview as in an ordinary case and then follow the procedure set out in *Chapter F, Interstate Compact.*

.0409 APPEALS

(a) When an offender who is sentenced to probation appeals to a higher court, probation is stayed under *G.S. 15A-1451(a)(4)*; the offender will not be supervised during the pendency of the appeal. The case will be entered into OPUS Online as an appealed case for tracking purposes. The officer or coordinator will process the case according to the same procedure as regular cases upon notification that a defendant who appealed a supervised probation judgment has:

(1) Withdrawn that appeal or

(2) The case is affirmed on appeal or

(3) The case has been remanded back to the original court;

(b) Begin dates for resolved appeals:

(1) In non- DWI cases the beginning date of supervised probation will be the date

the clerk issues an order directing compliance.

(2) In non-implied consent cases, the supervision start date will be the date the case is remanded from superior court to district court;

(3) In implied consent cases, the supervision start date will be the date of the new sentencing hearing required under *G.S. 20-38.7*.

.0410 CRIME VICTIMS' RIGHTS ACT (CVRA) CASES

If the offender was convicted of a crime covered under the *CVRA*, the officer or coordinator will contact the Office of Victim Services at 1-866-719-0108 to ensure the Division meets its statutory obligations under *G.S. 15A-837* regarding victim notification. Although the NC Crime Victim's Rights Act defines who is to receive notification (G.S. 15A-830), the Division of Adult Correction and Juvenile Justice voluntarily exceeds the legislature's mandate by providing the notifications described above for all victims regardless of the crime or when the crime occurred.

.0411 SPECIAL CASES

(a) *G.S. 90-96.* The court may place certain offenders convicted of certain drug crimes on probation without actually entering a judgment of guilt. If the offender completes the probation, the conviction will be discharged and, in some cases, expunged. If the probation is revoked, the court enters judgment. Officers should advise offenders that successful completion of *G.S.90-96* is a unique opportunity to avoid having a conviction on their criminal record.

(1) In cases under *G.S. 90-96(a)*, the probation may be upon such reasonable terms and conditions as the court requires.

(2) In cases under *G.S. 90-96(a1),* the court must place the offender on probation for at least one year, and the probation must include a condition that the defendant enroll in and successfully complete, within 150 days of the date of imposition, a drug education school approved by the Department of Health and Human Services. G.S. 90-96(a1).

(3) For all practical purposes, an offender on probation pursuant to G.S. 90-96 will be supervised exactly as any ordinary offender.

In State v. Burns, 171 N.C. App. 759 (2005), the North Carolina Court of Appeals held that "[i]n the absence of a provision to the contrary, and except where specifically excluded, the general probation provisions found in Article 82 of Chapter 15A apply to probation imposed under [G.S.] 90-96."

(b) **Deferred prosecution.** Under *G.S. 15A-1341(a1)*, certain defendants may, with court approval, be placed on probation pursuant to a deferred prosecution agreement.

(1) To be eligible for this type of deferred prosecution the defendant must have been charged with a Class H or I felony or a misdemeanor, and the court must make findings required under G.S. 15A-1341(a1) (as set out on form AOC- CR-610, or other local form) that:

a. Prosecution has been deferred pursuant to a written agreement, with approval of the court, for the purpose of allowing the defendant to demonstrate good conduct;

b. Each known victim of the crime has been notified of the arrangement by subpoena or certified mail and has been given an opportunity to be heard;

c. The defendant has not been convicted of any felony or of any misdemeanor involving moral turpitude;

d. The defendant states under oath that he or she has not previously been placed on probation; and

e. The defendant is unlikely to commit another offense other than a Class 3 misdemeanor.

(2) The longest permissible term of probation for a deferred prosecution case

is two years instead of the usual five. *G.S. 15A-1342(a)*.

(3) If the defendant completes the deferred prosecution probation term or it is terminated early by the court, the defendant is immune from prosecution on the deferred charges. *G.S. 15A-1342(i)*.

(4) For all practical purposes, an offender on probation pursuant to a statutory deferred prosecution agreement will be supervised exactly as any ordinary offender.

(5) Violations of the terms of a deferred prosecution agreement must be reported to the court through the ordinary violation report process, and to the district attorney in the district in which the agreement entered. *G.S. 15A-1342(a1)*. Offenders are entitled to the notice and hearing procedures of *G.S. 15A-1344* and *G.S. 15A-1345* before deferred prosecution probation is modified or revoked.

Prosecutors are also free to enter into non-statutory deferred prosecution agreements with defendants. The Division takes the position that non-statutory arrangements may not be enforced through supervised probation. State v. Gravette, 327 N.C. 114 (1990).

(c) **Conditional Discharge.** Under 15A-1341(a4), certain defendants may, with court approval, be placed on probation pursuant to a conditional discharge.

(1) To be eligible for a conditional discharge a person must plead guilty or be found guilty of a Class H or I felony or any misdemeanor and the court must make findings required under G.S. 15A-1341(a4) that:

a. Each known victim of the crime has been notified of the arrangement by subpoena or certified mail and has been given an opportunity to be heard;

b. The defendant has not been convicted of any felony or of any misdemeanor involving moral turpitude;

c. The defendant states under oath that he or she has not previously

been placed on probation; and

d. The defendant is unlikely to commit another offense other than a Class 3 misdemeanor.

(2) The longest permissible term of probation for a conditional discharge case is two years instead of the usual five. *G.S. 15A-1342(a)*.

(3) If the defendant completes the conditional discharge probation term or it is terminated early by the court, the defendant is immune from prosecution on the charges discharged and dismissed . *G.S. 15A-1342(i)*.

(4) For all practical purposes, an offender on probation pursuant to a conditional discharge will be supervised exactly as any ordinary offender.

(d) **Juvenile cases assigned to the division.** Cases in which a juvenile offender has been transferred to superior court and convicted on felony charges as an adult will be processed according to the same procedure for other probation cases. Case files will be marked "CONFIDENTIAL."

(e) **Prayer for judgment continued.** If an offender receives a prayer for judgment continued (PJC) but is nonetheless ordered to supervised probation, the officer should bring the case to the attention of the chief probation/parole officer, who will then discuss the matter with the district attorney and the court.

A PJC that includes conditions amounting to punishment is converted into a final judgment. State v. Popp, N.C. App. , 676 S.E.2d 613 (2009). As a final judgment, it must comply with G.S. 15A-1342(c), which states that the court must, when placing an offender on probation, impose a suspended sentence which may be activated upon violation of conditions of probation.

.0412 UNSUPERVISED PROBATION

An offender sentenced to unsupervised probation is subject to all incidents of probation except supervision by or assignment to a probation officer. *G.S. 15A-1341(b).* The Division provides administrative oversight of community service hours for unsupervised cases. In unsupervised cases only, the judge placing the person on unsupervised probation may limit jurisdiction to alter or revoke the sentence to himself or herself. If the judge does so, the unsupervised probation may not be reduced,

terminated, continued, extended, modified, or revoked by anyone other than the sentencing judge. If the sentencing judge is no longer on the bench, another judge in the court where the defendant was sentenced may hear the matter.
G.S. 15A-1342(h); *G.S. 15A-1344(b)*.

APPROVED.

Anne L. Precythe

Director of Community Corrections

08/01/2016

Date

Chapter C Offender Supervision

Section .0500 Supervision Stage 2: Initial Period of Supervision

.0501 PURPOSE

This section sets out a supervising officer's responsibilities during the first 60 days of supervision. An officer's primary responsibility during this time is to complete the offender risk-needs assessment (RNA) process within 60 days of sentencing (or within 60 days of release from incarceration in contingent and special probation cases). The initial period concludes at the end of the 60 days and when the DCC Case Plan System calculates an offender's supervision level. Unless otherwise indicated, the provisions outlined below apply to all offenders, regardless of their crime, criminal history, or the legal basis for their supervision.

.0502 INITIAL SUPERVISION INTERVIEW

The supervising officer will conduct a face-to-face interview with the offender as soon as possible after the offender is placed under the officer's supervision. The initial supervision interview is the first meeting between the officer and offender. The intent is to establish a positive non-threatening rapport with the offender. The officer should have basic risk information and knowledge about the offender prior to the meeting. The information will assist the officer in making sure the offender is aware of immediate conditions required to be monitored.

By the conclusion of interview, the officer will complete the following:

(a) Search for the offender on the North Carolina and National sex offender registries, as required under G.S. 15A-1341(d), and document in OPUS that the search was completed. If the offender was ordered on the judgment to register as a sex offender, the officer will ensure that the offender's name appears on the registry.

(b) Check CJLEADS or AOC's Civil Case Processing System (VCAP) to see if the offender is subject to any protective or no-contact orders (for example, a 50B domestic violence protective order). Obtain copy of the 50-B if available.

(1) Check appropriate OPUS Online SRG screens to determine if there are

previous SRG validations or associations and if previous SRG validations are noted; refer to an SRG Intelligence Officer.

(2) Conduct global record check using CJLEADS or ACIS. Subsequent record checks will be performed by using the AOC alerts. AOC Alert Tutorial

(3) If available, give the offender a copy of the judgment and conduct a line- by-line review of all conditions. The officer will read conditions aloud, explaining them to the offender. If the offender has limited English proficiency, the officer will follow the procedures set out in §C.0623, Limited English Proficient Offenders.

The court should determine the restitution amount based on evidence presented at trial or sentencing. State v. Simpson, 61 N.C. App. 151 (1983). The court may, however, delegate to a probation officer the responsibility to determine a payment schedule. G.S. 15A-1343(g).

(c) If the offender is subject to house arrest with electronic monitoring or an electronically monitored curfew, review form DCC-70 and ensure the offender has signed and received a copy. If the offender is subject to satellite based monitoring, review form DCC-44 and ensure the offender has signed and received a copy.

(d) If the court found at sentencing that the offender committed acts of domestic violence, inform the offender that it may be a violation of federal law for the offender to possess a firearm or ammunition.

(e) Review the completing probation successfully brochure with the offender and provide them with a copy. Completing Probation Successfully Brochure

(f) For active sex offender cases, obtain the offender's signature on the Acknowledgement of Limited Confidentiality & Waiver, DCC-43 and complete a sex offender crime version.

.0503 ASSESSMENTS

The supervising officer will initiate the following assessments (referred to collectively as the "risk-needs assessment, or RNA), as appropriate. All assessments must be completed within 60 days of the offender's placement under supervision. [*Assessment*

tutorial]

(a) Offender Traits Inventory (OTI-R) risk assessment;

(b) Offender Self Report;

(c) Officer Interview and Impressions;

(d) *Static-99 risk assessment* (for male offenders ages 18 and older ordered to register as a sex offender). Instructions on completing the Static-99 are set out in the *Static-99 Coding Rules*.

(e) Upon verification of the juvenile record, the investigation is marked complete in OPUS See *§C.0905, Juvenile Record Access*.

Officers may only access juvenile record information without a court order for offenders on probation for offenses committed on or after December 1, 2009 and before the offender's 25th birthday. Copies of any juvenile record information must be withheld from public inspection, must not become part of the public record in any criminal proceeding, and must be destroyed within 30 days of the end of the probationer's supervision. Information from the juvenile record may only be used to assess the offender's risk level, and may only be viewed by the officer assigned to supervise the offender. G.S. 7B-3000(e1); G.S. 15A-1341(e).

(f) The officer will also do the following, as appropriate:

(1) If the judgment provides for drug screening the officer will conduct a drug screen as soon as possible after the offender is placed under supervision to obtain a baseline assessment. Baseline assessment is defined as admitted use by an offender or a positive drug screen result within the first 30 days of active supervision and is used as a standard of value to which other screenings are compared.

The Division takes the position that an immediate referral to TASC is appropriate when the offender has a drug and/or alcohol history, prior or current drug convictions, or a combination other factors related to substance abuse. If there is no substance abuse history and the offender admits use was prior to the beginning of supervision, the officer can defer the required substance abuse assessment and follow-up with a random drug screen before the initial period of supervision has ended.

(2) Ask the two SRG questions found on the PPO roster:

a. Have you ever or do you now claim loyalty/allegiance to any group, set, clique, gang, nation, etc. ?

b. Do you have any friends/associates/family members that claim loyalty/allegiance to any group, set, clique, gang, nation, etc. ?

If the offender answers yes or other red flags exist, refer to an SRG Intelligence Officer to begin the validation process.

(3) Schedule any additional assessments ordered by the court.

(4) In sex offender cases where a determination of Satellite Based Monitoring (SBM) is required, but has not been completed due to the court's request for a Static-99:

a. Upon completion of the Static-99 by the supervising officer, notify the district attorney in the county of origin of the results.

b. Document notification to district attorney in offender case narratives.

.0504 VALIDATION AND DOCUMENTATION REQUIREMENTS FOR SECURITY RISK GROUP OFFENDERS

(a) If a case is referred to an SRG Intelligence Officer, the Intelligence Officer will:

(1) Contact local law enforcement for any related information;

(2) Conduct a Gang records check;

(3) Conduct interview and address questionnaire;

(4) Complete the SRG-01, SRG-02, SRG-03, SRG-04, SRG-05 and SRG-06 as appropriate in the OPUS Online SRG system;

(5) Enter information in OPUS online (refer to Special Operations & Intelligence Unit/Security Risk Group webpage for narrative examples)

(6) Review disciplinary history from previous incarcerations.

(b) For an offender to be validated as a member of a Security Risk Group at any point

during their supervision period, they must meet at least two of the following criteria:

(1) Law Enforcement Intelligence

(2) Possession of Documents

(3) Court Documents/Gang Related Conviction

(4) Self-Admission

(5) Gang Related Tattoos and Markings

(6) Use or Possession of Gang Related Symbols or Logos

(7)) Possession of Membership Documents

(8) Gang Related Assault

(9) Published News Accounts or Other Publications (Books/Magazines)

(10) Possession of Gang Related Publication

(11) Gang Related Photo

(12) Contact with Known Gang Members

(13) Information from a Reliable Source

(14) Electronic/Investigation Information

(c) For each criteria met, the officer must obtain tangible documentation to support each criteria named. The officer has 60 days to complete the validation process.

(d) Once the documentation process is complete the CPPO will submit to Special Operations and Intelligence Unit for validation. All supporting documentation will be uploaded into SRG automation.

(e) If at any time during supervision, additional validation information is located, the officer is to obtain tangible documentation and upload via the Post Validation tab in SRG automation.

A signed copy of the SRG-05 does not give authority to enforce the SRG Agreement. The officer must obtain a modification signed by a judge or the condition must be added by the Post Release and Parole Commission.

(f) Once an offender has been identified and validated as a Security Risk Group (SRG) member and the Security Risk Group Agreement has not been ordered, the officer will have the conditions of probation/post release modified to include the conditions of the Security Risk Group Agreement (SRG-05) as follows:

(1) Probation Cases: the officer will request that the conditions of probation be modified by including the following on the AOC-CR- 609 page #2, #6 – Other: "*Comply with the rules and regulations of the Security Risk Group Agreement*"

(2) Post Release/Parole Cases: the officer will make a written request to the Post Release and Parole Commission to add the SRG conditions.

(3) Interstate Compact Cases: add "*Comply with the rules and regulations of the Security Risk Group Agreement*" to the ISC-7 and notify the sending state of the added condition.

(g) Scars, marks and tattoos that may identify an offender as an SRG member may be searched for and photographed if one of the of following criteria is met:

(1) **Court Order**

The court has ordered as a condition of probation that the offender comply with the rules and regulations of the Security Risk Group Agreement or has imposed one or more of the gang related probation conditions set forth in G.S. 15A-1343(b1)(9b):

a. Not knowingly associate with any known street gang members and not knowingly be present at or frequent any place or location where street gangs gather or where street gang activity is known to occur.

b. Not wear clothes, jewelry, signs, symbols, or any paraphernalia readily identifiable as associated with or used by a street gang.

c. Not initiate or participate in any contact with any individual who was or may be a witness against or victim of the defendant or the defendant's street gang.

(2) **Offender Consent**

Photographs of scars, marks and tattoos that may identify an offender as an SRG member may be taken without gang related probation conditions upon consent of the offender. (G.S. 15A-221) See Chapter C Section .0803 Searches With Consent

The SRG-06 Consent to Photograph Scars, Marks and Tattoos must be signed by the offender before photographs are taken of scars, marks and tattoos.

(h) All staff will adhere to the following procedure when photographing scars, marks and tattoos:

(1) Upon receiving a signed copy of the SRG-06 Consent to Photograph Scars, Marks and Tattoos; scars, marks and tattoos of the SRG member will be photographed and uploaded to photo ID;

(2) The staff member photographing the scars, marks and tattoos will be the same gender as the offender;

(3) Photographs may be taken of the offender's head, face, neck, arms, hands, chest, back, stomach, legs and feet.

(4) Female offenders' chests may be photographed if covered by a brassiere, tube top, or other garment that conceals nipples;

(5) Photographs may not be taken of the private parts of male or female offenders to include the buttocks;

(6) All photographs will be uploaded into the SRG photos section of DCC Photo ID.

.0505 INITIAL SUPERVISION AND CONTACT REQUIREMENTS

Officers must do the following for all offenders during the initial supervision period:

(a) Confirm with the clerk that the case is final on appeal;

A defendant can give notice of appeal within 10 days (district court) or 14 days (superior court) after entry of the judgment.

(b) Begin to implement conditions of supervision as provided in the judgment to include required contacts of ordered intermediate punishments

§C.0603, Contact Requirements for Special Attention Offenders

(c) As soon as possible within the initial supervision period, complete the Offender Traits Inventory. If the risk score indicates the offender is high risk with an OTI-R score of 50 or greater; staff with the CPPO to determine if other controlling or treatment conditions should be imposed through the use of delegated authority for high risk offenders *See C.0606 Imposing High Risk*

Delegated Authority

(d) Within the first 30 days of supervision:

(1) Conduct an initial home contact (HC) as defined in *§C.0203(b)*. During the HC, the supervising officer will inform the offender's family and/or cohabitants of the offender's conditions of probation, including (if applicable) the fact that the offender's residence, vehicle, and person are subject to warrantless searches;

All elements of an initial HC can be found in Section C.203 (b) of policy which includes: Obtain the offender's consent to complete a walk-through of the residence. If the offender is subject to the warrantless search condition, the walk-through may be conducted pursuant to that condition. An officer should not conduct a walk- through if he feels the residence is unsafe.

(2) Conduct an offender management contact (OMC) as defined in *§C.0203(e)*. This OMC is in addition to the initial interview described above;

(3) Conduct a warrantless search of the offender's premises if they are convicted of a sex offense or if they are a validated gang (SRG) member released on post release or probation. If the court found at sentencing that the offender committed acts of domestic violence, conduct a search to ensure that neither weapons nor ammunition are in the residence.

(4) Begin the case planning process following the prompts in the Case Planning System, as described in the *Case Planning Introduction Tutorial* or in the *Case Planning Guide*. Print the Case Plan and have the offender sign.

(5) Provide the offender with a PREA brochure and make appropriate notice on the PPO Roster. [*Login*]

(6) Using form *DCC-2*, review the offender's monetary obligations and acknowledgement of receipt of the probation judgment and, if ordered to do so by the court, establish a payment schedule. Obtain the offender's signature and provide him or her with a copy.

(e) Within the next 30 days of supervision (days 31–60), the officer will:

(1) Conduct a second HC;

(2) Conduct a second OMC.

(3) After conducting the second HC and OMC, complete the RNA and establish

the supervision level.

(f) The officer will conduct additional drug screens and warrantless searches in situations where there are apparent red flags. The red flags may be the result of officer observation, offender behavior, community tips etc.

.0506 SUBSEQUENT CASES

Offenders already under supervision for another case will be processed according to the same procedure as a regular case. When processing an offender already under supervision for another case, the officer will:

(a) Update basic offender information as necessary;

(b) For the risk-needs analysis in a subsequent case, the officer will complete only a new OTI-R and if applicable in the case of a sex offender, a Static-99. This is to be completed within 5 days.

(c) If a juvenile record has been identified, perform a reassessment *§ C.0610, Reassessment*

.0507 CRIMINAL RECORD CHECKS

Officers are required to conduct criminal record checks by daily logging into their PPO roster, reviewing AOC alerts and responding accordingly. Officers will document in the narratives any relevant information found for individual offenders while performing this review. *AOC Alert Tutorial*

.0508 EMPLOYER NOTIFICATION

For certain offenders, officers will notify the offender's employer that he or she is under supervision. The notification may be made by telephone or in person. In every case, officers will communicate with employers in a way that minimizes any negative impact on employer- employee relations. Officers will complete employment notifications for the following offenders:

(a) Level 1 and level 2 offenders;

(b) Sex offenders, to confirm compliance with *G.S. 14-208.17* (prohibiting registered offenders from working jobs in which their responsibilities include the instruction, supervision, or care of minors);

(c) Offenders, whose crime may, in the officer's judgment, have a direct impact on the offender's employment. For instance, if an offender was convicted of embezzlement and works as a bank teller, the officer should notify the employer.

(d) Employer notification will be conducted within 30 days of establishing the supervision level or notification of new employment.

.0509 SCHOOL NOTIFICATION

Officers must forward a copy of an offender's judgment to any educational institution physically attended by the offender and request to be notified of any violations of institutional rules by the offender, as required under the regular condition of probation set out in G.S. 15A-1343(b)(7). Where applicable, a school partnership officer will be the point of contact between the Division and the institution.

G.S. 115C-46.2 limits probation officer visits with students during school hours on school property. Such visits must be made in coordination with an established school partnership program. By statute, visits shall be conducted in a private area designated for such use and located away from contact with the general student population. The probation officer shall not initiate direct contact with a student while the student is in class or between classes. Initial contact with the student shall be made by a school administrator or other designated school employee, who shall direct the student to a private area to meet with the probation officer. The JDM will work with local school officials to establish a Memorandum of Understanding under which the officer and school official responsibilities will be identified.

School notification will be conducted within 30 days of being placed on probation or enrollment in an educational institution.

.0510 COMPLETING THE INITIAL PERIOD OF SUPERVISION

When all assessments are complete and information has been entered into the Case Planning System, the system will compute the offender's supervision level. Once the level is determined, the officer will review the assessment results with the offender and provide a copy. Upon completion of the initial period of supervision, the offender transitions into *§C.0600, Active Supervision.*

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter C Offender Supervision

Section .0600 Supervision Stage 3: Active Supervision

.0601 PURPOSE

This section sets out a supervising officer's responsibilities during an offender's period of supervision from the time a supervision level is established until termination or expiration. It sets out minimum contact standards for each supervision level and outlines policy for the various circumstances that arise during an offender's time under supervision. The principal purposes of supervision are to hold offenders accountable for making restitution; to ensure compliance with the court's judgment; to effectively rehabilitate offenders by directing them to specialized treatment or education programs; and to protect the public safety. *G.S. 15A-1343.2(b)*

.0602 MINIMUM CONTACT STANDARDS

Offenders are assigned to one of five supervision levels, depending on the risks and needs identified during the assessment process set out in §.0503, Assessment. The Case Planning System calculates the supervision level according to a pre-programmed algorithm. Officers will meet the baseline minimum contact requirements for each supervision level as set out below. These standards are minimums; an officer may, in his or her discretion, complete additional contacts when appropriate. Each contact must satisfy every element set out above in *§C .0203, Supervision Contacts*.

Level 1- 3 offenders are those assessed at the highest to moderate risk level and require the most attention and control. Level 4 and 5 offenders are those assessed with low to minimal risks and based on research require less time and attention.

Level One (L1):

- ☐ One Offender Management Contact (OMC) every 30 days
- ☐ One Home Contact (HC) every 30 days
- ☐ One Weekend Home Contact (HC) every 60 days

Level Two (L2):

- ☐ One Offender Management Contact (OMC) every 30 days
- ☐ One Home Contact (HC) every 60 days
- ☐ Sex Offenders: One HC every 30 days

Level Three (L3):

- ☐ One Offender Management Contact (OMC) every 30 days
- ☐ One Home Contact (HC) every 60 days
- ☐ Sex Offenders: One HC every 30 days

Level Four (L4):

- ☐ One Offender Accountability (OAR) review every 30 days
- ☐ One Face to Face Contact every 90 days
- ☐ Verify FMS and special conditions compliance every 30 days
- ☐ Conduct HC within 30 days to verify change in address

Level Five (L5):

- ☐ One Offender Accountability (OAR) review every 30 days
- ☐ Verify FMS and special conditions compliance every 60 days
- ☐ Conduct HC within 30 days to verify change in address

Offenders in Levels 4 or 5 who are not enrolled in accountability reporting, will have a face-to-face contact every 30 days.

.0603 ADDITIONAL CONTACT REQUIREMENTS FOR SPECIAL ATTENTION OFFENDERS

Officers will meet the following additional minimum requirements for special attention offenders. The requirements set out below are applicable to all special attention offenders regardless of their assigned supervision level, unless otherwise indicated. Upon completion of the special conditions, an offender will be supervised according to the baseline standards of their assigned supervision level. Offenders subject to conditions or programs not listed below should be supervised according to program rules and the standards applicable to their supervision level generally.

Special Probation

- ☐ One Collateral Contact (CV) per month to confirm the offender's location and release date

Drug Treatment Court

- ☐ Supervise according to program rules and/or local SOP

Residential Programs

- ☐ Supervise according to program rules in consultation with the CPPO

Electronic Monitoring Programs

- ☐ Equipment inspection within 72 hours of installation and one equipment inspection each month

Curfew

- ☐ Two attempted face to face Curfew Checks (CC) each month

Sex Offenders

- ☐ One meeting with the treatment provider each month to discuss offender's progress
- ☐ Meet with the offender and treatment provider before or after a session every 180 days

If the offender participates in social, educational, recreational, volunteer, or religious activities that allow substantial interaction with minors or other potential victims, the officer will notify the leader or organizer of the activity of the offender's criminal history and conditions of supervision

- ☐ One unannounced warrantless search of the offender's premises as follows:

  L1: Every 90 days

  L2-L3: Every 180 days

- ☐ Face to face contact with the offender's family or support network as follows:

  L1: Every 90 days

  L2-L3: As needed in the officer's discretion

- ☐ Verification of compliance with the sex offender registry as follows:

  L1: Every 90 days

  L2-L3: Every 180 days

Domestic Violence

- ☐ One meeting with the treatment provider each month

to discuss the offender's progress

- ☐ One warrantless search of the offender's premises every 90 days
- ☐ Conduct additional CJLEADS or VCAP checks every 90 days for 50B orders

Security Risk Group

- ☐ One unannounced warrantless search of the offender's premises as follows:

  L1: Every 90 days

  L2-L3: Every 180 days

- ☐ Verify treatment participation for any program ordered through SRG Agreement every 30 days
- ☐ Check status of any/all law enforcement intelligence and respond appropriately to any information obtained, to include gang record check annually
- ☐ Complete update in OPUS Online to reflect involvement status (officer will enter confirmed/validated unless renouncing has begun)

.0604 ADDITIONAL REQUIREMENTS FOR LOW RISK SUPERVISION AND MONITORING

(a) Level Four and Level Five Offenders

(1) Establish a payment plan and make all referrals as related to special conditions imposed by the court.

(2) Enter all narratives regarding contacts and referrals.

(3) Update the case plan to include start dates of all referrals in addition to the name, address and contact number of referred agency and a contact person (if applicable).

(4) File to CPPO for a low level review.

(b) Offenders in supervision levels four and five are eligible for offender accountability reporting as set out in §C.0203 (f) above. When utilizing offender accountability reporting the officer will:

(1) Enable the offender's PIN within the Case Planning System [see Offender Accountability (Remote) Procedure];

(2) Explain to the offender that the accountability (remote) check-in is to be submitted within 30 days starting from the date the PIN was enabled and will be due 30 days from each subsequent submission;

(3) Inform the offender that all information is verified and that any falsification of accountability (remote) check-in information will be investigated and if found to be false will result in termination of the accountability check-in program and a possible report to the Court;

(4) Provide the offender with a print out of the instructions page for remote reporting with the confirmed PIN included.

(5) Grant permission to certain offenders for the family to assist if the offender does not have the ability to use a computer:

a. Certain offenders may require assistance from family members to complete the accountability (remote) check-in (i.e., offender is developmentally disabled, has a cognitive impairment, or is visually impaired);

b. Explain that this is permissible as long as the family understands the purpose and the potential consequences for the offender if false information is submitted;

c. Document in case narratives that permission was granted by the officer for the family to assist.

(6) Conduct a home verification within 30 days of receiving notice of the offender's address change;

(7) Allow offenders without computer access to participate by using the *DCC-*

118 Mail-in Report. The mail in report can be entered into the system by office staff using the offender's PIN. The form with the offender's signature should be maintained in the file.

(8) Noncompliance with offender accountability reporting (check-in failures). DO NOT DISABLE THE ACCOUNTABILITY REPORT PIN. See Chapter D for description for all OAR non-compliance.

(9) **Removal from OAR**. Officers and CPPOs have the discretion to remove an offender from accountability reporting at any time. (Ex., non-compliance with OAR, change in behavior, red flags, pending charges with potential public safety risk or those that may increase the risk assessment level) Officers also have the discretion to conduct a reassessment at any time. The decision to remove should be documented in automated narratives.

(10) When an offender is removed from the OAR, the officer will disable the Accountability Report PIN and conduct a face to face contact every 30 days. Refer to the non-compliance grid and proceed as described in Chapter D.

.0605 MINIMUM CONTACT STANDARDS IN OTHER SITUATIONS

(a) **Offenders in Substance Abuse Treatment.** All offenders participating in substance abuse treatment programs or services will be drug tested at a minimum of one time per month.

(b) **Absconder cases.** For offenders who have been classified as absconders under the procedure in Chapter D, Noncompliance *.0500 Absconders* the officer will:

(1) Keep detailed narratives of all efforts to locate the offender;

(2) Make one collateral contact with the offender's family and/or acquaintances every 90 days;

(3) Refer to US Marshals Task Force, if applicable

(4) Review AOC alerts daily.

(c) **Unavailable offenders.** Offenders who cannot be reached for face-to-face contact due to confinement in a medical, correctional, or job-training facility, or on account of military service, will be classified as "unavailable". Officers will:

(1) Make one collateral contact with the confinement facility or other controlling institution to confirm the offender's presence every 90 days;

(2) Review AOC Alerts daily.

(d) **Out of state offenders**. Offenders being supervised under the Interstate Compact for Adult Offender Supervision will be classified as "out-of-state". Officers will follow the procedure set out in *Chapter F, Interstate Compact.*

(e) **CRV offenders.** Offenders serving a CRV in a CRV Behavior Modification Center will be courtesy supervised by a probation officer at the CRV facility. The assigned field probation officer will conduct a collateral contact every 30 days to determine the offender's progress and will cooperate and communicate with the CRV probation officer.

.0606 IMPOSING HIGH RISK DELEGATED AUTHORITY CONDITIONS

Effective for offenses committed on or after December 1, 2011, the Justice Reinvestment Act delegates authority to probation officers to impose certain conditions (other than quick-dip confinement) for the supervision of offenders determined to be high risk (OTI-R score 50 or higher) based on the results of the Risk/Needs Assessment. The intent is to enhance supervision using control and/or treatment tools as necessary based on the results of the OTI-R and the identified criminogenic needs. This delegation may be exercised during the initial supervision period based on an OTI-R score that indicates the offender is high risk or at any other time during supervision due to identified criminogenic need factors. When using high risk delegated authority the officer will:

(a) Review the case with the chief probation/parole officer;

(b) During staffing, the CPPO and PPO should note in the narratives why additional conditions need to be imposed (ex. Red flags, CTG, Sex Offender, domestic violence, criminal history or information from other sources that indicate risky behavior). Offender's risk and needs will be considered when determining what conditions are to be imposed.

(c) Complete form DCC-10D, *Delegated Authority High Risk;* Delegated Authority Guide

(d) Present the DCC-10D to the offender for signature. Notify the offender that the additional conditions go into immediate effect. If offender refuses to sign the DCC10-D advise the offender that they may file a motion for review by the court;

(e) Give the offender a copy of the DCC10-D violation report;

(f) File the original DCC-10D with the clerk in the county of origin/county of supervision;

(g) Notify the bookkeeper in the county of origin of additional Community Service fees to be imposed as pursuant to the law (Community Service Work fee is the only fee which can be imposed through Delegated Authority and only if the fee has not been previously imposed);

(h) File a copy of the DCC-10D in the offender's case file, update the case plan and OPUS to reflect that delegated authority was used.

.0607 REMOVING DELEGATED AUTHORITY CONDITIONS

Upon offender compliance, the officer may remove or reduce the conditions imposed through delegated authority with CPPO approval. Upon approval the officer will:

(a) Complete *DCC Form- Early Removal from Delegated Authority Requirements (DCC-132)* to remove or reduce the conditions previously imposed;

(b) File the original with the clerk of court in the county of origin/county of

supervision;

(c) File a copy in the offender's case file;

(d) Give a copy to the offender;

(e) Update OPUS and the Case Plan to reflect the changes.

.0608 REMOVAL OF SECURITY RISK GROUP CONDITIONS

(a) In order for an offender to be removed completely from the SRG Agreement, they must renounce their affiliation with any and all "street gangs". Renouncing an SRG affiliation will require:

(1) Removal/Covering of all SRG related tattoos

(2) Completely answer all questions from the SRG-02

(3) Have no new convictions or pending charges for:

a. Assault
b. Weapons Charges
c. Drug Charges
d. Charges involving co-defendants
e. Any other charges deemed prohibited by the officer

(4) Must have completed Phase I and in Phase II for a minimum of 90 days

(b) Prepare a motion to modify, using form AOC-CR-609 entering the requested modifications as appropriate. The offender and the district attorney must sign the form at the bottom of side two of page one when modifications are made outside of court.

(c) For Parole/Post Release cases, the officer will make a written request to the Post Release and Parole Commission for removal of the SRG conditions.

.0609 CASE PLANNING DURING ACTIVE SUPERVISION

Case planning will continue throughout the active supervision period, following the

offender management model of collaborative supervision. Officers will provide offenders with a copy of the case plan any time a change in the plan requires a new action step. Officers will place a copy of the case plan in the offender's file. [See *Case Planning Guide*]

.0610 REASSESSMENT

Officers will periodically reassess offenders to determine whether the offender's supervision level has changed. At a minimum, every L1-L3 offender will be reassessed once every 12 months. An officer may, in his or her discretion or at the request of a chief probation/parole officer, based on an offender's behavior conduct more frequent reassessments. Verification of a new juvenile record will also require reassessment. If a new juvenile record is found during the period of supervision, a mandatory reassessment will be performed. In every case the reassessment must include the following:

(a) The officer will update the OTI-R, the officer interview and impressions and if applicable in the case of the sex offender, a Static-99 with any new information;

(b) The officer will take and upload an updated photo of the offender;

(c) The offender will complete a new offender self-report.

.0611 MODIFICATIONS

For good cause, the court may at any time prior to expiration or termination modify the conditions of probation. *G.S. 15A-1344(d).* A violation need not have occurred in order for the court to modify the probation (for modifications in response to a violation of probation, see *Chapter D, Noncompliance*) When a modification is necessary the officer will:

(a) Consult with the chief probation/parole officer;

(b) Consult with the offender to determine whether the offender will consent to the modification. If the offender consents and will waive his or her right to a hearing, no hearing is necessary;

(c) Consult with the district attorney, either in person or using form *DCC-7*

Notice to District Attorney. The district attorney of the prosecutorial district in which probation was imposed must be given reasonable notice of any hearing to affect probation substantially. *G.S. 15A-1344(a)*

(d) Prepare a motion to modify, using form *AOC-CR*-609 or AOC-CR-622 entering the requested modifications as appropriate. The offender and the district attorney must sign the form at the bottom of side two of page one when modifications are made outside of court;

(e) Present the proposed modification to the court, either at a hearing or out of court, depending on whether the offender waived his or her right to a hearing;

(f) File the order with the clerk in the county of conviction, place a copy in the case file, and give a copy to the offender. Send the clerk's office in the county of hearing a copy of the order, if applicable;

The offender must receive a written copy of the modifications in order for them to be enforceable. G.S. 15A-1343(c); State v. Seek, 152 N.C. App. 237 (2002) (reversing a sex offender's revocation of probation when he received only oral notice of a modification to his conditions of supervision).

(g) As appropriate, prepare any additional DCC forms (such as DCC-2 or DCC-70) that are necessary in light of the modifications;

(h) Notify the clerk of court's bookkeeper of any monetary changes utilizing the DCC-166, *Monetary Requirement Notification* and place a copy in the case file.

(i) If modification is for the SRG Agreement, the following will be entered on the AOC-CR-609 page #2, #6 – Other: "*Comply with the rules and regulations of the Security Risk Group Agreement*"

.0612 EXTENSIONS

The General Statutes describe two different types of probation extensions, ordinary extensions under *G.S.15A-1344(d)* and special-purpose extensions under *G.S. 15A-1342(a)* and *G.S.15A-1343.2*. (See UNC SOG – Sentencing Whiteboard: Extending Probation)

(a) Ordinary extensions may, after notice and hearing, be ordered at any time prior to the expiration of probation for good cause shown (no violation need have occurred). The total maximum probation period for extensions under this provision is 5 years. *G.S. 15A-1344(d)*

(b) Special-purpose extensions can be used to extend the probationer's period of probation by up to 3 years beyond the original period of probation, including beyond the five-year maximum, if all of the following criteria are met:

(1) The probationer consents to the extension;

(2) The extension is being ordered during the last six months of the original period of probation (note: if probation has previously been extended, the offender is no longer in his or her original period of probation); and

(3) The extension is necessary to complete a program of restitution or to complete medical or psychiatric treatment *G.S. 15A-1342(a)*; *G.S. 15A-1343.2* (for offenders sentenced under Structured Sentencing)

Extensions for these special purposes are the only way to extend a period of probation beyond 5 years, and only when the original period was 5 years could probation be extended for as long as 8 years under this provision. Any probationary judgment form provided to a defendant on supervised probation must state that probation may be extended pursuant to G.S. 15A-1342(a).

(c) When an extension is necessary, the officer will prepare the same paperwork and follow the same general procedure as set out in *§C.0611, Modifications*

.0613 MANDATORY THREE-YEAR REVIEW

Officers must bring an offender before the court for a case review when the offender has served three years of a probation period greater than three years. The probation officer must give reasonable notice to the probationer and the probationer may choose to appear. The court must review the offender's case file to determine whether to terminate his or her probation. *G.S.15A-1342(d).* The court may at any time terminate a period of probation and discharge an offender if warranted by the

conduct of the defendant and the ends of justice. *G.S. 15A-1342(b)* An officer will, when required:

(a) Notify the offender of the three-year review requirement and any recommendations the officer plans to make at the review. If, at the three-year review point, the offender's behavior does not indicate a public safety risk, and the offender has satisfied all court ordered conditions along with all monetary obligations, the officer should recommend termination, following the procedure in *§C.0700, Closing Cases.* It is the Division's policy to not recommend sex offenders for early termination.

(b) If the offender desires to appear, have the review placed on the appropriate docket and notify the offender of the time and place of the hearing.

(c) If the offender does not wish to appear, review the case informally with the appropriate court.

Officers should bring offenders before the court for a three-year review when legally required. A failure to hold a three-year review does not, however, restrict the court's authority to continue, extend, revoke, or terminate probation at any time by appropriate proceeding. State v. Benfield, 22 N.C. App. 330 (1974).

.0614 SUPERVISION FEES

Payment of a monthly probation supervision fee is a regular condition of supervised probation. *G.S. 15A-1343(c1) & (g)*

(a)) The court may exempt a person from paying the fee only for good cause and upon motion of the person placed on supervised probation.

(b) The court may authorize a probation officer to determine a payment schedule for supervision fees.

(c) No person shall be required to pay more than one supervision fee per month.

.0615 TRANSFERS

An offender must, as a regular condition of supervised probation, give the supervising officer notice and get prior approval before changing address. *G.S. 15A-1343(b)(3)* Officers will approve changes of address unless the move would present a threat to public safety, or the move is motivated by an offender's desire to avoid supervision. If an offender will be residing in another county for more than 90 days, his or her case will be transferred to the new county, according to the following procedure:

(a) Sending county responsibilities:

(1) Upon receipt of an offender's request to transfer, the supervising officer will review the case file for special conditions or circumstances that would prohibit the offender from leaving the county;

(2) The supervising officer will consult with the chief probation/parole officer to get the CPPO's approval for the transfer;

(3) The supervising officer will address any pending violations, including delinquency with any monetary conditions, before granting final approval for the transfer;

(4) Upon approval of the CPPO, the supervising officer in the sending county will instruct the offender to report within three calendar days to the chief probation/parole officer in receiving county;

(5) If the transfer is accepted by the receiving county and the case is for an EHA, EM, RF or SBM sex offender, the supervising officer in the sending county will call for immediate reporting instructions and have offender report to proposed residence. Update OPUS with the new address and phone number.

(6) The chief probation/parole officer will document the transfer in OPUS and forward the case file to the chief probation/parole officer in the receiving county.

(7) If an offender must relocate outside the county while a probation violation hearing is pending, the supervising officer will keep the offender on his caseload and initiate out of county supervision (CTSY) in the county of residence. The officer in the receiving county should supervise the offender according to the assigned supervision level.

(8) For Sex Offenders – The offender must remain in the sending county until the residence is investigated, approved and accepted by the receiving county.

(b) Receiving county responsibilities:

(1) Upon notification of a pending transfer, the chief probation/parole officer in the receiving county will assign the case to a supervising officer to verify the offender's residence.

(2) For an EHA EM, RF or SBM sex offender, the case must be investigated and accepted prior to the offender moving to the supervising county.

(3) For EHA, EM and SBM cases, the officer in the receiving county within 24 hours of accepting the transfer request may utilize the mapping feature through the GPS system to verify the offender has arrived at the residence. The receiving county is responsible for establishing the schedules and zones for the offender.

(4) For all cases, the receiving county will, within seven days, physically verify the offender's residence in the receiving county;

(5) All transfers will be accepted by the receiving county unless the investigating officer has determined that the offender is not, in fact, relocating to the receiving county or in cases of sex offenders, the residence does not comply with the requirements of general statute. Pending criminal charges are not, standing alone, proper grounds for refusing a transfer.

(6) Upon receipt of the case file from the sending county, the chief probation/parole officer will review the judgment and forward the case to a supervising officer.

(7) For Sex Offenders – prior to the offender moving to the receiving county, the residence must be investigated, approved and accepted.

Offenders participating in transitional housing are not eligible for courtesy supervision.

.0616 COURTESY SUPERVISION

When an offender temporarily relocates to a location outside the county of supervision for 90 days or less, he or she may be placed under courtesy supervision in that

location. All offenders in residential programs out of county will be courtesy supervised for 90 days and then transferred to the courtesy officer for permanent assignment. In the event that courtesy supervision is necessary, the supervising officer will:

(a) Request courtesy supervision in the county of temporary relocation;

(b) Initiate a courtesy transfer in OPUS [*OPUS Manual*- Section 18];

(c) Forward a copy of the court documents to the assigned officer in the county of temporary relocation;

(d) The supervising officer in the county of temporary relocation will continue case planning.

(e) Offenders serving a 90 day CRV at a Behavior Modification Center will be courtesy supervised by officers at the CRV facilities.

Offenders with a pending violation hearing, requesting to transfer to another county, will be courtesy supervised until the hearing is disposed; after which the case may be transferred.

.0617 OUT OF STATE TRAVEL

Supervised offenders may not travel outside North Carolina unless granted written permission to leave by the court or a probation officer. *G.S. 15A-1343(b)(2)* An offender may not receive a travel permit until he or she has been under supervision for at least 60 days and a supervision level has been established (except in emergencies, as described in *§ C.0618* below). Officers may grant a travel permit for a period not to exceed 30 days under the following procedure:

(a) At least seven days before the planned travel, the offender must complete a form *DCC-17 Application for Travel Permit*, providing the following information:

(1) The destination(s) (a specific street address)

(2) The reason for the travel;

(3) Names of and relationship to all persons being visited;

(4) A full itinerary, including date of departure and date of return;

(5) A telephone point of contact at each destination;

(6) Mode of transportation (including make, model, and license plate number of vehicle if traveling by car, or ticket information if traveling by commercial carrier); and

(7) Travel companions, if any.

(b) Before granting a travel permit the officer will:

(1) Verify the information provided in the permit application, including calling points of contact at the offender's destination, as necessary in the officer's discretion;

(2) Confirm that the offender has been under supervision for at least 60 days and that a supervision level has been established;

(3) Confirm that the offender is in compliance with all conditions of supervision including any monetary obligations.

High risk supervision offenders and offenders subject to SRG Agreement conditions, House Arrest with Electronic Monitoring or a Curfew are not allowed to travel out of state except in emergency situations, which must be verified, with the specific approval of the controlling authority. The Post Release Supervision and Parole Commission has delegated the authority to the Division to grant travel permission for post release and parole offenders.

(c) Extension of a permit. Offenders who receive a travel permit may request an extension of that permit.

(1) The officer may, with approval from the chief probation/parole officer, grant the extension if the offender updates the information provided in the initial permit application and is still in compliance

with his or her conditions of supervision.

(2) In no circumstance may the total length of travel permit exceed 45 days.

Travel permits may not be used as a substitute for transfer under the Interstate Compact for Adult Offender Supervision (ICAOS). Most offenders who spend more than 45 consecutive days in another state must do so under the ICAOS. ICAOS Rule 1.101; 2.110. Offenders may not use a series of travel permits as a means of avoiding the letter or spirit of the Compact.

(d) Special requirements for sex offenders. In addition to the requirements set out above, the following procedure must be followed when a sex offender applies for a travel permit:

(1) The offender must inform the sheriff in his or her county of registration of the offender's destination and itinerary if he or she will be away from their residence for more than seven days. [This requirement is mandatory under federal guidelines enacted pursuant to *§114(a)(7)* of the Sex Offender Registration and Notification Act (SORNA).]

(2) If the victim of the offender's crime was a minor, the officer must confirm that no minors will be living in any residence being visited by the offender, and that no minors will be traveling with the offender.

(3) The officer must give the offender a *DCC-46*, Sex Offender Travel Letter, and must instruct the offender to provide a copy of the letter to local law enforcement at each location in which the offender will remain overnight. Law enforcement must sign the letter and the offender must provide a signed copy to the supervising officer upon his or her return.

(4) The chief probation/parole officer must review the application and approve the travel permit.

.0618 EMERGENCY OUT OF STATE TRAVEL

Offenders may obtain short-notice travel permits in the event of an emergency, such as (but not limited to) the death or serious illness of an immediate family member, or an employment requirement that is strictly necessary for the offender to maintain his or her job.

(a) Officers will take a case-by-case approach to emergency travel requests, granting emergency travel permits only with approval from the chief probation/parole officer.

(b) Emergency travel by sex offenders must be approved by the judicial district manager.

(c) Emergency travel may not exceed 45 consecutive days.

(d) Officers should follow the procedure as set out in *§C.0617, Travel* above to grant permission for emergency travel absent of the 7 day advance notice. Offenders are not required to sign the permit in an emergency travel situation.

.0619 FOREIGN TRAVEL

Permits for international travel will be handled in accordance with the same procedure as interstate travel, with the additional requirement that all foreign travel must be approved by the controlling authority.

.0620 ROUTINE OUT OF STATE TRAVEL

Unless the controlling authority says otherwise, offenders who live near the state line or who otherwise make routine, non-overnight trips to neighboring states for employment, shopping, or medical reasons are not required to obtain a travel permit for those routine trips. The travel must be approved by the chief probation/parole officer and documented in the offender case file.

.0621 TRAVEL RELATED TO INTERSTATE COMPACT

Travel related to the Interstate Compact for Adult Offender Supervision. See *Chapter F, Interstate Compact.*

.0622 OFFENDER AS INFORMER

A person receiving probation/parole/post-release supervision will not enter into any agreement to act as an informer or special agent for any law enforcement agency without an order from the Court, Parole Commission, or other controlling authority.

.0623 LIMITED ENGLISH PROFICIENT (LEP) OFFENDER

Community Corrections recognizes the special needs that non-English speaking or Limited English Proficient offenders (LEP) encounter during their period of supervision. It is the purpose of this policy that each offender is given the opportunity to receive services and to ensure that offenders understand requirements and expectations while they are under supervision. The purpose of this policy is to establish effective guidelines, consistent with Title VI of the Civil Rights Act of 1964 and the Omnibus Crime Control and Safe Street Act of 1968; for Community Corrections personnel to follow.

DEFINITIONS

For purpose of this LEP policy, the following definitions apply:

(1) Bilingual Staff. Any employee of Community Supervision who is able to communicate directly and accurately in both English and another language for general communication.

(2) Interpretation. The act of listening to a communication in one language and orally converting it into another language, while retaining the same meaning. A qualified interpreter will be a person who is approved and certified as qualified to provide an oral interpretation between speakers who speak different languages. Interpretation services include the use of a professional telephone interpreter service.

(3) Limited English Proficient Offender (LEP). Any offender who does not speak English as his or her primary language and who has a limited ability to read, write, speak, or understand English.

(4) Translation. The replacement of written text from one language into an equivalent written text in another language. A translator will be a person who is approved and certified as qualified to provide translation of written text from one language to another.

NOTIFICATION OF LANGUAGE SERVICES

(1) At each Community Corrections probation/parole office locations, signage will be posted in the most commonly spoken languages stating that interpreter services are available at no charge. Translations of vital documents are available in Spanish and alternative oral interpretation of vital documents will be available when translation is not possible. Information about interpreter services and translated documents will be provided by the probation/parole officer.

(2) If during the performance of their duties, an officer identifies an offender as Spanish speaking, the officer will provide the offender with a copy of the Completing Probation/Parole Successfully (Spanish Version) brochure.

SUPERVISION OF LEP OFFENDERS

(1) Supervision of Limited English Proficient offenders will have as one of the goals to bridge any language barrier to facilitate a clear communication between LEP offenders and Community Corrections officers that constitutes an understanding all requirements of supervision.

(2) The Judicial Division Administrator and the Judicial District Manager and/or designee will ensure that all employees understand how to access qualified language service providers.

(3) The supervising officer of an LEP offender will take the necessary action needed to help the offender understand the information being communicated in official documents pertaining to their supervision. In addition, the officer will make all reasonable efforts to assist the LEP offender in any aspect of case management.

(4) Community Corrections will only authorize the use of interpreters approved by the state of North Carolina Administrative Office of the

Courts and the approved telephonic interpretation services.

(5) Local Spanish speaking resources including but not limited to staff, law enforcement, treatment providers, community advocacy groups, non-profit organizations, faith-based organizations, etc can be used for general communication.

(6) The use of family, friends, and/or acquaintances of the offender to assist with communication should not be used for official communication particularly when the matter involves significant consequences such as the offender's due process and/or treatment services.

(7) Community Corrections staff should make use of approved translated documents to provide vital information about the programs, rules and regulations.

(8) During the case planning process, emphasis should be placed on referring an LEP offender to English as Second Language (ESL) classes; however this will in no way affect the offender's status while being supervised by Community Corrections.

(9) All case management and supervision requirements will be documented in case narratives.

PROCEDURES FOR ENSURING THE QUALIFICATION OF BILINGUAL STAFF

Community Corrections Administration will be responsible for setting qualifications to ensure that bilingual staff are qualified and approved to provide language assistance services. Bilingual specialty/skills will be documented in OPUS on the staff description screen.

PROCEDURES FOR IDENTIFYING AND OBTAINING TRANSLATIONS OF VITAL DOCUMENTS

Community Corrections Administration will be responsible for identifying vital documents and determining into what languages those documents should be translated and will also be responsible for maintaining a list of translated documents on the agencies internal web page. Whether a document is considered vital may depend upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP offender if the information in question is not provided accurately or in a timely manner.

PROCEDURES FOR OBTAINING PROFESSIONAL INTERPRETING SERVICES

(1) Community Corrections Administration will be responsible for contracting professional interpreter services, including telephonic interpretation services for the Section and will be responsible for establishing internal controls to prevent abuse by offenders and staff. When utilizing the telephonic interpretation service, officers must provide the following:

LEP Offender Program Guidelines

a. Account # (4 digit district number, 5010, etc.)
b. Officer's name
c. Officer's staff ID
d. Offender's OPUS #

(2) All calls are provided for state business only.

(3) All locations utilizing this service must maintain a record of each call on the "Telephone Interpreter Service Phone Log"

(4) Community Corrections managers or designees shall review their employees' telephone interpreter service phone logs to ensure that all calls are legitimate and to assist in determining that charges are accurate.

.0624 UNDOCUMENTED IMMIGRANTS AND DEPORTATION

Community Corrections has a partnership with Immigration Customs and Enforcement (ICE) that will assist officers with the identification and possible removal of undocumented or illegal immigrants placed on probation/parole.

(a) **Offender Notification.** Officers will ensure that accurate information is recorded in OPUS for all foreign born offenders. Any information or knowledge gained regarding offenders' illegal status should be reported to Immigration Customs and Enforcement.

(b) **Special Initiatives.** At the request of Immigration, and upon approval from Division Management and Assistant Director, Districts may participate in special initiatives. These initiatives will be coordinated by the Judicial District Manager and reported by submitting the (DCC-160) Special Initiative/Operation Report to the Division Office and to the Assistant Director. Immigration Alien Numbers for all offenders detained will be provided to the Judicial District Manager and/or supervising officer to use when checking deportation status. The alien number should be recorded in OPUS.

(c) **Case Management.** Offenders detained by Immigration Customs and Enforcement will be placed in non-reporting status in OPUS. Ninety days after placing the offender into non-reporting status, the officer will request an Alien Query (IAQ) from DCI. Officers will e-mail the DCI Immigration Proxy address with the offender's name, OPUS number, date of birth, place of birth (country), alien registration number, and probation offense. Upon status verification from DCI (Alien Query), officers should staff the case with the CPPO for case management and/or closure instructions.

(d) **Offenders Not Yet Deported.** Offenders not yet deported should remain in non-reporting status with continuous follow up with Immigration. 120 days prior to case expiration, the officer should staff case with Chief Probation/Parole Officer then notify and request case closure instructions from the District Attorney's Office.

If the offender is released pending the deportation hearing, resume supervision immediately.

(e) **Offenders Deported.** Upon notification from Immigrations, Customs and Enforcement (ICE) that the offender was deported, the officer should staff case with the CPPO and District Attorney's Office requesting that the case be terminated with the exception of sex offender and domestic violence cases. (Refer to *C.0700 Closing Cases*)

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter C Offender Supervision

Section .0700 Supervision Stage 4: Closing Cases

.0701 PURPOSE

This section sets out an officer's responsibilities when a period of supervision comes to an end for a reason other than revocation. Revocations are covered in Chapter D. If an offender is being supervised in multiple cases, each case will be handled individually.

.0702 EXPIRING CASES

When an offender reaches the end of his or her period of supervision, the case expires. Officers will receive a notification when a case is within 120 days of expiration. Upon receipt of that notice, the supervising officer will:

(a) Review the case with the chief probation/parole officer to identify any noncompliance and to plan for the offender's transition from supervision;

(b) Report any noncompliance to the controlling authority;

(c) Once any noncompliance is resolved, the officer will follow the procedure set out in *§ C.0707, Close Out.*

(d) If there are pending charges a violation report must be filed prior to expiration to hold the case open until disposition of the pending charge.

.0703 EARLY RELEASES

Supervision that ends prior to expiration is considered a termination. The court may terminate a period of probation and discharge an offender at any time prior to expiration if warranted by the conduct of the offender and the ends of justice. *G.S. 15A-1342(b)*. Termination may result from the mandatory three-year review described in *§ C.0613*.

(a) Before recommending termination the supervising officer will:

(1) Review the case with the chief probation/parole officer to determine compliance with all conditions, including monetary obligations;

(2) Prepare a DCC-7, *Notice to District Attorney*, and forward it to the district attorney in the county of conviction. The district attorney in the county of conviction must receive reasonable notice of any hearing to affect probation substantially. *G.S. 15A-1344(a)*.

(3) Officers will not recommend early release/termination for domestic violence offenders, sex offenders, DWI offenders (Aggravated Level 1, Level 1 and 2) or any offender that owes outstanding restitution. The officer will recommend continued supervision if asked for a recommendation.

(b) If the court modifies the offender's probation, prepare a motion to modify following the procedure set out in *§ C.0611, Modifications*.

(c) If the court terminates the case, follow the procedure set out in *§ C.0707, Close Out.*

.0704 TRANSFER TO UNSUPERVISED PROBATION

An offender may be transferred to unsupervised by court order or, in certain circumstances, by a probation officer without a court order.

(a) The court may transfer a supervised probationer to unsupervised probation. If the court does so, the supervising officer will prepare a motion to modify, following the procedure set out in § C.0611, *Modifications*.

Generally, the court may place a person on supervised or unsupervised probation. G.S. 15A-1341(b). However, an intermediate punishment must, at the outset, include supervised probation. G.S. 15A-1340.11(6). Additionally, offenders subject to the special probation conditions for sex offenders and offenders convicted of offenses involving the mental, physical, or sexual abuse of a minor may not be placed on unsupervised probation. G.S. 15A-1343(b2).

(b) A probation officer may transfer the following offenders to unsupervised

probation without a court order:

(1) If a person placed on supervised probation is required as a condition of probation to pay any moneys to the clerk of superior court, the court may authorize the probation officer to transfer the person to unsupervised probation after all the moneys are paid. *G.S. 15A-1343(g).*

(2) An officer may transfer a level 5 misdemeanant offender from supervised to unsupervised probation if the offender is not subject to any special conditions and was placed on probation solely for the collection of court-ordered payments. *G.S. 15A-1343(g)*.

(3) If the court places an offender sentenced to Level Three, Four, or Five punishment for impaired driving on supervised probation, it must authorize the probation officer to move the offender to unsupervised probation upon the completion by the defendant of his or her community service or upon payment of any fines, court costs and fees (the court will indicate on the form what conditions the offender must satisfy before the officer may transfer the offender to unsupervised probation). *G.S. 20-179(r)*.

(c) Officers will adhere to the following procedure when transferring an eligible offender to unsupervised probation:

(1) Consult with the chief probation/parole officer to determine whether transfer to unsupervised probation is appropriate;

(2) Officers will not recommend a transfer to unsupervised probation for domestic violence offenders, sex offenders, DWI offenders (Aggravated Level 1, Level 1 and 2) or any offender that owes outstanding restitution. The officer will recommend continued supervision if asked for a recommendation.

(3) Verify that the offender does not have any violations pending;

(4) Prepare a DCC-119, *Transfer to Unsupervised Probation by Probation Officer*;

(5) Provide a copy of the *DCC-119*, *Transfer to Unsupervised Probation by Probation Officer* to the clerk in the county of conviction; give a copy to the offender and place a copy in the case file.

(6) Prepare a DCC-166, *Monetary Requirement Notification* and provide a copy to the bookkeeper and place a copy in the case file.

(7) Give the physical case file to the chief probation/parole officer, who will close the case in OPUS and file the case file with closed cases for the appropriate year.

.0705 OFFENDER DEATH

If an offender dies while on probation, the supervising officer will:

(a) Verify the death through the register of deeds/vital records, or by a copy of the death certificate or obituary;

(b) Prepare a DCC-14, *Death of Probationer Order*, and present it to the court for signature; file the original with the clerk in the county of conviction and file a copy in the case file;

(c) Prepare a DCC-166, *Monetary Requirement Notification* and provide a copy to the bookkeeper and place a copy in the case file.

(d) Update the status of special conditions in OPUS;

(e) Give the physical case file to the chief probation/parole officer, who will close the case in OPUS and file the case file with closed cases for the appropriate year.

.0706 DEFERRED PROSECUTION/90-96/CONDITIONAL DISCHARGE CASES

Upon an offender's satisfactory completion of a period of deferred prosecution/90-96/conditional discharge probation under *G.S. 15A-1341(a1)(a2)(a4)(a5)* or G.S. 90-96 or when the district attorney dismisses the deferred charge prior to the completion of the deferred prosecution/90-96/conditional discharge period, the supervising officer will:

(a) Complete form AOC CR-622, *Disposition/Modification of Deferred Prosecution or Conditional Discharge*;

(1) Forward the AOC-CR-622 to the proper judicial official for signature;

(2) Give a copy of the form to the offender and place a copy in the case file;

(b) Follow the procedure set out in *§ C.0707, Close Out.*

(c) Upon the expiration or early termination of a period of probation imposed pursuant to a statutory deferred prosecution agreement, the defendant shall be immune from prosecution of the charges deferred.

.0707 CLOSE OUT

Officers will do the following when a case comes to an end:

(a) Conduct a close-out interview with the offender. At the interview the officer will:

(1) Review the case plan with the offender, emphasizing areas of achievement. Give the offender a copy of the case plan;

(2) Reinforce pro-social behaviors developed during supervision; The officer may suggest treatment or support group referrals that would contribute to ongoing pro-social behavior.

(b) Complete a DCC-15, *Order for Final Discharge*; file the original DCC-15 with the clerk in the county of conviction. Give one copy to the offender and place one copy in the case file;

(c) Update the status of special conditions in OPUS;

(d) Notify the clerk of court's bookkeeper of the case closure utilizing the DCC-166, *Monetary Requirement Notification* and place a copy in the case file;

(e) Give the physical case file to the chief probation/parole officer, who will close the case in OPUS and file the case file with closed cases for the appropriate year.

(f) For felony probationers, the officer will give the offender a *Notice to Former Felons Regarding Voting Rights*, and a *Voter Registration Form*. G.S. 163-82.20A

(g) For felony probationers whose period of probation is terminated early, complete a DCC-13, *Certificate for Restoration of Rights*

(1) When a person's rights are restored, the Division will immediately issue a certificate or order in duplicate evidencing the offender's unconditional discharge and specifying the restoration of his rights of citizenship, as required under *G.S. 13-2*.

(2) The officer will file the original of the DCC-13 with the clerk in the county of conviction, give a copy to the offender, and place a copy in the case file.

(3) The officer will give the offender a *Notice to Former Felons Regarding Voting Rights*, and a *Voter Registration Form*. G.S. 163-82.20A

(4) Upon request, officers will assist offenders who were transferred to unsupervised probation prior to expiration with obtaining a DCC-13 when their case expires.

Under G.S. 13-1, an offender's rights of citizenship are automatically restored when he or she is unconditionally discharged from supervision or unconditionally pardoned. Notwithstanding this general restoration of rights, it is still unlawful under G.S. 14-415.1 for any person who has been convicted of a felony to purchase, own, possess, or have in his or her custody, care, or control any firearm or weapon of mass death and destruction.

.0708 PAROLE AND POST-RELEASE SUPERVISION CASES

Except as indicated below, parole and post-release supervision cases will be closed in the same manner as probation cases.

(a) **Expiring cases**. Pending violations will be reported to the Commission instead of the court.

(b) **Early releases (Parole)**

(1) The Commission may terminate a period of **parole** and discharge a parolee at any time after the expiration of one year of successful parole if warranted by the conduct of the parolee and the ends of justice. *G.S. 15A-1373(a)*.

(2) In order to be recommended for early termination of **parole**, the offender must:

a. Be in compliance with all special conditions of supervision, including community service and any monetary obligations;

b. Have been under parole supervision for at least one year;

c. Have been on parole for one-third of the unserved sentence balance, defined as the length of time between the parole date and the unconditional discharge date. An unserved sentence balance of over 10 years or a life sentence balance will be treated as an unserved sentence balance of 10 years;

d. Be assigned to supervision level 3, 4, or 5.

(3) To process an early **parole** termination an officer will:

a. Complete a form PC-112, *Early Termination Request* and submit it to the Supervision Office for consideration by the Commission;

b. Follow the procedure set out in *§ C.0707, Close Out*, including the parole-specific requirements set out below (d).

(c) **Parolee/Post Releasee Death**

Close with appropriate codes in OPUS.

(d) **Close Out (Parole/Post Release)**

(1) The supervising officer must obtain a *Certificate of Unconditional Discharge and Restoration of Rights* from the Commission before closing out a parole/post release case.

(2) Give a copy to the offender, forward a copy to the clerk in the county of conviction, and file one copy in the case file.

(3) The officer will give the offender a *Notice to Former Felons Regarding Voting Rights*, and a *Voter Registration Form*. G.S. 163-82.20A

(4) Notify the clerk of court's bookkeeper of the case closure utilizing the DCC-166, *Monetary Requirement Notification* and place a copy in the case file

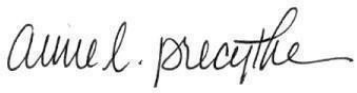
.0709 EXPUNCTIONS OF RECORDS

North Carolina law allows for the court-ordered destruction (expunction) of an offender's records concerning criminal prosecution and conviction under specific criteria as listed in the general statutes.

To obtain an expunction, a person must file a petition in the court of conviction. The judge to whom the petition is presented may call on an officer for any additional investigation, verification of conduct, or relevant information. (See UNC School of Government – *Relief From a Criminal Conviction*)

The expunction of probation records will be directed by the Central Office staff in Raleigh. Upon request, field staff will forward the offender's original case file and Order of Expungement through the chain of command. Copies of the file shall not be maintained in the field office.

APPROVED.



08/01/2016

Director of Community Corrections

Date

Chapter C Offender Supervision

Section .0800 Searches

.0801 GENERAL

The Fourth Amendment to the United States constitution prohibits unreasonable searches and seizures. The amendment also provides that no search warrant will be issued except upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized. The courts have determined what is necessary for probable cause, and when searches conducted without warrants are reasonable.

.0802 OFFICER AUTHORITY

The Probation/Parole Officer is authorized to conduct warrantless searches of persons, vehicles, and/or premises in the following situations ONLY:

(a) When the offender consents;

(b) When the offender is subject to warrantless searches as a special condition of probation, parole, or post-release supervision;

(c) When the search is incident to an arrest; or

(d) When evidence of a criminal offense or activity is in plain view.
G.S. 15-205, *G.S. 15A-221*, *G.S. 15A-1343 (b)(13)*

The Division takes the position that a strip search of an offender (i.e., warrantless searches subsequent incident to arrest, or collection of drug screening) is not permissible under any circumstances.

.0803 SEARCHES WITH CONSENT

Consent is defined as a statement to the Probation/Parole Officer giving the officer permission to make a search. Consent must be voluntary and intelligently given, with no force or intimidation. A consent search is limited in duration and physical scope by the limits of the consent given. If an offender is over 18, parents may not consent to a search of his/her room in their home. A landlord cannot consent to a search of the tenant's room or apartment. Consent may be rescinded at any time and, at that point, the Probation/Parole Officer must immediately stop the search. G.S. 15A-221. Permission to make a search can be given by:

(a) The person to be searched, or the parent of a child who is not yet 18;

(b) The registered owner of a vehicle to be searched, or the person in apparent control of its operation and contents at the time the consent is given; *or*

(c) A person who, by ownership or otherwise, is reasonable apparently entitled to give or withhold consent to a search of premises.

.0804 SEARCHES AS A REGULAR CONDITION

An offender may be required at reasonable times to submit to a warrantless search of his/her person, vehicle, and/or premises, while he/she is present, by the Probation/Parole Officer for purposes directly related to supervision.

An offender's refusal to consent is considered a violation of the conditions of probation (*see Chapter D, Noncompliance*). *G.S. 15A-1343 (b)(13)*

Cell/Smart Phones, tablets, computers will not be searched pursuant to the warrantless search condition (with the exception of sex offenders - Chapter G .0402 Special Condition for Sex Offenders) unless specifically ordered by the court.

.0805 SEARCHES INCIDENT TO AN ARREST

The Probation/Parole Officer may perform a warrantless search as part of executing an arrest. (see Chapter D.0400, Arrests) The search incident to an arrest must be limited to the person's body and clothing, and the area within his/her immediate reach. If the offender is allowed to move around the room while the arrest is taking place, the entire area within reach may be searched.

(a) A search incident to arrest may be made for:

(1) Weapons; *and/or*

(2) Evidence related to the violation for which the offender is being arrested.

(b) A search made incident to an arrest may be made:

(1) Prior to the arrest if there is probable cause and the arrest follows the search as closely in time as is practically possible;

(2) While the arrest is being executed; *or*

(3) As soon as possible after the arrest, as long as the offender may still have access to weapons or evidence.

If the Probation/Parole Officer determines that individuals present during the arrest are potential accomplices or constitute a safety threat, then they and the area within their reach may be searched. Any weapons and/or evidence discovered may be seized.

.0806 SEARCH AND SEIZURE OF ITEMS IN PLAIN VIEW

Upon conducting a warrantless search or during routine supervision, the Probation/Parole Officer may seize items in plain view that he/she reasonably determines to be:

(a) Possessed illegally or in violation of a condition of supervision;

(b) Evidence of a crime; *and/or*

(c) Used to commit or conceal the commission of a crime.

In such instances, the Probation/Parole Officer will:

(a) Determine the safety of the surroundings;

(b) If possible, immediately secure both the offender and the evidence;

(c) Immediately notify local law enforcement and request assistance;

(d) Upon their arrival, turn over the secured area and evidence for investigation and possible criminal charges; *and*

(e) Take the appropriate action regarding the offender under supervision (*see Chapter D, Noncompliance*).

.0807 SEIZURE AND CUSTODY OF EVIDENCE

The Probation/Parole Officer conducting a search and subsequent to the search, all items seized will be documented on the *DCI-IR-205*, *Recovered/Found Property Report* following *instructions for completing DCI-IR*.

(a)) Upon completing the required form(s) the probation/parole officer will:

(1) Retain original DCI-IR-205 with items seized;

(2) Place first copy in the offender file;

(3) Give Second copy to the owner of the property.

(b) Items seized will be labeled with the following information:

(1) Time and date of seizure;

(2) Seizing officers name and staff ID;

(3) Offender's name;

(4) Property control number;

(5) Court date if applicable.

(c) All items seized will be transferred to the proper authority, maintaining the chain of custody based on the following criteria:

(1) Items Seized Resulting in New Criminal Charges. The Probation/Parole Officer will not retain custody, must be retained by the charging law enforcement agency.

(2) Seized Firearms or Other Weapons of Mass Death and Destruction (G.S. 14-288.8c). The Probation/Parole Officer will request local law enforcement retain custody of all firearms or other weapons of mass destruction until disposal is ordered. If law enforcement refuses custody, the officer will deliver within 48 hours the seized weapon(s) and the original Recovered/Found Property Report to the Judicial Division Office to be placed in the division safe. All firearms/weapons will be secured under lock and key at all times.

(3) Other Items Seized. With the exception of firearms or other weapons of mass death and destruction, the Probation/Parole Officer may retain items seized not resulting in new criminal charges. All items will be secured under lock and key in an area designated by the supervisor. The supervisor and his/her designee will maintain the chain of custody by receiving items with signature on the back of the original Recovered/Found Property Report. The original form is to be kept with items seized.

(d) Final Disposal Action. Once items seized are no longer relevant to the case or pending violation hearing, the Probation/Parole Officer will obtain a disposition

from the court utilizing the original Recovered/Found Property Report, Final Disposal Action section, the Probation/Parole Officer will mark one of the following recommendations:

(1) Released to the owner or other

(2) Destroy (by the Sheriff)

(3) Other (specify)

(e) Final Disposal Authority. Write in the offender or owner's name, address, property control numbers and docket number of probation or parole, post-release case. The Probation/Parole Officer will obtain a Judge's signature under this section. The Probation/Parole Officer is to complete the chain of custody by signing and releasing items seized to the owner or Sheriff of the county. Ensure a copy of form, to include chain of custody history, is retained in the offender case file.

(f) Response to Violations. The Probation/Parole Officer will respond to all violations according to the noncompliance grid in Chapter D Noncompliance. Seized items will be reported to the court or Post-Release and Parole Commission for a final disposition action.

(g) Seized Items Quarterly Report. The Chief Probation/Parole Officer will submit a quarterly inventory report of items being held in evidence to the Judicial District Manager. The manager will forward a copy to the Judicial Division Office.

.0808 SEARCH AND SEIZURE RESULTING IN FEDERALLY FORFEITED PROPERTY

The purpose of the Department of Justice Forfeiture Program is law enforcement: to deter crime by depriving criminals of the profits and proceeds of their illegal activities, to weaken criminal enterprises and, to enhance cooperation among federal, state and local law enforcement agencies through the equitable sharing of federal forfeiture proceeds.

The Department of Public Safety has elected to be a participant in this program as allowed by the local law enforcement agency responsible for issuing new criminal charges against an offender under the supervision of Community Corrections.

The Department does not elect to participate in the North Carolina Department of Revenue Seizure Involving Nontaxpaid (Unstamped) Controlled Substances.

The Probation/Parole Officer conducting a warrantless search resulting in the seizure of drugs and contraband *and* the offender's arrest for a new crime will, subsequent to the search:

(a)) Determine whether the offender possesses proceeds from illegal activity such as cash and,

(b) Contact the Chief Probation/Parole Officer immediately.

(c) The Chief Probation/Parole Officer will:

Submit in writing a request, to the local law enforcement agency with jurisdiction over the seizure and arrest, that Community Corrections participates in any equitable share of the net proceeds of the forfeiture, and will notify the Judicial District Manager and the Judicial Division Office.

APPROVED.

Anne L. Precythe 08/01/2016

Director of Community Corrections Date

Chapter C Offender Supervision

Section .0900 Maintenance of Case Records

.0901 PURPOSE

This section sets out the proper way to manage an offender case file, including requirements related to confidentiality.

.0902 THE CASE FILE

Officers will include the following documents in each case file. The documents are listed in the order in which they should be placed in the file, from back to front.

(a) On the right side of the folder, facing the back of the file:

(1) The judgment, supervision agreement, or deferred prosecution agreement;

(2) Extensions or modifications of the original judgment or agreement, including attached violation reports;

(3) Revocation or other orders and violation reports.

(b) On the right side of the folder, facing the front of the file:

(1) Social history information, including any investigations;

(2) Miscellaneous documents, including orders for arrest and travel permits;

(3) Correspondence with the offender, and any collateral contacts (grouped by agency), in chronological order;

(4) Offender assessment results.

(c) On the left side of the folder:

(1) The offenders photograph;

(2) The most recent version of the case plan.

.0903 RECORDS RETENTION

Closed case files will be retained as follows:

(a) Closed offender case files will be maintained in the county of supervision for a minimum of five years.

(b) Case files of offenders who were investigated but not supervised may be destroyed after one year. On an annual basis, the judicial district manager will initiate the disposal of eligible records by instructing the chief probation/parole officer to:

(1) Pull and destroy by shredding one-year-old or more case files of offenders who were investigated but not supervised;

(2) Pull all case files closed for at least five years; and

(3) Transport the case files to a specified location.

(c) The Judicial District Manager or designee will:

(1) Gather all eligible files from the district;

(2) Call State Archives in Raleigh to order special storage boxes and printed labels;

(3) Box files alphabetically and label accordingly; and

(4) Transport files to State Archives in Raleigh for permanent storage.

.0904 CONFIDENTIALITY

G.S 15-207 Records Treated as Privileged Information

All information and data obtained in the discharge of official duty by any probation officer shall be privileged information, shall not be receivable as evidence in any court, and shall not be disclosed directly or indirectly to any other than the judge or to others entitled under this Article to receive reports, unless and until otherwise ordered by a judge of the court or the Secretary of Public Safety.

(a)) The content of the case file is considered privileged information under *G.S. 15-207.* This includes medical and mental health information, drug and alcohol information, as well as information from the post release supervision and parole commission. Medical and mental health information and drug/alcohol information may be released with the appropriate Release of Information form signed by the offender. Other case file information may be released upon receipt of an order by the court or by authority of the Secretary of the Department of Public Safety.

(b) Information regarding an offender's new address, place of employment and salary may be released to other local, state and federal agencies and local law enforcement.

(c) Information should not be shared outside of the parties mentioned in (a) and (b) above unless it is public information. The following information is public record and can be shared upon request:

(1) Name, age, race, gender;

(2) Offense for which convicted;

(3) Court where sentenced;

(4) Length of sentence;

(5) Date of sentencing;

(6) All court records not marked "Confidential";

(7) Conditions of supervision

(8) Hearing dates/locations

(9) Violations filed with the court

(10) Served orders for arrest

(11) Sex offender registry status

(12) Termination/Discharge date

(13) Interstate Compact status

.0905 JUVENILE RECORD ACCESS

Juvenile records are confidential, are to be withheld from public inspection, and are not to become part of the public record in any criminal proceeding. Details of the juvenile record will not be entered onto any screen in OPUS. When notified through OPUS, the designated officer responsible for conducting juvenile record checks will:

(a) Submit (in person) a Juvenile Records Request form (DCC-114) with name, date of birth, and if available, mother's name for the juvenile to the appropriate Clerk of Court's office;

(b) Pick up copies of adjudication orders (AOC-J-460) from the clerk's office, if available;

(c) Complete OPUS documentation detailing record check is complete as outlined in OPUS investigation instructions in the *OPUS Manual*- Section 18;

(d) Provide the adjudication order to the supervising officer.

(1) If the supervising officer is in another county, mail the order in an envelope marked confidential and sign their name across the seal of the envelope;

(2) Do not scan, e-mail, or fax this form.

The JDM will establish a central file location per county for the adjudication orders received. The adjudication order will be maintained in this central location and will not become part of the probation file. The designated officer will monitor the central file of adjudication orders and destroy them within 30 days of the end of the offender's probation supervision.

Juvenile records are confidential, are to be withheld from public inspection, and are not to become part of the public record in any criminal proceeding. Do not perform narrative entries containing details of the adjudication order. Details of the juvenile record will not be entered onto any screen in OPUS.

APPROVED.

Anne L. Precythe

Director of Community Corrections

08/01/2016

Date

Chapter C Offender Supervision

Section .1000 Supervisor Responsibilities

.1001 PURPOSE

This section sets out the responsibilities of chief probation/parole officers, assistant judicial district managers and judicial district managers in reviewing offender case files and managing offender case load.

.1002 GENERAL STATEMENT OF EXPECTATIONS FOR SUPERVISORS

Supervisory personnel will conduct case reviews to ensure compliance with statutory responsibilities, maintain offender accountability, provide effective supervision, offer appropriate treatment and education, and protect the public safety. All supervisory personnel may review a case file at any time. Reviews will be used to identify field operations issues, ensure policy compliance, guide officer job performance, identify good/poor job performance and identify training needs. Failure to follow the directives of supervisory personnel is subject to disciplinary action. The case review interaction that occurs between staff represents an important tool to achieving effective offender case management and acceptable officer job performance.

.1003 CASE REVIEWS

(a) **Standard Case Review** – a qualitative review using the Standard Review Checklist (Instructions)

The Standard Case Review will be completed within the calendar month of receiving the case review alert.

(b) **120 Day Case Review** – a review, 120 days prior to the scheduled termination date, to ensure compliance with conditions of supervision and the case is in proper order for closure. Review recent contacts to:

(1) Ensure contacts completed in the last 90 days are per policy;

(2) Ensure all non-compliance has been addressed per policy;

(3) Ensure all regular and special conditions were addressed.

The 120 Day Case Review will be completed within ten (10) business days from receiving the case review alert.

(c) **Initial Sex Offender Review** – a review to ensure the initial supervision requirements are met for sex offenders to include:

(1) Crime Version completion;

(2) Static 99 completion and accuracy;

(3) SBM determination and documentation

The Initial Sex Offender Review will be completed within ten (10) business days from receiving the case review alert.

(d) **30 Day Follow Up Review** – a follow up review to ensure that a task is completed within 30 days from a review or directive.

The 30 Day Follow Up Review will be completed by its due date.

(e) **10 Day Follow Up Review** – a follow up review to ensure that an uncompleted task from a 30 day review is completed.

The 10 Day Follow Up Review will be completed by its due date.

(f) **Violation Staffing** – discussion between a CPPO and PPO to determine the response to non-compliance pursuant to the non-compliance grid.

The Violation Staffing will be completed within three (3) business days of receiving the alert.

(g) **High Risk Staffing** – discussion between a CPPO and PPO concerning offenders who score 50 or higher on the OTI-R to determine if additional conditions should be implemented to engage the offender in pro-social activities and control the offender's behavior.

The High Risk staffing will be completed within ten (10) business days from receiving the alert.

(h) **Serious Crime Review** – a review for a serious crime alleged to have been committed by an offender under our supervision or named a suspect by a law enforcement agency for a crime that warrants a serious crime review. The Standard Review Form is to be utilized.

(i) **Three Year Review** – Statutory requirement for a Court review of a case that has been under supervision for three years. To confirm that a review, either formal or informal, has been completed, discussion concerning a recommendation to the Court should take place between the CPPO and PPO.

The Three Year Review will be completed within ten (10) business days of receiving the alert.

(j) **Low Risk Review** – a review to determine if the RNA has been completed appropriately.

The Low Risk Review will be completed within ten (10) business days of receiving the alert.

(k) **OAR Eligibility Review** – a review to determine if the offender is eligible for remote reporting.

The OAR Eligibility Review will be completed within ten (10) business days of receiving the alert.

(l) **Random Review** – a review generated by a CPPO/JDM for a specific situation (closing cases, transfer, red flags, reassign, absconder, ISC, significant RNA changes, etc.).

.1004 RESPONSIBILITIES

Supervisory personnel will conduct case reviews to ensure compliance with legal responsibilities, to maintain offender accountability, to provide effective supervision, and to protect the public. Any supervisor may review any case file at any time.

(a) Chief Probation/Parole officer (CPPO) responsibilities:

(1) The CPPO will review all cases flagged by OPUS for review, and other

cases in his or her discretion or instructed to do so by management.

(2) If deficiencies are noted with the officer's supervision of the case, a standard review will be conducted. Discuss deficiencies with the officer and instruct the officer to take appropriate action regarding supervision requirements or noncompliance. If the standard review identifies a pattern of deficiencies, conduct a minimum of three additional random standard reviews of active cases and notify JDM of outcome. If deficiencies are found, request a full case audit depending on the severity of the deficiencies.

(3) Make an OPUS entry including a summary of relevant issues and the date of the review; document any serious deficiencies and schedule an administrative case review within 30 days as necessary.

(4) If noted deficiencies are not corrected within 30 days, an additional 10 day period may be granted to address all deficiencies and the supervisor may use discretion to reassign the case(s) if necessary. At a minimum, unjustified failure to comply with the administrative 30 day follow up will be noted on the officer's performance appraisal. Continued failure to follow a supervisor's directives is subject to disciplinary action ranging from an unsatisfactory job performance written warning to unacceptable conduct for insubordination.

(5) Run computer generated reports to monitor minimum contact requirements for each officer using the Chief Search.

(b) Assistant Judicial District Manager (AJDM) responsibilities:

(1) Each AJDM will review five cases per month to identify field operation issues and to monitor job performance by supervising officers and chief probation/parole officers. The AJDM will select for review cases in which a Standard Case Review has been conducted by a CPPO within the last six months and vary among officers, units, and supervision levels.

a. As part of each case review the AJDM will conduct a standard case review using the Standard Review Checklist (Instructions) and assess CPPO involvement regarding case management and response to employee job performance.

b. Make an OPUS entry including a summary of relevant issues and the date of the review; document any serious deficiencies and schedule an administrative follow-up within 30 days as necessary.

(c) Judicial District Manager (JDM) responsibilities:

(1) Each JDM will review five cases per month to identify field operation issues and to monitor job performance by supervising officers and chief probation/parole officers. The JDM will select for review cases in which a Standard Case Review has been conducted by a CPPO within the last six months and vary among officers, units, and supervision levels. Serious Crime Reviews conducted by the JDM during the month may be included in the five case reviews.

a. As part of each case review the JDM will conduct a standard case review using the Standard Review Checklist (Instructions) and assess CPPO involvement regarding case management and response to employee job performance.

b. Make an OPUS entry including a summary of relevant issues and the date of the review; document any serious deficiencies and schedule an administrative follow-up within 30 days as necessary.

(2) The JDM will annually execute a memorandum of understanding (MOU) for domestic violence offender supervision and for sex offender treatment providers and ensure that signed memorandums are on file for each local treatment agency that works with the Division. An electronic copy of each MOU will be forwarded to the Assistant Division Administrator for review and filing. Following are links to the aforementioned MOUs Sex Offender Treatment MOU; Domestic Violence Supervision MOU.

(3) The JDM is responsible for ensuring Standard Operating Procedures are developed for each local jurisdiction that are consistent with evidence based principles and this policy.

.1005 CASELOAD MANAGEMENT

Supervisors will manage officers' caseload assignments to ensure that required

offender supervision contacts are made and balanced caseloads are maintained. When officers are absent, the judicial district manager and chief probation/parole officer will manage the caseload through supervisors will manage the most efficient use of all staff without compromising public safety. In the event of an extended absence or vacancies, the supervisor will assign cases to another officer(s) for supervision.

APPROVED.

Anne L. Precythe

Director of Community Corrections

08/01/2016

Date

Chapter D Noncompliance

Section .0100 General Statement on Response to Noncompliance

.0101 PURPOSE

This section sets out basic policy and is a guide for minimum responses to offender noncompliance.

.0102 ORGANIZATION

Responsibility

Noncompliance policy is subject to review by the Deputy Director of Community Corrections. Any variation in the policies and procedures specified herein must immediately be reported to the Deputy Director for review and approval. If a needed variation exists, requests must not alter policy, but should be submitted and implemented through use of Standard Operating Procedure (SOP) to the Judicial Division Administrator for approval. Administrative directives and updates to the noncompliance policy will be issued by the office of the Director as required to specify and update this policy. Administrative directives and updates to the noncompliance guidelines will be issued by the office of the Director as required to specify and update this policy.

Duties

(a) A probation officer shall keep informed concerning the conduct and condition of each person under his or her supervision, using all practicable and suitable methods, consistent with the conditions imposed by the controlling authority, to aid and encourage persons on probation to bring about improvement in their conduct and condition. *G.S. 15-205*

(b) Officers shall keep detailed records of their work. *G.S. 15-205* Officers will record accurate detailed narratives on all offender contacts as they are made, but no later than the end of the next working day;

(c) In all engagements with offenders, officers will operate in a professional manner

and will:

(1) Be prepared, having reviewed the case file;

(2) Know the results of drug screens and treatment status;

(3) Be aware of the offender's goals;

(4) Work to gain the offender's trust;

(5) Show respect;

(6) Maintain eye contact;

(7) Avoid undue familiarity

(d) The principal purposes of supervision are:

(1) To hold offenders accountable for making restitution;

(2) To ensure compliance with the court's judgment;

(3) To effectively rehabilitate offenders by directing them to specialized treatment or education programs; and

(4) To protect the public safety. *G.S. 15A-1343.2(b).*

Staff

Offender supervision, along with responses to noncompliance, is performed by probation officers certified by the North Carolina Criminal Justice Education and Training Standards Commission. Officers must communicate effectively using motivational interviewing techniques; must exercise independent judgment as emergency situations arise; must maintain a professional demeanor while interacting with potentially volatile and assaultive offenders; must be able to defend self and

others; must pass firearms testing and self-defense course; must maintain a professional relationship with all community partners, offenders and the general public, and must have sufficient writing skills to include typing and use of computer software.

Review

The judicial district manager will review offender supervision operations to include noncompliance response to ensure policy is followed based on the standards established by the Deputy Director as approved by the Director of Community Corrections.

.0103 GENERAL STATEMENT ON RESPONSE TO NONCOMPLIANCE

(a) Officers will proactively engage with offenders to prevent noncompliance and foster pro-social behavior.

(b) The Division recognizes that some offender noncompliance is inevitable. Officers will respond quickly and proportionately, taking into account the particular offender's risk and needs when determining the appropriate response.

(c) Offenders will be held accountable for noncompliance. There will be a response to every detected violation as they occur.

(d) Community Corrections response to offender noncompliance will further the principal purposes of probation:

(1) To hold offenders accountable for making restitution;

(2) To ensure compliance with the court's judgment;

(3) To effectively rehabilitate offenders by directing them to specialized treatment or education programs; and

(4) To protect the public safety. *G.S. 15A-1343.2(b).*

(e) Officers are responsible for investigating any tips from the general public regarding an offender's possible noncompliant behavior.

.0104 SPECIAL CASES

Unless otherwise indicated, the approach to offender noncompliance set out in this chapter applies to all offenders, regardless of the basis for their supervision.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter D Noncompliance

Section .0200 The Noncompliance Grid and the Responses to Noncompliance

.0201 PURPOSE

This section sets out the minimum response to offender noncompliance. The chart establishes which actions should be taken at a minimum and can be elevated upon proper review with the chief probation parole officer.

.0202 THE NONCOMPLIANCE GRID

The authorized response to offender noncompliance by offenders of each supervision level is set out in the chart below. The five types of noncompliance (S1 being the most severe, S5 being the least severe, as further discussed below) are placed vertically on the left side of the chart. The five supervision levels are placed horizontally on the top of the chart. Knowing an offender's supervision level and the type of violation(s) he or she has committed, an officer can use the grid to determine the appropriate class of response.

The four classes of officer response, A, B, C, and D are set out to the right of the grid. Particular responses within a response class are listed from highest to lowest in terms of seriousness. Each type of response is discussed below in *§D.0205, Descriptions of Responses to Noncompliance.*

When an offender's supervision level and type of noncompliance direct a class A response, the officer will file a violation report with the controlling authority and obtain an order for the offender's arrest or arrest the offender using form *DCC-12, Authority to Arrest.* When an offender's supervision level and type of noncompliance direct a class B, class C or class D response, the officer will choose the appropriate response from the options set out to the right of the grid, taking into account the particular facts associated with the noncompliance, the case plan, the need for control versus the need for treatment, and responses to prior noncompliance.

For all noncompliance by L1 offenders, the supervising officer will, except for emergencies, make a recommendation to the chief probation/parole officer and obtain prior approval before responding. For all other offenders, the supervising officer will obtain prior approval from the CPPO only if the response requires court

involvement (or, in the case of delegated authority, potential court involvement). Those responses are marked with an asterisk on the grid.

Noncompliance by an offender whose supervision level has not yet been established will be addressed on a case-by-case basis through coordination between the supervising officer and the chief probation/parole officer.

		SUPERVISION LEVEL					
		L1*	**L2**	**L3**	**L4**	**L5**	**MINIMUM RESPONSE HIERARCHY**
TYPE OF NONCOMPLIANCE	**S1** (public safety)	*A*	*A*	*A*	*A*	*A*	**A** PVR + arrest*
	S2 (new crime behavior or conviction)	*A/ B/C*	*A/ B/C*	*B/C*	*B/C*	*B/C*	**B** Delegated Authority Quick Dip*
	S3 (reoccur/multiple)	*A/ B/C*	*B/C*	*B/C*	*B/C/D*	*B/C/D*	**C** PVR + cite* Contempt* Modify/extend* Delegated authority-non quick dip* Increase searches Increase drug screens Increase contacts
	S4 (nonrecurring)	*C*	*C*	*D*	*D*	*D*	**D** Refer to treatment CPPO reprimand Modify payment schedule Initiate contact PPO reprimand
	S5 (non-willful)	*D*	*D*	*D*	*D*	*D*	

*** CPPO approval required for responses marked (*) and all responses to violations by L1 offenders**

.0203 TYPES OF NONCOMPLIANCE DEFINED

Offender noncompliance is any behavior contrary to the offender's conditions of supervision. The Division categorizes noncompliance into five types, S1 through S5, from most to least severe. Categorizing violations is not an exact science; officers are expected to use their professional judgment in determining, for example, when a new criminal act or a combination of a new criminal act and technical violations constitute imminent threat to public safety and should thus be categorized as S1 instead of S2.

(a) **Severity 1 (S1) noncompliance.** Offender behavior that causes a current or imminent threat to public safety, including actions that cause actual or threatened physical or mental harm.

(b) **Severity 2 (S2) noncompliance.** Offender behavior that constitutes a new crime (other than a Class 3 misdemeanor), but falls short of actual or threatened physical or mental harm. When utilizing the 2-3 day quick-dip confinement through delegated authority, the officer should note the behavior that constitutes violations of supervision rather than the charge itself. *Examples of behaviors that constitute a violation of probation*. Convictions for new crimes should be formally reported to the court.

(c) **Severity 3 (S3) noncompliance.** Recurring or multiple violations of supervision conditions or program rules and regulations.

(d) **Severity 4 (S4) noncompliance.** Isolated or non-recurring violations of supervision conditions or program rules and regulations, or behavior that constitutes a Class 3 misdemeanor.

(e) **Severity 5 (S5) noncompliance.** Noncompliance with supervision conditions or program rules and regulations attributable to circumstances beyond the offender's control.

.0204 SPECIAL RULES FOR CERTAIN VIOLATIONS

(a) **New crimes only.** When an offender has been charged with committing a new crime other than a Class 3 misdemeanor, and no other conditions of probation have been violated, the supervising officer will discuss the case with the CPPO and consult the district attorney as soon as possible. A violation report must be filed/date stamped prior to expiration to insure that the court retains jurisdiction. The district attorney will decide

whether to proceed with a violation hearing before the new criminal case is heard, or decide whether the State will wait to see if the offender is convicted of the new criminal charge before using it as the basis for a probation violation. If the district attorney decides to proceed with the violation, the officer will write on the DCC-10, "The offender willfully violated the regular condition that he or she commit no criminal offense in any jurisdiction by committing the crime of [insert name of crime] on [date of offense]. The staffing and consultation should also include a decision on whether to arrest or cite the offender to court.

- The bare fact that a new criminal charge has been filed against an offender does not amount to a violation of this condition. Rather, the offender must (a) have been convicted of the new offense, *State v. Guffey, 253 N.C. 43 (1960)*, or (b) the court holding the violation hearing must make an independent finding that the offender violated probation by committing a new criminal act, *State v. Monroe, 83 N.C. App. 143 (1986)*.
- Probation should not be revoked based on a criminal charge of which the probationer has been acquitted. *State v. Hardin, 183 N.C. 815 (1922)*.
- By statute, probation may not be revoked solely for conviction of a Class 3 misdemeanor. *G.S. 15A-1344(d)*.
- Hearsay evidence is relevant at a probation revocation hearing when determining if a defendant has violated a condition of his probation by committing a new criminal offense, *State v. Murchison, 367 N.C. 461 (2014)*.

When consulting with the district attorney, the consultation should include discussion to determine if the elements of the pending charge violate any other conditions of supervision. Document consultation in narratives and adjust supervision as appropriate.

Sometimes an offending behavior is both the basis for a new criminal offense and a violation of another condition of probation. For example, an offender's act of having a gun might constitute both the crime of possession of a firearm by a felon and a violation of the condition that he or she possess no firearm without the written permission of the court. The fact that an act is also a crime does not bar the officer from alleging it as a violation of some other condition of probation. State v. Causby, 269 N.C. 747 (1967).

(b) **Failure to comply with monetary obligations**. An offender's failure to pay monetary obligations is not a willful violation of probation if the offender made a good faith effort to obtain the necessary funds for payment.

At a violation hearing, the burden is on the probationer to show that he or she could not pay despite an effort made in good faith. G.S. 15A-1364(b); State v. Jones, 78 N.C. App. 507 (1985).

(c) **Positive drug screens.** When an offender is subject to a condition of supervision (either from the judgment or through an officer's exercise of delegated authority) allowing drug screening, a supervising officer should conduct a drug screen when the officer has reason to believe that the offender is currently under the influence of or has recently used illegal drugs; or the offender is observed in possession of drugs or in an area where illegal drugs are found or observed. An officer must confront an offender immediately upon receiving a positive substance abuse screening test. Officers should perform more frequent random screens on offenders who have previously tested positive on multiple occasions.

(d) **Positive Substance Abuse Screening Guidelines.** Following the first positive screen result (not including the baseline assessment information), the Probation/Parole Officer will immediately confront the offender with the positive screen result:

(1) **First Positive Drug Screen Result - Offender Admits Illegal Drug Use**

The following response does not apply to the baseline assessment information

a. If the offender admits to drug use, have the offender sign the admission on the DCC-26;

b. Make a referral to TASC for assessment. Follow up with TASC for results and needed treatment. If treatment was not ordered by the court as a special condition or intermediate condition #4 (for offenses committed on or after 12/01/09), use delegated authority, if applicable, to add the condition of treatment. In Post Release/Parole cases, use a non-compliance report to request that the condition be added;

c. In cases where delegated authority is not available and the offender refuses submit to the assessment and/or treatment, issue a DCC-10 Violation Report for the positive drug screen and recommend a modification to the conditions of supervision requiring a

substance abuse assessment and compliance with the results.

(2) **First Positive Drug Screen Result - Offender Denies Illegal Drug Use**

The following response does not apply to the baseline assessment information

a. If the offender denies drug use, obtain a confirmation test of the positive drug screen from the substance abuse screening lab according to Chapter H Substance Abuse Screening Program .040o. Upon receipt of the positive confirmation test, make a referral to TASC for assessment. Follow up with TASC for results and needed treatment. If treatment was not ordered by the court as a special condition or intermediate condition #4 (for offenses committed on or after 12/01/09), use delegated authority, if applicable, to add the condition of treatment. In Post Release/Parole cases, use a non-compliance report to request that the condition be added;

b. In cases where delegated authority is not available and the offender refuses submit to the assessment and/or treatment, issue a DCC-10 Violation Report for the positive drug screen and recommend a modification to the conditions of supervision requiring a substance abuse assessment and compliance with the results.

(3) **Second or Subsequent Positive Result.**

Following receipt of the second or subsequent positive screen result, the Probation/Parole Officer will review the case with the Chief Probation/Parole Officer and treatment provider, if applicable, to evaluate the offender's treatment needs and determine an appropriate course of action.

(e) **Response to Electronic Monitoring Violations**

Officers will use the technology available to substantiate the violation and assist in the investigation. The officer will respond to all violations of an electronic monitoring program according to the noncompliance grid.

(f) **Interference or tampering with an electronic device**

(1) Tamper Alerts – when a tamper alert is received for any monitoring program, the assigned officer or on-call officer will immediately respond by:

a. Visually inspecting the unit;

b. Checking for proper installation;

c. Looking for any indication of intentional tampering by the offender;

d. Removing the unit and replacing clamps/rails/straps in order to reset the tamper;

e. Ensuring the monitoring device is reset and the tamper alert has been cleared.

A service order will not be sent to the vendor in order to reset a strap tamper until the officer has investigated and attempted to clear the tamper by following the above steps. If after completing all the steps in (f) and the tamper will not reset, then a service order may be sent to the vendor. It is the responsibility of the Probation/Parole Officer to immediately inspect and reset all tamper alerts that are received.

(2) When an offender is being monitored by an electronic device (because he or she is subject to house arrest, a curfew, or special conditions for sex offenders) and the officer determines that the offender intentionally interfered or tampered with the device, the officer will:

a. Consult with local law enforcement and the district attorney about bringing criminal charges under G.S. 14-226.3 or G.S. 14-208.44;

b. Respond to the violation according to the non-compliance grid.

(g) **Address offender accountability (remote) check-in failures as outlined below:**

(1) If the offender fails to submit the accountability (remote) check-in within 30 days, the officer will contact the offender within 10 days of notification via phone, email, or mail to request immediate submission.

(2) Instruct the offender to submit within an agreed upon time frame, barring other obstacles to reporting remotely and, explain that if it is not submitted, the offender will have to report in person.

(3) If the offender continues not to follow reporting guidelines, the officer will conduct a face to face contact with verbal or written reprimand.

(4) If the offender continues not to follow reporting guidelines within 2 weeks of the face to face contact, the officer will consider the reasons for offender noncompliance; the offender will be seen in the office every 30 days to complete the DCC-118, Mail-in Report. If compliant after a period of 90 days, the officer will allow the offender to resume remote reporting.

(5) If the offender continues to be noncompliant, staff for the violation process including delegated authority or reassess for possible movement to a higher supervision level.

.0205 DESCRIPTIONS OF RESPONSES TO NONCOMPLIANCE

(a) **Probation violation report (PVR) and arrest.** If the noncompliance grid directs a class A response, the officer will:

(1) Review the case with the chief probation/parole officer to determine if there is **reasonable suspicion** for arrest;

Jones v. Chandrasuwan, U.S. Court of Appeals, (4th Circuit 2016)

"*Therefore, we hold that probation officers must have reasonable suspicion before seeking the arrest of a probationer for allegedly violating conditions of his probation.*"

"*...we hold that reasonable suspicion in the arrest context is present when there is a sufficiently high probability that a probationer has violated the terms of his probation to make the intrusion on the individual's privacy interest reasonable.*"

(2) Complete form DCC-10, Violation Report, being sure to provide specific details about the violations alleged;

(3) Swear to the violation report before a magistrate, notary public, or clerk of court;

DCC staff other than Office Assistants who are notaries of the public will not certify documents pertaining to offender supervision.

(4) File the original violation report with the clerk of court of the county of hearing; obtain a copy;

It is essential that the violation report be file stamped when it is filed with the clerk. In the absence of a file stamped motion, dated before the period of probation expires, the trial court is without jurisdiction to revoke probation after the end of the probationary period. State v. Hicks, 148 N.C. App. 203 (2001), State v. Moore, 148 N.C. App. 568 (2002).

(5) Obtain an order for arrest or draft a DCC-12, Authority to Arrest, following the procedure set out in § D.0404(b), Authority to Arrest.

(6) Serve the offender with the violation report, the order for arrest or Authority to Arrest form; provide a copy to the offender; [See arrests]

(7) Take the offender to a magistrate for an initial appearance;

(8) Identify all outstanding warrants against the offender and notify the appropriate law enforcement agency of the location of the offender. (G.S. 15A-301.1(o)) S.L. 2015-48)

(9) Document any conditions of release set by the magistrate in OPUS;

(10) Disable the accountability report PIN for level four and level five offenders;

(11) If level four and level five offenders are released on bond, they will be informed to report within 72 hours of release. Conduct an office contact every 30 days until the violation hearing is held.

(12) If additional violations are discovered before a scheduled violation hearing and before the period of probation has expired, the officer may issue an addendum to the violation report. All notice and procedural provisions applicable to probation violation reports apply with equal force to addendum violation reports.

(b) **Delegated authority - Quick Dip Confinement.** If the noncompliance grid directs a class B response, the officer may, in Structured Sentencing cases, exercise his or her delegated authority to impose 2-3 day jail confinement periods without prior judicial approval. Unless the presiding judge specifically found at sentencing that delegation was not appropriate, the supervising officer may, after first determining that the offender has failed to comply with one or more conditions of probation imposed by the court, impose a quick dip confinement. Once noncompliance has been addressed through the delegated authority process, it cannot be included on any future violation report.

(1) **Imposing quick-dip confinement through delegated authority**

Before confinement may be imposed through delegated authority the offender must have reoccurring or multiple violations of one or more conditions imposed by the Court. The officer will:

a. Review the case with the chief probation parole officer. The consultation should include plans to serve the delegated authority violation report on the offender with a probation officer or manager present to witness signatures, a determination of the quick dip time period to consider jail capacity or commitment issues; and a subsequent plan to either arrest or cite for the noncompliance and initiate the formal violation process should the offender refuse to waive their rights and serve the quick-dip confinement.

b. Swear to the violation before a magistrate, notary public, or clerk of court.

DCC staff other than Office Assistants who are notaries of the public will not certify documents pertaining to offender supervision.

c. Present the DCC-10 to the offender for signature. The officer and any of the following are authorized to sign as witnesses: CPPO, probation officer, or Judicial District Manager (JDM).

d. Give the offender a copy of the violation report. Notify and explain in detail the waiver of rights to the offender.

e. When the waiver is signed, the officer will escort the offender to the local jail or inform the offender when to report to the local jail to begin serving the period of confinement. Inform the offender to contact the officer within 72 hours of release.

It is the position of the agency that the offender serve the period of confinement immediately, if possible. When transporting the offender to jail for the QDC periods, it is the Division's position that the offender be handcuffed only if it is a matter of local jail policy or as a matter of officer discretion for safety purposes.

f. Present the jail with the appropriate paperwork.

g. File the original DCC-10 with the clerk in the county of supervision and

ensure the county of origin receives a certified copy.

h. If the offender refuses to waive their rights to a hearing, the officer will check the appropriate block on the DCC-10 indicating the offender requests a hearing, serve the offender (cite or arrest) and schedule a court date for hearing; then file the DCC-10 with the clerk in order to calendar the violation for hearing. The offender is to be notified of the date and time of their violation hearing. Enter the disposition of the delegated authority process as a refusal in OPUS.

i. File a copy of the DCC-10 in the offender's case file

j. Update the case plan & OPUS to reflect that delegated authority was exercised.

OPUS will automatically track the confinement periods upon update to the system.

For Misdemeanor Structured Sentenced cases placed on probation on or after 12-01-15, a probationer must receive two separate incidents of quick dip confinement in response to violation before they are qualified for revocation if their violations are technical in nature. G.S. 15A-1344(d2) S.L 2015-191

(c) **PVR and citation.** If the noncompliance grid directs a class C response, the officer may, under the following procedure, file a probation violation report and cite the offender to court in lieu of making an arrest. The officer will:

(1) Review the case with the chief probation/parole officer;

(2) Complete form DCC-10, Violation Report, being sure to provide specific details about the violations alleged;

(3) Swear to the violation report before a magistrate, notary public, or clerk of court;

DCC staff other than Office Assistants who are notaries of the public will not certify documents pertaining to offender supervision.

(4) File the original violation report and a copy of all applicable forms DCC-2 and DCC-10B with the clerk of court of the county of hearing; obtain a certified copy;

(5) At least 24 hours before the scheduled hearing the officer will:

a. Read the violation report to the offender;

b. Give a copy of the violation report to the offender;

c. Instruct the offender on when and where to come to court;

d. Have the offender sign the violation report, acknowledging receipt;

The offender may waive his or her entitlement to notice by signing form DCC-11, Waiver upon Violation.

(6) Arrange for a violation hearing to be scheduled according to local requirements;

(7) Staff with the CPPO to determine if the accountability report PIN should be disabled on level four and level five offenders and if the PIN is disabled, conduct a face to face contact every 30 days until the violation hearing is held.

(8) If additional violations are discovered before a scheduled violation hearing and before the period of probation has expired, the officer may issue an addendum to the violation report. All notice and procedural provisions applicable to probation violation reports apply with equal force to addendum violation reports.

(d) **Criminal Contempt in Response to Violation.** If the noncompliance grid directs a class C response, the officer may, under the following procedure, seek to have the offender held in contempt of court in response to a violation under G.S. 15A-1344(e1). The officer will:

(1) Review the case with the chief probation/parole officer;

(2) Prepare a DCC-10C, Criminal Contempt Violation Report in OPUS. The DCC-

10C is a violation report that includes language indicating that the probation office recommends that the offender be held in contempt; set the method of service as cite;

(3) Swear to the violation report before a magistrate, notary public, or clerk of court;

DCC staff other than Office Assistants who are notaries of the public will not certify documents pertaining to offender supervision.

(4) Present the DCC-10C to a judge of the court having jurisdiction over the case for signature; the judge will decide whether to issue an order for the offender to show cause why he should not be held in contempt of court (the DCC-10C itself may serve as the show cause order);

(5) If the judge enters a show cause order, the officer will file the original (and a copy of all applicable DCC-2 and DCC-70 forms) with the clerk of court in the county of hearing. The officer will also give a copy to the offender and place a copy in the file.

(6) If the judge decides not to enter a show cause order, the supervising officer will confer with the chief probation/parole officer to determine an appropriate course of action.

(7) Level four and level five cases will be staffed with the chief for appropriate action following disposition with the court to determine if reassessment is needed.

State v. Belcher, 173 N.C. App. 620 (2005) requires defendants receive credit against their original suspended sentence for time spent in custody for criminal contempt in response to violation.

(e) **Modify conditions of supervision or extend probation.** If the noncompliance grid directs a class C response, the officer may seek to have the offender's conditions of probation modified under the procedure set out in §C.0611, Modifications or to have probation extended under the procedures set out in §C.0612, Extensions. Upon a finding that an offender sentenced to community punishment has violated one or more conditions of probation, the court may add conditions of probation that could make the sentence an

intermediate punishment. G.S. 15A- 1344(a).

(f) **Delegated authority - (non - Quick Dip).** If the noncompliance grid directs a class C response, the officer may, in Structured Sentencing cases, exercise his or her delegated authority to add certain conditions without prior judicial approval. Unless the presiding judge specifically found at sentencing that delegation was not appropriate, the supervising officer may, after first determining that the offender has failed to comply with one or more conditions of probation imposed by the court, impose any of the following conditions in intermediate and community cases, respectively. Once noncompliance has been addressed through the delegated authority process, it cannot be included on any future violation report.

A Class B response indicates use of delegated authority to impose the Quick Dip Confinement in response to noncompliance. A Class C response includes the option to use delegated authority to impose all other tools indicated (except confinement) in response to noncompliance. Delegated authority cannot be used to address offender noncompliance resulting from a failure to comply with a requirement imposed through an earlier use of delegated authority. Noncompliance resulting from failure to comply with a requirement imposed through the use of delegated authority must be reported to the court by either probation violation report and arrest or probation violation report and cite.

For underlying offenses committed before 12/1/2011, the following delegated authority conditions apply:

(1) **Intermediate punishment cases.** G.S. 15A-1343.2(f).

a. Community service. Perform up to 50 hours of community service.

b. Submit to a curfew. An officer may require an offender to remain in a specified place for a specified period each day. The curfew will be enforced using electronic monitoring, as described in Chapter G, Technology and Monitoring Programs. The officer must specify the length of time the offender will be under curfew not to exceed 120 days.

c. Submit to a substance abuse assessment, monitoring, or treatment.

d. Participate in an education or vocational skills development program.

e. SBM. Submit to satellite-based monitoring, if the offender committed an offense involving the mental, physical, or sexual abuse of a minor and he or she requires the highest possible level of supervision and monitoring. (L1and L2) See G.0303(d), Satellite Based Monitoring. The CPPO will contact the Special Operations Office for consultation prior to proceeding with the SBM recommendation via delegated authority.

(2) **Community cases.** G.S. 15A-1343.2(e).

a. Community service. Require the offender to perform up to 20 hours of community service.

b. Reporting. Require the offender to report to the supervising officer at a frequency to be determined by the officer.

c. Submit to a substance abuse assessment, monitoring, or treatment.

For underlying offenses committed on or after 12/1/2011, the following delegated authority conditions apply to both Intermediate and Community punished offenders.

Quick Dip Confinement is a Class B response to noncompliance and can be found above in Section .0205(b).

(3) **Intermediate and Community Cases**

a. Community service. Perform up to 20 hours of community service, and pay the fee prescribed by law for this supervision if not previously ordered. (50 hours intermediate)

b. Submit to a curfew. Submit to a curfew which requires the offender to remain in a specified place for a specified period each day and wear a device that permits the offender's compliance with the condition to be monitored electronically. The officer must specify the length of time the offender will be under curfew not to exceed 120 days. This time cannot be extended, but may be reduced, if appropriate.

c. Submit to a substance abuse assessment, monitoring, or treatment.

d. Participate in an education or vocational skills development program, including an evidence-based program.

e. Submit to house arrest with electronic monitoring. The officer must specify the length of time the offender will be under house arrest not to exceed 120 days. This time cannot be extended, but may be reduced, if appropriate. The Chief Probation/Parole Officer may approve any away times for all levels of supervision if house arrest is imposed through delegated authority.

f. Report to the offender's probation officer on a frequency to be determined

by the officer.

g. SBM. Submit to satellite-based monitoring, if the offender committed an offense involving the mental, physical, or sexual abuse of a minor and he or she requires the highest possible level of supervision and monitoring. (L1 and L2) See § H.0403(d), Satellite Based Monitoring. The CPPO will contact the Special Operations Office for consultation prior to proceeding with the SBM recommendation via delegated authority.

h. For offenders placed on an electronically monitored curfew or house arrest with electronic monitoring:

(1) Read and explain the DCC-70, obtain the offender's signature and give the offender a copy;

(2) The period will not exceed 120 days;

(3) The case will be staffed with the CPPO every 30 days to determine if the condition is still appropriate or should be removed.

(4) **Procedure.** When imposing conditions (other than confinement) through delegated authority due to noncompliance, the officer will:

a. Review the case with the chief probation/parole officer;

b. Complete form DCC-10B, Delegated Authority Violation Report, in OPUS;

c. Swear to the violation before a magistrate, notary public, or clerk of court;

Staff other than Office Assistants who are notaries of the public will not certify documents pertaining to offender supervision.

d. Present the DCC-10B to the offender for signature. Notify the offender that the additional conditions go into immediate effect. If the offender refuses to sign the DCC-10B, advise the offender that they may file a motion for review by the court;

e. Give the offender a copy of the violation report;

f. File the original DCC-10B with the clerk in the county of supervision and ensure the county of origin receives a certified copy.

g. Place a copy in the offender case file.

h. Update the case plan and OPUS to reflect that delegated authority was exercised.

(5) **Removing delegated authority conditions**

If the officer imposes any of these conditions, he or she may also reduce or remove them. Upon offender compliance the officer may remove or reduce the conditions imposed through delegated authority with CPPO approval. Upon approval, the officer will:

a. Complete the DCC Early Removal from Delegated Authority Requirements Form DCC-132 to remove or reduce the conditions previously imposed;

b. File the original with the clerk of court in the county of origin/county of supervision;

c. File a copy of the offender's case file;

d. Give a copy to the offender;

e. Update OPUS and the case plan to reflect changes.

(6) **Other class C responses.** If the noncompliance grid directs a class C response, the supervising officer may, in his or her discretion, take the following actions. If the officer takes any of these actions, he or she will document the response in the case plan:

a. Search the offender more frequently;

b. Conduct more frequent substance abuse screening; the officer will coordinate the timing and frequency of the screens with the treatment provider;

c. Contact the offender more frequently.

(7) **Class D responses.** If the noncompliance grid directs a class D response, the supervising officer may, in his or her discretion, take any of the following actions. In every case, the officer will first inform the offender of the specific noncompliance that gave rise to the officer's response. Every response must be documented in the case plan.

a. Refer to treatment or services. The officer may, in his or her discretion,

refer the offender to treatment or other service providers in the community. If the offender is subject to intermediate punishment for an offense committed on or after December 1, 2009, the officer may, as a condition of probation, require the offender to participate in any evaluation, counseling, treatment, or educational program under G.S. 15A- 1343(b4).

b. Reprimand by chief probation/parole officer. The supervising officer may inform the chief probation/parole officer of the offender's noncompliance and ask the CPPO to issue a written or verbal reprimand.

c. Modify payment schedule. If the court has delegated to the officer the authority to determine an offender's payment schedule under G.S. 15A-1343(g), the officer may, in his or her discretion, modify the payment schedule in response to a violation.

d. Reprimand by supervising officer. The officer may issue a written or verbal reprimand to the offender in response to the offender's noncompliance.

e. Initiate contact. The supervising officer may simply contact the offender, in person or through other means, to inform the offender of the specific noncompliance.

.0206 Deferred Prosecution, G.S. 90-96, and Conditional Discharge Cases

(a) **Deferred Prosecution Cases.** Violations of the terms of a deferred prosecution agreement entered into under G.S. 15A-1341(a1) will be reported to the district attorney in the county in which the agreement was entered.

(b) **G.S. 90-96 and Conditional Discharge Cases.** Violations by offenders on probation under G.S. 90-96 or Conditional Discharge will reported to the district attorney in the county in which the agreement was entered.

(c) **Deferred Prosecution, 90-96 and Conditional Discharge Out of County Violation Process.** Violations by offenders in deferred, 90-96 or Conditional Discharge cases being supervised outside the county in which the agreement was entered are to be handled collaboratively in the following manner:

(1) The county of supervision maintains responsibility and continues to supervise the case.

(2) The county of origin helps with the administrative process.

(3) The officer in the county of supervision will initiate the violation process in OPUS for approval by the chief probation officer; no new docket number is required. The investigation for administrative assistance to the county of origin will automatically generate in OPUS upon the CPPO's approval.

(4) The transmittal chief or responsible party in the county of origin will accept the investigation and assign appropriately for administrative assistance only. The administrative assignment will be automatically added to the supervising officer's PP40 in OPUS on the ADMN OFF column.

(5) The officer in the county of origin will print the violation report from OPUS, swear to it, file with the clerk and notify the district attorney using a DCC-7, Notice to DA form.

(6) The officer in the county of origin will scan and e-mail the violation report to the supervising officer advising of potential court dates.

(7) The supervising officer will serve the violation report and set the court date as advised by the county of origin.

(8) The supervising officer will scan, e-mail, and mail the offender-signed violation report back to the county of origin. (This may be handled according to local practice)

(9) The officer in the county of origin will handle the hearing, and update appropriate OPUS screens with dispositions.

(10) If the offender absconds at any point during supervision, the case is transferred to the county of origin pending disposition of the violation.

(11) Absconder cases will be transferred to the assigned administrative officer to follow the procedures as set out in Chapter D .0504 Absconder Documentation and Reporting.

(12) Any addendum violation report will follow the process outlined above.

(d) **Immediate Arrest of Deferred Prosecution, 90-96 and Conditional Discharge Out of County Cases**

During Business Hours (8:00AM-5:00PM)

If exigent circumstances require and immediate arrest, the officer in the county of supervision will utilize a DCC-12 (Authority to Arrest) with the county of origin file number, to arrest the offender. The officer or CPPO will call the county of origin to expedite the issuance of the violation report.

After Normal Business Hours

If exigent circumstances require an immediate arrest, the officer in the county of supervision will utilize a DCC-12 (Authority to Arrest) with the county of origin file number, to arrest the offender. The officer in the county of supervision will issue a violation report using the county of origin and file number. The magistrate should be notified that this is an out of county probation violation and the hearing should be scheduled in the county of origin. The administrative officer in the county of origin should be notified that the violation report has been issued and

served.

If the court requests the presence of the supervising officer and extensive travel is required to attend the hearing, it is recommended to ask the court to grant permission to testify by phone.

.0207 RETURNING INCARCERATED OFFENDERS

If the noncompliance grid directs arrest or citation for an offender who is already in confinement serving another active sentence, the supervising officer will:

(a) Report the offender's noncompliance to the district attorney; be prepared to provide information about the crime for which the offender is already serving an active sentence;

(b) If the district attorney elects to have the offender returned for a violation hearing, prepare a violation report according to ordinary procedures;

(c) Forward the violation report to the chief probation/parole officer in the district where the offender is incarcerated; the CPPO will arrange for immediate service of the violation report;

(d) In consultation with the district attorney, schedule a hearing and prepare form AOC-CR-223, Writ of Habeas Corpus Ad Prosequendum for the court's signature;

(e) Have the writ delivered to offender's custodian. If the offender is housed in a Prison facility, follow the procedure set out in Prisons Policy and Procedure § G.0100.

.0208 SERIOUS CRIME REPORTS

When an offender is arrested for a serious crime alleged to have been committed while under our supervision or named a suspect by a law enforcement agency for a crime that warrants a serious crime review, the supervising officer will immediately notify the Chief Probation/Parole officer, who will notify the Judicial District Manager. The supervising officer will prepare an automated Serious Crime Report, and submit the file for review to the CPPO and JDM within 2 business days. The CPPO and JDM will complete their respective portions of the automated Serious Crime Report and send a final pdf report to the Division Administrator within 3 business days. The Division Administrator will submit the final report to the Deputy Director within 2 business days. Notification on high profile crimes should immediately be made to the Deputy Director. A timeline should be submitted when requested. Serious Crime Offenses

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter D Noncompliance

Section .0300 Tolling and Holding Cases Open for Pending Violations

.0301 PURPOSE

This section distinguishes tolling probation for new criminal charges from holding a case open based on a pending violation report.

Tolling only applies to offenders placed on probation prior to December 1, 2011 for an offense that occurred on or after December 1, 2009.

.0302 TOLLING

Under S.L. 2009-372 an offender's period of probation is tolled when new criminal charges other than for a Class 3 misdemeanor are pending against the probationer. The offender remains subject to the conditions of probation, including supervision fees, during the tolled period.

State vs. Sitosky eliminated tolling for offenders with offense dates prior to 12/01/09. S.L. 2011-62 repealed tolling for offenders placed on probation on or after 12/01/11.

When an officer learns, through AOC alerts or some other means that an offender has been charged with a crime (including crimes from other jurisdictions) other than a Class 3 misdemeanor and tolling is applicable to the offender's case, the officer will:

(a)) Put the case in tolled status in OPUS, effective as of the date the criminal process (for example, the arrest warrant) was issued against the offender;

(b) Print and serve the offender with a DCC-51, Notice of Tolled Status. Place a copy in the case file.

(c) Continue supervision;

(d) Follow the progress of the new criminal charge, keeping the probation case(s) in tolled status until the charge is no longer pending;

(e) If the offender is acquitted or if the new charge is dismissed, take the case(s) out of tolled status in OPUS and continue supervision.

(1) The offender will receive credit against his or her probation period for the time spent in tolled status. OPUS will add that credit automatically. Officers should be prepared for the fact that the credit due when a new charge is acquitted or dismissed may bring a probation case to an immediate (or imminent) conclusion.

(f) If the offender is convicted, take the case out of tolled status in OPUS and continue supervision, responding to the new conviction according to ordinary noncompliance procedures.

.0303 HOLDING CASES OPEN WHEN A VIOLATION IS PENDING

When a violation occurs near the end of an offender's period of probation, the supervising officer should be sure to file a violation report before the case expires.

(a)) If a violation report is filed and file-stamped prior to expiration, the court may extend, modify, or revoke probation after the period of probation expires. G.S. 15A-1344(f).

G.S. 15A-1344(f) was amended in 2008 (S.L. 2008-129). Under the amended law (effective for hearings held after December 1, 2008) the court may "extend, modify, or revoke probation" (prior law allowed only revocation) after the expiration of the period of probation if a written violation report is filed before the expiration of the probation period. Prior to the 2008 amendments to the law, in order to preserve its jurisdiction to act after the period of probation expired, the court had to make a finding of the State's "reasonable effort to notify the probationer and to conduct the hearing earlier." State v. Bryant, 361 N.C. 100 (2006). Under the 2008 amendments to the law, the court no longer has to make a finding of the State's "reasonable efforts" to preserve its jurisdiction to act after the period of probation expires.

It is essential that the violation report be file stamped when it is filed with the clerk. In the absence of a file stamped motion, dated before the period of probation expires, the trial court is without jurisdiction to revoke probation after the end of the probationary period. State v. Hicks, 148 N.C. App. 203 (2001), State v. Moore, 148 N.C. App. 568 (2002).

These jurisdictional provisions apply with equal force for those on probation under G.S. 90-96, and probably also to those on supervised probation pursuant to a deferred prosecution agreement. State v. Burns, 171 N.C. App. 759 (2005).

(b) Notwithstanding the fact that a violation report is pending, the officer must discontinue supervision when the case reaches its expiration date (unlike when a case is in tolled status, where supervision continues during the tolled period). The officer will:

(1) Give notice to the district attorney in the county of hearing that the case has reached expiration and violations are pending.

(2) Notify Clerk of Court bookkeeping section to stop collection of probation supervision fees.

(3) Scan the violation into the RNA violation scanning system for later retrieval if needed.

(4) If the offender fails to appear for the violation hearing, notify the Special Operations and Intelligence Unit via e-mail to the absconder proxy (SVC_DOC.DCC_Absconders) that the discontinued offender failed to appear for the violation hearing. The overall offender status must be Discontinued. Staff in the Special Operations and Intelligence Unit will be responsible for checking technology in these cases and notifying field staff of significant activity leading to service of the FTA and/or upcoming hearing. The case file will remain in the field with the responsible person through the file retention period. The JDM will establish a central location in each county to store the files for ease of access.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter D Noncompliance

Section .0400 Arrest

.0401 PURPOSE

This section sets out the circumstances in which a supervised offender may be arrested and the proper procedure for conducting the arrest.

.0402 ARREST GENERALLY

An arrest is a seizure of person by a public officer in which, given all the circumstances surrounding the incident, a reasonable person, innocent of criminal activity, would have believed that he or she was not free to leave.

The General Statutes grant probation officers the power to arrest in the execution of their duties. G.S. 15-205. Probation officers are considered State officers within the meaning of G.S. 15A-402(a), and thus have territorial jurisdiction to arrest offenders at any place within North Carolina. Robert L. Farb, Arrest, Search, and Investigation in North Carolina (3rd ed., 2003), 15.

At the time an offender is taken into custody, the probation officer will identify all outstanding warrants against the offender and notify the appropriate law enforcement agency of the location of the offender. G.S. 15A-301.1(o) S.L. 2015-48

.0403 CIRCUMSTANCES OF ARREST

Officers may arrest an offender only when:

(a) The officer has **reasonable suspicion** to believe that the offender violated the conditions of probation, parole, or post-release supervision; and

An officer is said to have reasonable suspicion when "*there is a sufficiently high probability that a probationer has violated the terms of his probation to make the intrusion on the individual's privacy interest reasonable.*"
Jones v. Chandrasuwan, U.S. Court of Appeals, (4th Circuit 2016)

(b) Based on the offender's supervision level and the type of violation, the noncompliance grid calls for a class A response; and

(c) The chief probation/parole officer has approved the arrest or exigent circumstances require an immediate arrest.

Officers may only serve orders for arrest issued for probation violations or for failures to appear for a probation-related hearing.

.0404 MANNER OF ARREST

Documentation requirements. Probation officers may arrest a probationer for violating conditions of probation when a judicial official has issued an order for arrest, or upon a written motion by the officer (a form DCC-12, Authority to Arrest) accompanied by a violation report. G.S. 15A-1345(a).

An officer may arrest a probationer without a written order or motion when he or she has reasonable suspicion to believe that a violation has occurred. State v. Waller, 37 N.C. App.133 (1978) ("[I]f a simple conclusory statement from the probation officer . . . is sufficient to permit another officer to arrest a probationer without a warrant, then it is reasonable to conclude that G.S. 15-200 and -205, read together, give the probation officer the authority to arrest a probationer under his supervision for violations of conditions of probation without a warrant or other written document.") It is the policy and strong preference of the Division that officers will, when possible, confer with the chief probation/parole officer, complete a violation report, and obtain an order or arrest or draft an authority to arrest form prior to arresting an offender.

An officer may arrest a post-release supervisee or parolee only when the Post- Release Supervision and Parole Commission has issued an order of temporary or conditional revocation of post-release supervision or parole for that person. G.S. 15A- 1368.6; G.S. 15A-1376(a).

(a) *Order for arrest*. To obtain an order for arrest (OFA), an officer will:

(1) Complete a probation violation report;

(2) Complete form AOC-CR-217, Order for Arrest; using the NCAWARE interface.

(3) Provide a copy of the violation report to a judicial official (justice, judge, clerk, or magistrate), scan/upload the violation report with time/date stamp into the RNA automated tool, and present the OFA information for issuance in NCAWARE.

(4) Place one draft copy of the OFA and violation report in the case file;

(5) Ensure that a copy of the OFA and attached violation report are given to the offender at the time of arrest.

(b) *Authority to arrest*. The authority to arrest will only be used for immediate response to offender behavior and should be served by the officer. The officer will complete the DCC-12, Authority to Arrest, according to the following instructions:

(1) Prepare an original and three copies of the DCC-12, leaving the "Execution" section blank; Mark the original as "Original," write "Clerk's Copy" on one copy, and write "Offender's Copy" on another, and write "File Copy" on another.

(2) Complete and make four copies of a probation violation report, attaching one copy to each copy of the DCC-12;

(3) File the Clerk's Copy with the appropriate clerk of court.

(4) Ensure that a copy of the DCC-12 is filled out at the time of service by the arresting officer;

(5) Ensure that a copy of the DCC-12 and attached violation report are given to the offender at the time of arrest.

(6) If the authority to arrest cannot be served within three days, the officer will begin the OFA process in NCAWARE and when completed, destroy the authority to arrest.

Law enforcement assistance. Officers will seek law enforcement assistance when conducting an arrest alone may compromise the officer's personal safety.

Arrest procedure. An officer will do the following when arresting an offender:

(a) Identify himself or herself, informing the offender that he or she is under arrest and, as promptly as is reasonable under the circumstances, inform the offender of the cause of the arrest. G.S. 15A- 401(c).

(b) Handcuff the offender;

(c) Search the offender, the offender's immediate surroundings, and objects within the offender's immediate control, to ensure that weapons are not available and for evidence related to the alleged violation; see §C.0800, Searches, for additional guidance;

(d) Ensure that the offender is transported to the magistrate's without unnecessary delay. G.S. 15A- 1345(b);

(e) If a bond was not already set by a judge on the order for the offender's arrest, be prepared to make a recommendation as to the offender's conditions of release pending his or her violation hearing.

Offender Transport. When transporting an offender after making an arrest, the officer should consider the following to maintain officer safety, public safety and offender safety:

(a)) Is the offender violent?

(b) Was force used to affect the arrest?

(c) Is the offender cooperative?

(d) Is the offender under any mind altering substances?

(e) Does the offender have a history of assaultive behavior?

(f) Has family or friends made threats?

(g) Does the offender have an escape history?

(h) Is the offender properly restrained?

(i) Are the restraints secured and double locked?

(j) Do I have a security vehicle?

(k) Do I have the offender properly seated in the vehicle?

(l) If not in a security vehicle, are the child locks activated?

If the officer does not feel safe transporting the offender, call for assistance.

Transport Procedure

(a) **Offender Transport – Non Security Vehicle**

(1) One offender – one officer. Place the offender in the front seat making sure the restraints are properly applied and fasten the seat belt. Observe the offender during transport.

(2) One offender – two officers. Place the offender in the back passenger seat making sure that the restraints are properly applied and fasten the seat belt. The second officer will sit directly behind the officer driving the vehicle and observe the offender during transport.

(b) **Offender Transport – Security Vehicle**

(1) One offender – one officer. Place the offender in the back passenger seat (not behind the driver) making sure restraints are properly applied and fasten the seat belt.

(2) One offender – two officers. Place the offender in the back passenger seat making sure restraints are properly applied and fasten the seat belt. The second officer will be in the front passenger seat observing the offender.

.0405 ASSISTANCE TO LAW ENFORCEMENT

In emergency situations only, upon request of a law enforcement officer for assistance in effecting an arrest or preventing an escape, a probation officer may, if able and in the

near vicinity, assist the law enforcement officer. However, it is not permissible to be involved in motor vehicle pursuits or chases. G.S. 15A-405.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter D Noncompliance

Section .0500 Absconders

.0501 PURPOSE

This section sets out the Division's approach to offenders who abscond from supervision.

.0502 ABSCONDER DEFINED

An absconder is an offender who willfully avoids supervision or makes their whereabouts unknown to the supervising officer. An officer may only declare an offender to be an absconder after completing an absconder investigation under the procedure set out below. GS15A-1343(b)(3a) GS15A-1368.4(e)(7a)

.0503 ABSCONDER INVESTIGATION

Eligibility criteria. An officer will conduct an absconder investigation when:

(a) An offender's whereabouts are unknown or the offender has made himself or herself inaccessible; and

(b) At least one of the following is true:

(1) The offender has violated the condition not to abscond by willfully avoiding supervision or by willfully making the defendant's whereabouts unknown to the supervising officer; (**statutory absconding**) GS15A-1343(b)(3a) GS15A-1368.4(e)(7a)

(2) The offender has violated the condition requiring that he or she remain within the jurisdiction of the court unless granted written permission to leave by the court or the probation officer (a "remain-within-the-jurisdiction" violation)- **non statutory absconding**; GS 15A-1343(b)(2) or

(3) The offender has violated the conditions requiring him or her to report as directed by the court or the probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit him or her

at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment (a "fail-to-report" violation) **non statutory absconding**; GS 15A-1343(b)(3) or

(4) A judge has issued an order for arrest in response to the offender's failure to appear for a hearing on any matter related to his or her probation.

Statutory absconding only applies to cases with an underlying offense date on or after December 1, 2011(State v. Nolan 2013)

Investigation steps. Prior to declaring an offender to be an absconder, the officer must do all of the following, documenting each step in the automated narrative system:

(a) Review AOC alerts;

(b) Attempt to contact the offender via telephone and give reporting instructions;

(c) Conduct a minimum of two home contacts on separate days (one daytime and one evening) and leave written reporting instructions at the residence. Check with the offender's landlord, property or office manager, and neighbors (if applicable) to see if they have information about the offender's whereabouts.

(d) Look for the offender at his workplace or school;

(e) Attempt to contact and speak with any relatives and associates listed in the offender's contact information and give reporting instructions;

(f) Contact any treatment providers (TASC, RRS, etc.);

(g) Contact local law enforcement, including the county or regional jail and/or CJLEADS;

(h) If the offender was being monitored with GPS technology, attempt to locate the offender via the vendor application.

If the offender was subject to an electronic monitoring program and cannot be located, attempt to retrieve the equipment.

Investigation timeframe. The absconder investigation, including the documentation and reporting requirements set out immediately below, must be completed within the following timeframes, measured from the time the initial absconding violation is detected or from the time the judge issues an order for arrest for the offender's failure to appear:

(a) Level 1 and level 2 offenders, sex offenders, documented SRG offenders, EHA offenders and domestic violence offenders: 5 business days

(b) All other offenders: 10 business days

If the offender is located during the investigation and the officer is able to conduct a face-to-face contact or schedule a face-to-face contact, he or she is not an absconder and the officer should respond to the violation according to the noncompliance grid.

If the offender is unable to be located during the investigation or the officer is unable to conduct or schedule a face-to-face contact due to the offender willfully avoiding supervision, the offender is an absconder.

If the officer determines that the offender's inaccessibility is non-willful, he or she is not an absconder and the officer should respond to any violation according to the noncompliance grid.

.0504 ABSCONDER DOCUMENTATION AND REPORTING

If an officer determines that an offender is an absconder, the officer will adhere to the following procedure.

(a) If the absconder process began with an absconding violation, the officer will:

(1) Prepare and file a violation report, including any details learned during the absconder investigation; include the docket number for the county of hearing and for the county of origin if they are different;

(2) Scan and upload the violation report with time/date stamp using the RNA scanning tool.

(3) If the case meets the Division's criteria for extradition, set out in §D.0600

Return of Violators below, review the case with the district attorney to determine whether the case is extraditable. Complete form DCC-110, Probation Absconder Cover Letter.

(4) Obtain an order for arrest through NCAWARE, including the docket number for the county of hearing and for the county of origin if they are different;

(5) If the case is non-extraditable, complete form DCC-110 Probation Absconder Cover Letter and e-mail it to the Special Operations and Intelligence Unit at SVC_DOC.DCC_Absconders with a subject line that includes the offender's name (last name first), OPUS number, and the district of supervision (for example, "DOE, JOHN; 1234567; 5180");

(6) If the case is extraditable, email the following documents to the DPS Extradition Office at SVC_DOC.Extradition_Absconder_Package, (copy the Special Operation and Intelligence Unit on the e-mail at SVC_DOC.DCC_Absconders):

a. The DCC-110, Probation Absconder Cover Letter;

b. The violation report;

c. The order for arrest.

d. A copy of the probation judgment;

e. The offender's photograph and fingerprints, if available;

f. Any additional court orders in the file.

Consider transferring case to the US Marshal's Task Force if criteria applies.

(b) If the absconder investigation began as the result of the offender's failure to appear for a hearing, the officer will do the following:

(1) **Active cases**. If the offender's period of probation has not yet expired, complete an addendum violation report to add any additional violations (such as failure to report or leaving the jurisdiction without permission or absconding) discovered during the absconder investigation. Follow the procedure outlined in § D.0504(a) above, except that it is not necessary to obtain a new order for arrest (use the order for arrest—also known as a bench

warrant—issued by the judge upon the offender's earlier failure to appear).

(2) **Expired cases**. If the offender's period of probation has expired, new violations cannot be alleged. Note that if a case is in tolled status, it is not expired, even if the original expiration date has passed. See process for discontinued offenders who fail to appear. §D.0303(b)

.0505 CAPTURE AND REASSESSMENT OF ABSCONDERS

When a probation absconder is arrested, the officer will:

(a) Complete a DCC-111, Notice of Arrest Worksheet, and email it to DCCDCI@ncdps.gov;

(b) Update OPUS to reflect the offender's removal from absconder status;

(c) Prepare for hearing on the offender's pending violations.

If the offender is released prior to his or her post-capture violation hearing, the supervising officer will:

(a) Supervise the captured absconder as a level 1 offender.

(b) If supervision is continued upon disposition of the post capture violation hearing, complete an assessment within fourteen days. Once a new level is established, the officer will supervise the offender at the newly assessed level.

.0506 EXPIRED ABSCONDERS

Upon expiration of the supervision period of an absconder case, the officer will consult with the district attorney to determine whether the offender's outstanding violations and order for arrest should remain in the system (NCAWARE, CJLEADS, DCI/NCIC) or if the district attorney prefers to recall the order and dismiss the violations and close the case. Violation reports and orders for arrest for absconders may remain in their respective systems indefinitely provided the violation was filed and time date stamped by the Clerk of Court prior to the expiration of the supervision period.

When an offender in absconder status reaches his or her supervision period expiration date, the case will move to an inactive status of "expired absconder" in OPUS and will automatically be moved to a caseload maintained at the agency level.

A case in tolled status is not expired, even if the original expiration date has passed.

(a) **Responsibilities of Monitoring Expired Absconders**

Technology will assist in the monitoring of expired absconders. The outstanding order for arrest will remain in DCI, NCAWARE and CJLEADS. Violation reports will remain in the DCC RNA scanning system and can be retrieved and served through NCAWARE by any member of law enforcement or probation officer. Staff in the Special Operations and Intelligence Unit will be responsible for checking technology in expired absconder caseloads. The case file will remain with the responsible person through the five year file retention period. After five years the file may be archived, however the orders for arrest and violation reports will remain active. The responsible Special Operations and Intelligence Unit staff person will:

(1) Ensure the order for arrest is in an unserved status in NCAWARE.

(2) Ensure the violation report is uploaded in the DCC RNA scanning system.

(3) Monitor e-mail activity received from CJLEADS and respond accordingly.

(4) Check the AOC alert roster daily and respond accordingly.

(5) Work with Fugitive/Task Force Officers to capture the offender.

(b) **Capture of Expired Absconders**

Because these cases will be in a discontinued status in OPUS due to the expiration of the supervision period, an automatic return to a supervision level for the offenders does not occur when expired absconders are captured. When an expired absconder is captured the following steps will be taken:

(1) Transfer case to former probation officer or another officer if applicable.

(2) Ensure order for arrest and violation reports were served.

(3) Monitor/attend violation hearing.

(4) Update OPUS accordingly.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter D Noncompliance

Section .0600 Return of Violators (Extradition)

.0601 PURPOSE

This section sets out the Division's policy with respect to returning fugitive offenders found in other states. This section does not address offenders being supervised under the Interstate Compact for Adult Offender Supervision. Compact offenders are addressed in Chapter F, Interstate Compact.

.0602 EXTRADITION

Offenders who have broken the terms of their supervision and are found in another state are covered under the Uniform Criminal Extradition Act (Article 37 of Chapter 15A) of the General Statutes, enacted in similar form in other states). Extradition is the formal process of returning an offender from one state to another, based on a request from the governor of the state from which the person fled (a "requisition") to the governor of the state where the person is found (the "asylum state"). If the offender does not waive the formal extradition process, the governor of the asylum state will, in response to the first state's requisition, issue a governor's warrant and order the person held until officers from the first state can come get him or her.

Extradition criteria. The district attorney, as the party responsible for making a formal extradition request to another state, decides whether to seek extradition for a particular offender. Officers will seek extradition for the following categories of fugitive offenders:

(a) All offenders being supervised for a felony;

(b) Misdemeanor offenders, if at least one of the following is true:

(1) The offender has a suspended sentence of 12 months or more;

(2) The offenders owes $500 or more in restitution;

(3) The offender has pending charges in which prosecution and/or conviction is probable, or the district attorney believe the offender has committed a Class A–E felony;

(4) The offender is located within 100 miles of the officer's duty station;

(c) All parolees and post-release supervisees

Documentation requirements. Upon notification by the Extradition Section that a violator who is in another state has refused to sign a waiver of extradition, the supervising officer will obtain the following documents and information and forward to the Judicial District Manager's office:

REQUEST FOR A GOVERNOR'S WARRANT

(a) Four certified copies of the original warrant or complaint for arrest;

(b) Four certified copies of the indictment (if applicable);

(c) Four certified copies of the Probation Judgment;

(d) Four certified copies of the DCC-10 Violation Report;

(e) Four certified copies of the Order for Arrest;

(f) One photograph;

(g) One set of fingerprints (if available);

(h) An affidavit in quadruplicate attesting to the fact that the attached photograph and/or fingerprints are those of the person named and accused in the extradition proceedings;

(i) The name(s) of the magistrate(s) who issued the original warrant;

(j) The name of the district attorney or assistant district attorney who will sign the application for requisition;

(k) The name of the resident or presiding judge; and

(l) The name of the Clerk of Court.

The JDM's office will complete forms GOV.2, GOV.2-A, and GOV.3 and forward them to the officer. The officer will then present the documents to the appropriate court officials for approval, signatures, and seals and forward all documents to the Extradition Section for further processing.

See Instructions for Applications for Requisition Using the GOV Forms.

Return procedure. The chief probation/parole officer and the Extradition Section will coordinate all out- of-state travel for the purpose of returning violators.

(a)) Travel will be made by car or common carrier, depending upon the distance involved.

(b) Officers must be trained in extradition procedures in accordance with Department of Public Safety Extradition Policy and Procedure to carry out extradition assignments.

(c) The supervisor will dispatch two firearm certified officers when traveling by car. At least one officer must be of the same sex as the offender.

(d) The officer in charge will ensure that the offender wears handcuffs, leg irons and waist chains at all times. Use and application of black box or flex cuffs on offenders is at the discretion of the officer. When traveling by air, the officer in charge will ensure that the offender wears handcuffs and waist chains at all times, unless instructed to remove them by airline officials.

(e) Officers must comply with airline and extradition guidelines. Air travel requires officers to be certified by the Federal Aviation Administration.

Expenses. Officers participating in extradition trips requiring overnight stay may request advanced payment of expenses. This process will also provide expedited reimbursement of expenses when there is short notice of the trip. The officer will:

(a)) Determine the amount of anticipated expenses following per diem guidelines;

(b) Prepare a CNTR 002, Employee Advance Request, listing the purpose as extradition trip. Provide a brief justification for the request and enter the amount requested;

(c) Fax the form to the Controller's Office to the attention of the Controller;

(d) Within 30 days of the end of the travel period, submit a CNTR 003, Travel Reimbursement, through the chain of command. Enter the amount advanced in the appropriate space.

(e) If the court decides to continue a returned probation violator under supervision, the officer will request that the offender be required, as a condition of probation, to reimburse the State for expenses incurred in returning the violator. Documentation of these expenses will be maintained by the Extradition Section.

.0603 OFFENDERS FOUND IN NORTH CAROLINA

Once a violating offender is found and served with the outstanding OFA in a North Carolina county other than the county of supervision, he or she will be returned to the supervision county as arranged by the two county sheriff's offices.

APPROVED.

Anne L. Precythe

Director of Community Corrections

08/01/2016

Date

Chapter D Noncompliance

Section .0700 Probation Violation Hearings

.0701 PURPOSE

This section sets out the officer responsibility in the violation hearing process.

.0702 VIOLATION HEARINGS

Violation hearings may be held in the District Court or Superior Court having original jurisdiction, the judicial district in which the offender resides, or the Judicial District in which he/she is alleged to have violated probation. G.S. 15A-1344(a)

At the violation hearing, the Probation/Parole Officer will:

(a)) Possibly be asked to be sworn and to take the witness stand;

(b) Relate to the Court all facts regarding the original sentence and conditions imposed including upcoming expiration dates;

(c) Quote the violations that are before the Court and be prepared to present the necessary supporting evidence;

(d) Be prepared to offer a recommendation if requested;

(e) Notify the Court of all outstanding warrants against the offender G.S. 15A-301.1(p) S.L. 2015-48;

(f) If the Court orders that probation be terminated, transferred to unsupervised, modified and/or continued, prepare an Order on Violation of Probation or on Motion to Modify, ensure that any findings of fact expressed by the presiding judge are incorporated;

(g) Notify the clerk of court's bookkeeper of any monetary changes utilizing the DCC-166, Monetary Requirement Notification and place a copy in the case file;

(h) If the court orders confinement in response to violation, the officer or clerk is to

complete a modification order indicating the number of days of confinement and where the sentence is to be served (i.e. jail or DOP). The supervising officer shall maintain an accurate count of all days of confinement while under supervision through OPUS and complete the following:

(1) Update OPUS to reflect the period of confinement (CRV);

(2) For a CRV ordered to be served in DAC – complete the CRV Admission Checklist (DCC-164) and email to Community Corrections Administration along with a copy of the Judgment Suspending Sentence and AOC-CR-609 (Order on Violation of Probation or On Motion to Modify) at CRV@ncdps.gov within 24 hours including in the subject line "CRV Admission Checklist", offender's name and OPUS number;

(3) Monitor the release date of the offender every 30 days;

(4) Upon completion of the period of confinement in response to violation (CRV) verify release of the offender.

CRV offenders will follow the same direct release eligibility as Post Release offenders in Chapter E .0302 Release Eligibility Requirements.

In cases where the confinement period does not exhaust the remaining suspended sentence period, the offender will return to supervision upon release. Notice should be given to the offender to report to the officer within 72 hours of release from confinement. If the offender fails to report, the officer will initiate an absconder investigation.

For structured sentencing misdemeanor cases placed on probation on or after 12/01/15, a probationer must receive two separate incidents of quick dip confinement in response to violation before they are qualified for revocation if their violations are technical in nature. G.S. 15A-1344(d2) S.L. 2015-191

(h) If the Court orders that probation be revoked, ensure that the Order Revoking Probation is prepared, signed, and filed by the Clerk of Court; place the offender in non-reporting(S04)/county jail probation revocation(3E).

(i) After (10 days for district court/14 days for superior court), make inquiry with the Clerk of Court to determine if an appeal has been filed by the offender. If no appeal has been filed, obtain a copy of the Order Revoking Probation for the file, notify the bookkeeper with a Monetary Requirement Notification DCC- 166, and proceed with closing the case.

(j) If the offender files an appeal to the next highest court, ensure the Order Revoking Probation indicates "The defendant gives notice of appeal"; obtain a copy for the file and discontinue supervision if the case is past the expiration

date; otherwise continue supervision under the same conditions. The violation disposition in OPUS will be updated to appealed (AP).

G.S. 15A-1347(c) *If a defendant appeals an activation of a sentence as a result of a finding of a violation of probation by the district or superior court and is released pursuant to Article 26 of Chapter 15A of the General Statutes, probation supervision will continue under the same conditions until the expiration of the period of probation or disposition of the appeal, whichever comes first.*

The appealed disposition will leave the violation pending in OPUS and at expiration, the case will go into discontinued status instead of expiring.

(k) When appellate bond is denied the offender will begin serving the suspended sentence. The offender may max out the suspended sentence prior to the appeal hearing; the case will not be closed until the appeal disposition is received;

(l) If the appeal is heard at the Superior court level, be prepared to provide the judge with additional information regarding the offender;

(m) If the Superior Court upholds the revocation, ensure that another Order Revoking Probation is prepared; if the Superior Court remands the case to District Court, the original Order Revoking Probation will be placed into effect;

(n) Make inquiry with the Clerk of Superior Court every 90 days to learn the status of the appeal and document in the narratives;

(o) Following the disposition of the appeal, the Probation Officer will:

(1) Update the violation process in OPUS with the appropriate disposition;

(2) If revoked, proceed with closing the case, or

(3) If not revoked, restore the offender to active supervision and adjust the period of probation as ordered by the court;

(4) Complete a reassessment.

.0703 ELECTIONS TO SERVE

The law that used to allow a probationer to elect to serve a sentence, G.S. 15A-1341(c), was repealed in 1995. S.L. 1995-429. Officers will not encourage offenders to elect to serve a sentence.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter D Noncompliance

Section .0800 Response Teams

.0801 PURPOSE

The primary duties for a response team member, or on-call officer, is to provide response to violations or equipment issues of EHA, EM, RF or SBM sex offenders (supervised and unsupervised) when notified by the vendor monitoring system. It is also the responsibility of the on-call officer to respond to DCI Hit Confirmations when contacted by DCI staff. In situations where local offices are closed due to emergency situations (ie: adverse weather, bomb threats, etc.) the Response Team member will serve as the point of contact when notified by local management. Response teams are utilized after normal working hours on weekdays and weekends, holidays, and during emergencies.

.0802 RESPONSE TEAM COORDINATOR

Supervision of the local Response Team is to be provided by a Judicial District Manager or CPPO. Contact information must be provided to Special Operations Office and must be updated upon any change. The response team coordinator is responsible for:

(a) Ensuring the response equipment is in working order and a sufficient number of consumables are available.

(b) Updating response team members of any changes in policy and procedure.

(c) Maintaining an on-call/response team schedule.

Changes to the Response smart phone numbers will be communicated immediately to DCI, Special Operations Office and the Vendor.

.0803 RESPONSE TEAM EQUIPMENT

The response equipment package will include a smart phone, tablet/IPAD, monitoring equipment and consumables. The equipment package will be shared between on-call officers as they rotate.

.0804 RESPONSE TEAM DUTIES

(a) Respond to all electronic monitoring violations, refer to Chapter D .200 The Noncompliance Grid and Responses to Noncompliance;

(b) For equipment installation and removal, refer to Chapter G, Technology and Monitoring Programs.

(c) As point of contact for DCI absconder captures and arrests, contact the arresting agency upon notification by DCI to determine warrant service status, court date and other pertinent details and notify the Supervising PPO and/or CPPO the morning of the next business day.

(d) Email the DCC-111 Notice of Arrest (NOA) to DCI the next business day to remove offender from DCI and to the Supervision Office if the absconder is a Post Release/Parole case.

In counties without RT support, all DCI offender apprehension notifications are the responsibility of the supervising Probation/Parole Officer and the Chief Probation/Parole Officer.

(e) Upon notification from DCI, release a post-release or 90-day parolee from a Prisons facility.

(f) Following any response team activity, the on-call officer will prepare the DCC-94 Incident Report and give a copy to the supervising officer and the CPPO.

.0805 RESPONSE TEAM COMMUNICATION

Special Operations Office staff protocol in communicating with Response will be as follows:

(a) The vendor will attempt to make contact with the on-call officer via text using only the official response team smart phone and wait 10 minutes for a response.

(b) If there is no response, the vendor will attempt to call the officer and wait 10 minutes for a response.

(c) If there is no response, the vendor will initiate contact with the Response Team Coordinator or EHART CPPO and wait 10 minutes for a response.

(d) If there is no response, the vendor will initiate contact with the JDM.

APPROVED.

Anne L. Precythe

Director of Community Corrections

08/01/2016

Date

Chapter E Parole and Post Release

Section .0100 General Provisions

.0101 PURPOSE

This section sets out the basic policy for managing offenders released to parole or post release supervision.

.0102 ORGANIZATION

Responsibility

Parole and post release policy is subject to review by the Deputy Director of Community Corrections. Any variation in the policies and procedures specified herein must immediately be reported to the Deputy Director for review and approval. If a needed variation exists, requests must not alter Division policy, but should be submitted and implemented through use of Standard Operating Procedure (SOP) to the Judicial Division Administrator for approval. Administrative directives and updates to the offender supervision guidelines will be issued by the office of the Director as required to specify and update this policy.

Duties

(a) The Division of Adult Correction is hereby authorized to appoint a sufficient number of competent parole and post-release officers, who shall be particularly qualified for and adapted for the work required of them, and who shall under the direction of the Division of Adult Correction, and under regulations prescribed by the Division of Adult Correction after consultation with the Commission, exercise supervision and authority over paroled prisoners and persons on post- release supervision, assist paroled prisoners and persons on post-release supervision, and those who are to be paroled or released for post-release supervision in finding and retaining self- supporting employment, and to promote rehabilitation work with paroled and post-release supervised prisoners, to the end that they may become law-abiding citizens. The supervisors shall also, under the direction of the Division of Adult Correction, maintain frequent contact with paroled and post-release supervised prisoners and find out whether or not they are observing the conditions of their paroles or post-release supervision, and assist

them in every possible way toward compliance with the conditions, and they shall perform such other duties in connection with paroled prisoners as the Division of Adult Correction may require. G.S. 148-54

(b) Officers shall keep detailed records of their work. Officers will record accurate detailed narratives on all offender contacts as they are made, but no later than the end of the next working day;

(c) In all engagements with offenders, officers will operate in a professional manner and will:

(1) Be prepared, having reviewed the case file;

(2) Know the results of drug screens and treatment status;

(3) Be aware of the offender's goals;

(4) Work to gain the offender's trust;

(5) Show respect;

(6) Maintain eye contact;

(7) Avoid undue familiarity

Staff

Parole and post-release supervision is performed by officers certified by the North Carolina Criminal Justice Education and Training Standards Commission. Officers must communicate effectively using motivational interviewing techniques; must exercise independent judgment as emergency situations arise; must maintain a professional demeanor while interacting with potentially volatile and assaultive offenders; must be able to defend self and others; must pass firearms testing and self defense course; must maintain a professional relationship with all community partners, offenders and the general public, and must have sufficient writing skills to include typing and use of computer software.

Review

The judicial district manager will review parole and post-release supervision to ensure policy is followed based on the supervision practices outlined within by the Deputy Director and as approved by the Director of Community Corrections.

APPROVED.

Anne L. Precythe 08/01/2016

Director of Community Corrections Date

Chapter E Parole and Post Release

Section .0200 Parole and Post Release Supervision

.0201 PURPOSE

This section sets out Division policies, rules, and standards on the supervision of offenders released on parole and post-release supervision. Post-release supervision requires the offender to be supervised and monitored within the community by a Probation/Parole Officer. G.S. 148-54

.0202 POST-RELEASE SUPERVISION

(a) Under Structured Sentencing, offenders convicted of Class B1 through Class E felony offenses, other than those sentenced to life imprisonment, must be placed on post-release supervision following an active term of imprisonment. G.S. 15A- 1368.1

(b) The purposes of post-release supervision are:

(1) To monitor and control the prisoner in the community;

(2) To assist the prisoner in reintegrating into society;

(3) To collect restitution and other court indebtedness from the prisoner; and

(4) To continue the prisoner's treatment or education. G.S. 15A-1368

.0203 PERIOD OF POST-RELEASE SUPERVISION

(a) By statute, an inmate cannot refuse post-release supervision. G.S. 15A-1368.2(b)

(b) A period of post-release supervision begins on the day the inmate is released from prison and runs concurrently with any federal or state prison, jail, probation, or parole terms to which the inmate is subject during the period. G.S.

15A-1368.5

(c) Under G.S. 15A-1368.2, the length of an offender's period of supervision is as follows:

(1) For offenses committed on or after October 1, 1994, but before December 1, 1996, the period is 6 months. S.L. 1993-538

(2) For offenses committed on or after December 1, 1996 but before December 1, 2011, the period is 9 months for Class B1 through Class F felons. S.L. 1996-18-es2

(3) For offenses committed on or after December 1, 2011 the supervision period is 12 months for Class B1 through Class E felons and nine months for Class F through I felons. GS 15A-1368.2(c)

(4) For offenders released from prison for a Class B1 through Class E felony that requires registration as a sex offender under Article 27 of Chapter 14 of the General Statutes, the period of post-release supervision is 5 years. The five-year post-release supervision period only applies to offenders under supervision for an offense that occurred on or after December 1, 1996, and that is also reportable based on the effective date provision applicable to that particular crime for sex offender registration purposes.

(d) When a supervisee completes the period of post-release supervision, the sentence(s) from which the supervisee was placed on post-release supervision is terminated. G.S. 15A-1368.2(f)

.0204 CONDITIONS OF POST-RELEASE SUPERVISION

Conditions of post-release supervision are set by the Post-Release Supervision and Parole Commission. Conditions fall into one of the categories set out below, and will be identified as such on the offender's supervision agreement.

(a) **Required condition**. In every post-release supervision case, the Commission shall provide as an express condition that the supervisee not commit another crime during his or her supervision. G.S. 15A-1368.4(b)

(b) **Reintegrative conditions**. The Commission may impose reintegrative

conditions, repeated violation of which may result in revocation. G.S. 15A-1368.4(d)

(c) **Controlling conditions**. The Commission may impose controlling conditions, violation of which may result in revocation. G.S. 15A-1368.4(e)

(d) **Discretionary conditions**. The Commission, in consultation with Community Corrections, may impose other conditions reasonably necessary to ensure that the supervisee will lead a law- abiding life or to assist the supervisee to do so. G.S. 15A-1368.4(c)

(e) **Sex offender conditions**. Offenders convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor will be subject to the conditions set out in G.S. 15A-1368.4(b1).

.0205 PAROLE

Parole is the early release from incarceration of eligible offenders sentenced before Structured Sentencing, subject to certain conditions. Release decisions and the determination of conditions imposed are made at the discretion of the Post Release Supervision and Parole Commission.

The Post Release Supervision and Parole Commission may choose not to parole an eligible offender. An offender may refuse parole, choosing to serve the remainder of his/her term of imprisonment.

Parole cases will be supervised at a level determined by the Risk and Needs Assessment.

.0206 TYPES OF PAROLE

(a) **90 Day Mandatory Parole Cases**. Offenders sentenced before November 1, 1994 under Fair Sentencing laws must be paroled 90 days prior to the unconditional release date. Supervision fees are the only monetary obligation required as a condition of parole on 90-day mandatory parole cases.

(b) **Jail Parole Cases**. The Post Release Supervision and Parole Commission's authority to grant parole extends to eligible offenders serving sentences in local jails. The Parole and Post Release Specialist will review new jail parole cases and will house case files for jail parole cases.

(c) **Commutation Parole Cases**. Commutation by the governor of an offender's court-ordered punishment may make him/her immediately eligible for parole. The Probation/Parole Officer will provide copies of violation reports and discharge letters in commutation cases to the Parole and Post Release Specialist for forwarding to the Governor's Clemency Administration. Commutation cases in full compliance may be terminated without the approval of the Governor's Clemency Administration.

(d) **Community Service Parole Cases**. The Post Release Supervision and Parole Commission may grant community service parole to eligible offenders. Offenders released with supervision periods of one year or more must complete 12 hours of community service for each month of supervision not to exceed a maximum of 144 hours. Offenders released with supervision periods less than 12 months must perform a maximum of 48 hours or 4 hours per month whichever is less. Offenders are required to pay a community service fee to the clerk of court in the county of release.

(e) **Early Medical Release Cases**. The Post Release Supervision and Parole Commission may grant early medical release to eligible offenders pursuant to Article 84B. Offenders will have limited conditions of supervision and will be supervised until the date of the expiration of their sentence plus any period of post release supervision required by law.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter E Parole and Post Release

Section .0300 Processing New Parole and Post Release Cases

.0301 PURPOSE

This section establishes the responsibility of staff when processing new parole and post release cases to include procedures of release. All post-release and parole supervisees may be direct released except those noted in section .0302 of this chapter.

A release officer will be utilized to assist with the direct release of eligible post-release and parole supervisees and with those listed in .0302 of this chapter. The release officer will be a certified Probation Parole Officer designated to assist with releasing an offender from custody by initiating the process to begin the post-release or parole supervision period.

.0302 RELEASE ELIGIBILITY REQUIREMENTS

All post-release and parole supervisees will be direct released with the exception of those who:

(a) Are determined to be homeless (including offenders being released to transitional housing, a treatment facility, a halfway house, a group home, a shelter, etc.);

> For offenders that are considered to be homeless in (a), an officer will affect the release on the date of release. The offender may be transported by a family member approved by the supervising officer or non-family member approved by the CPPO. If the offender does not have transportation, Community Corrections will transport the offender.

(b) Have pending charges where bond has not been posted;

(c) Have outstanding warrants;

(d) Are serving a period of incarceration for an offense that requires

registration under Article 27A of Chapter 14 of the General Statutes (the Sex Offender and Public Protection Registration Program), or if the offender is convicted of a non-reportable offense that involves the physical, mental, or sexual abuse of a minor;

For Sex Offenders in (d), an officer will affect the release on the date of release. The offender may be transported by a family member approved by the supervising officer or non-family member approved by the CPPO. If the offender does not have transportation, Community Corrections will transport the offender.

(e) Are in **High Security Maximum control (HCON)** or **Restrictive Housing for Control Purposes (RHCP)**

High Security Maximum Control (HCON) is the isolation of close custody felon inmates that pose, or continue to pose, an imminent threat to the life or health of other inmates or staff or the isolation of inmates that otherwise pose a serious threat to the security and integrity of a prison facility.

Restrictive Housing for Control Purposes (RHCP) is a long-term restrictive housing assignment for the removal of close custody felon or minimum custody level I misdemeanant offenders from the general population to confinement in a secure area. The intent is the control of the offender due to behavior deemed to be repeatedly disruptive to the orderly operations of the facility, threats to the safety of staff or other offenders, threats to the security and operational integrity of the facility, or as a transition following assignment to High Security Maximum Control (HCON) status.

For offenders in the control statuses listed above in (e), the release officer will affect the release on the date of release; Prisons will purchase a bus ticket to the offender's home county if needed. The supervising officer is not required to travel to the facility to perform the release unless they are in the same county as the facility.

(f) Are under 18 years of age

For offenders under the age of 18, the release officer will affect the release on the date of release; if the offender does not have transportation, Community Corrections will transport the offender to his or her home county.

.0303 PRE-RELEASE PROCEDURE

When an offender has been approved for Post Release, OPUS will send notification to the chief probation/parole officer and the officer assigned to supervise the offender. (Chapter B Release Investigations) Upon receipt of the notification:

(a) The chief probation/parole officer will assign an officer to supervise the offender if one has not already been assigned.

(b) The supervising officer will:

(1) Note the offender's release date in OPUS (PC40);

(2) Review background information about the offender, including but not limited to the offender's:

a. Criminal history;

b. Disciplinary actions while incarcerated;

c. Case manager's notes; and

d. Inmate case plan.

(3) In the officer's discretion, contact the parole case analyst to recommend or request any special supervision conditions.

(4) For offenders requiring pick up by the officer, contact the facility at least fourteen days prior to release where the offender is housed and request that the inmate be transferred to the facility most convenient to the officer for pick-up.

(5) Approximately one week before the inmate's release, verify the release plan (IP55) to ensure that the proposed residence is accurate and appropriate. If the proposed residence is no longer viable, contact the case manager so that another home plan can be established.

(6) Contact the facility where the offender is housed to determine the exact date and time when the offender will be released. Enter direct release reporting instructions or officer pick up information into OPUS (IP55).

(7) For offenders who are eligible for direct release, contact the offender's family with release and pick up information, if applicable.

When an offender's release date has been set, OPUS will generate the applicable Post Release certificate, the Direct Release Review (DRR) Investigation and the "Supervision Conditions Read" link on the release checklist in the OPUS web application. Upon receipt of the Direct Release Review (DRR) Investigation:

(a) The chief probation/parole officer or designee will assign the Direct Release Review (DRR) Investigation to the designated release officer,

(b) The release officer will investigate the case to determine the eligibility for direct release:

(1) If the offender does not meet the criteria for direct release, the chief probation/parole officer will update the Direct Release Review (DRR) Investigation to "NE – Not Eligible For Direct Release" and enter a comment explaining why the case is not eligible. The release officer will follow the appropriate procedures for release according to this section.

(2) If determined to be eligible for direct release, the release officer will follow the steps in .0304 Release Procedure.

.0304 RELEASE PROCEDURE

For offenders eligible for direct release, the release officer will perform the following within 5 days:

(a) Meet with the offender and review post release agreement;

(b) Conduct a line-by-line review of all conditions. The officer will read conditions aloud, explaining them to the offender. If the offender has limited English proficiency, the officer will follow the procedures set out in Chapter C .0623 LEP Offender;

(c) Have the offender sign the agreement;

(d) Give a copy of the signed agreement to the offender;

(e) If the offender is subject to house arrest with electronic monitoring, complete form DCC-70. Obtain the offender's signature and provide him or her with a copy. If the offender is subject to satellite based monitoring, complete form DCC-44. Obtain the offender's signature and provide him or her with a copy;

(f) Coordinate release with Prisons officials or confinement facility staff (in instances of jail parole);

(g) Notify Prisons if transportation is needed to move offender closer to home county location;

(h) Contact the assigned supervising officer and provide information regarding offender's release date and travel information;

(i) Review reporting instructions with offender and have the Reporting Instructions for Direct Release DCC-115E signed by the offender.

(j) Scan, e-mail and mail original release agreement, DCC-70, DCC-44, Direct Release Notification DCC-163 and Reporting Instructions for Direct Release DCC-115E to the assigned supervising officer.

(k) Update Supervision Conditions Read in the OPUS web application;

(l) Enter a narrative documenting the above process.

Any offender not transported to their residence by a Probation/Parole Officer is required to report to the supervising officer within 72 hours of release. If the offender fails to report, the officer will initiate the absconder investigation prior to requesting a warrant from the Post Release and Parole Commission.

For offenders requiring pickup and transport (homeless with no approved transportation, under 18 years of age or are being supervised for a registerable sex offense with no approved transportation), on the scheduled release date, the officer will:

(a) Arrive at the facility where the offender is housed at the designated time; the offender must be released from the prison facility by 5:00 p.m. on the scheduled release date.

(b) Obtain a copy of the post-release supervision agreement;

(c) Give the offender a copy of the agreement and conduct a line-by-line review of all conditions. The officer will read conditions aloud, explaining them to the offender. If the offender has limited English proficiency, the officer will follow the procedures set out in Chapter C .0623 LEP Offender.

(d) Have the offender sign the agreement;

(e) Give one copy of the signed agreement to the offender, one to the prison

facility, and retain one for the offender's file.

(f) If the offender is subject to house arrest with electronic monitoring, complete form DCC-70. Obtain the offender's signature and provide him or her with a copy. If the offender is subject to satellite based monitoring, complete form DCC-44. Obtain the offender's signature and provide him or her with a copy.

(g) Transport the offender to his or her approved residence.

(h) Update Supervision Conditions read in the OPUS web application;

(i) Enter a narrative documenting the above process.

For offenders in control status .0302 (e), on the scheduled release date, the release officer will:

(a) Arrive at the facility where the offender is housed at the designated time; the offender must be released from the prison facility by 5:00 p.m. on the scheduled release date.

(b) Obtain a copy of the post-release supervision agreement;

(c) Give the offender a copy of the agreement and conduct a line-by-line review of all conditions. The officer will read conditions aloud, explaining them to the offender. If the offender has limited English proficiency, the officer will follow the procedures set out in Chapter C .0623 LEP Offender;

(d) Have the offender sign the agreement;

(e) Give one copy of the signed agreement to the offender, one to the prison facility, scan, e-mail and mail original release agreement to the supervising officer;

(f) If the offender is subject to house arrest with electronic monitoring, complete form DCC-70. Obtain the offender's signature and provide him or her with a copy. If the offender is subject to satellite based monitoring, complete form DCC-44. Obtain the offender's signature and provide him or her with a copy;

(g) Review reporting instructions with the offender and have the Reporting Instructions for Direct Release DCC-115E signed by the offender. Scan, email and mail the DCC-115E, DCC-70 or DCC-44 to the supervising officer;

(h) Ensure the offender has transportation to his county of residence. Prisons will purchase a bus ticket to the offender's home county if needed;

(i) Update Supervision Conditions Read in the OPUS web application;

(j) Enter a narrative documenting the above process.

The offender is required to report to the supervising officer within 72 hours of release. If the offender fails to report, the officer will initiate the absconder investigation prior to requesting a warrant from the Post Release and Parole Commission.

For offenders that have pending charges where bond has not been posted or have outstanding warrants .0302 (b) (c), before the release date, the release officer will ensure that the local sheriff in the county where the charge(s) are pending or issuing law enforcement agency is aware that the offender will need to be picked up for transport to the local confinement facility. On or before the release date, the release officer will:

(a) Obtain a copy of the post-release supervision agreement;

(b) Give the offender a copy of the agreement and conduct a line-by-line review of all conditions. The officer will read conditions aloud, explaining them to the offender. If the offender has limited English proficiency, the officer will follow the procedures set out in Chapter C .0623 LEP Offender;

(c) Have the offender sign the agreement;

(d) Give one copy of the signed agreement to the offender, one to the prison facility, scan, e-mail and mail original release agreement to the supervising officer;

(e) If the offender is subject to house arrest with electronic monitoring, complete form DCC-70. Obtain the offender's signature and provide him or her with a copy. If the offender is subject to satellite based monitoring, complete

form DCC-44. Obtain the offender's signature and provide him or her with a copy;

(f) Review reporting instructions with the offender and have the Reporting Instructions for Direct Release DCC-115E signed by the offender. Scan, email and mail the DCC-115E, DCC-70 or DCC-44 to the supervising officer;

(g) Update Supervision Conditions Read in the OPUS web application;

(h) Enter a narrative documenting the above process.

The offender is required to report to the supervising officer within 72 hours of release from custody. If the offender fails to report, the officer will initiate the absconder investigation prior to requesting a warrant from the Post Release and Parole Commission.

Immediately or **within 72 hours** following release from prison (direct or pick up):

(a) Review financial obligations. Complete PC-RR1 Financial Obligations and Restitution Payment Schedule; if the offender or supervising officer disagrees with the monthly payment amount indicated on the Restitution Payment Order (Section G) or if the officer is requesting that the offender's restitution be waived for good cause, the CPPO will sign Section F as the DCC Representative and forward to the P/PRS Specialist for review by the Commission.

(b) Instruct the offender how, where, and when to pay money owed;

(c) Review with the offender all other conditions of release;

(d) Enter the date of release on the probation and parole bill of costs and forward a copy to the Clerk of Court.

(e) Build a case file including a copy of the Parole or Post Release Supervision Agreement, a copy of the PC-RR1 and the Probation/Parole Bill of Costs;

(f) Complete Intake tasks in OPUS online;

(g) If the offender is subject to house arrest with electronic monitoring, enroll the offender in the program **within 24 hours** of being placed under

supervision. If the offender is subject to an electronically monitored curfew or satellite based monitoring, enroll the offender in the appropriate program within 72 hours of being placed under supervision;

(h) For all electronic monitoring programs, inspect the equipment within 72 hours of installation.

Submit a copy of the signed agreement to the Parole and Post Release Specialist for ISC and detainer cases ONLY.

.0305 POST RELEASE REFUSALS

(a) If the offender refuses to sign the post-release supervision agreement, the release officer will:

(1) Inform the offender that, by statute, a prisoner cannot refuse post-release supervision. G.S. 15A-1368.2(b)

(2) Tell the offender that a refusal to sign the agreement is a violation of post- release supervision;

(3) If the offender still refuses to sign the agreement, obtain the signatures of two witnesses to the refusal.

(b) If the offender still refuses to sign the agreement, the officer will take the following steps if the refusal happens during business hours:

(1) Obtain a written statement from the inmate stating that they refuse to comply with conditions of PRS

(2) Contact the Parole/Post-Release Supervision Specialist, who will obtain a verbal commitment from the commission that a warrant will be issued; no warrant request should be made by the officer until the actual date of release. Provide the P/PRS Specialist with the TID (terminal identifier) of the nearest DCI terminal (ideally, the terminal at the facility).

(3) The P/PRS Specialist will notify DCI to issue a message indicating that a warrant has been issued and DCI will transmit the message to the nearest

DCI terminal (ideally, the terminal at the facility).

(4) Advise both the inmate and the prison staff that the Commission has authorized a warrant and that upon a formal issuing of the warrant, you will return to serve the hard copy and violation report. The inmate is to remain at the prison facility until a preliminary hearing is held.

(5) Immediately or the first thing the next business day the officer will scan a copy of the inmate's refusal to the P/PRS Specialist, complete the automated violation process and obtain and serve the warrant according to the procedure set out in E.0400 Noncompliance in Parole and Post Release Cases.

(6) Notify the assigned supervising officer of the violation and warrant.

(c) If the refusal happens on a weekend, holiday or after normal business hours, the release officer will:

(1) Obtain a written statement from the offender stating that they refuse to comply with conditions of PRS;

(2) Contact the on-call commissioner, who will make the decision to issue the warrant;

(3) The officer will contact DCI at 1-800-368-3284 and provide the following information : Offender's name, OPUS Number, name of Commissioner who authorized the warrant, and the location/TID (terminal identifier) for the DCI terminal closest to the prison facility;

(4) The next day the officer will scan a copy of the inmate's signed refusal to the P/PRS Specialist, complete the automated violation process and obtain and serve the warrant according to the procedure set out in E.0400 Noncompliance in Parole and Post Release Cases.

(5) Notify the assigned supervising officer of the violation and warrant.

Sex Offender Refusal – Contempt is used by the Post Release Parole Supervision Commission.

.0306 PAROLE REFUSAL

An offender who has been granted parole may elect to refuse parole and to serve the remainder of his term of imprisonment G.S. 15A-1371(e)

(a) If the refusal happens during business hours, the release officer will:

(1) Obtain a written statement from the inmate stating that they are refusing to accept parole;

(2) Notify the appropriate staff at the facility;

(3) Fax or scan the inmate's refusal to the assigned Parole Case Analyst;

(4) Notify the assigned supervising officer.

(b) If the refusal happens on a weekend, holiday or after normal business hours, the release officer will:

(1) Obtain a written statement from the inmate stating that they are refusing to accept parole;

(2) Notify the appropriate staff at the facility;

(3) Immediately the next business day, fax or scan a copy of the inmate's refusal to the assigned Parole Case Analyst;

(4) Notify the assigned supervising officer.

.0307 DWI PAROLE FROM SMCP

The place of confinement for DWI sentences shall be the Statewide Misdemeanant Confinement Program (SMCP) regardless of length. This applies to all DWI sentences imposed on or after January 1, 2015.

For offenders who have been granted parole for a DWI sentence and the offender is serving the sentence in the SMCP, the CPPO and designated release officer will perform the follow before and on the release date:

Before the Release Date

(a) A DART/Black Mountain (DBE) Investigation will be generated to the transmittal CPPO in the county where the offender is located notifying that an offender is eligible for DWI parole. The CPPO or designee will assign this process to the designated release officer;

(b) The release officer will, within 5 days, complete and review the 90 day treatment program agreement letter with the offender (DCC-165) and explain the DART/Black Mountain program;

(c) Have the offender sign the 90 day agreement letter;

(d) Provide a signed copy of the 90 day agreement letter to the jail;

(e) Scan and email a copy of the 90 day agreement letter to the Parole Commission at DWI_Parole@ncdps.gov;

(f) Update the status of the DBE investigation to "completed, accepted" and the decision to "approved";

(g) Once the release date is set, a Direct Release Review (DRR) Investigation will be generated to the transmittal CPPO in the county where the offender is located;

(h) The CPPO or designee will assign the Direct Release Review (DRR) Investigation to the designated release officer;

(i) The release officer will, within 5 days, investigate to determine if the case is a DWI Parole to DART/Black Mountain;

(j) The CPPO will update the Direct Release Review (DRR) Investigation to "NE – Not Eligible for Direct Release" and enter a comment explaining that the case is a DWI Parole to DART/Black Mountain;

(k) The CPPO will receive the release date, time of DART/Black Mountain pick up, and parole agreement via email.

If the offender refuses to participate in DART/Black Mountain:

(a) Notify the Parole Analyst and;

(b) Update the status of the DBE investigation to "completed, rejected" and the decision to "denied".

On the Release Date

The release officer will:

(a) Review the parole agreement with the offender;

(b) Have the offender sign the parole agreement;

If the offender refuses parole, follow the steps in E .0306 Parole Refusal and notify the staff at DART/Black Mountain.

(c) Scan and email a copy the signed parole agreement to DART/Black Mountain;

(d) Transport the offender to the DART/Black Mountain pick up location at the designated time;

(e) Provide DART/Black Mountain transportation with the original signed parole agreement and 90 day agreement letter;

(f) Update Supervision Conditions Read in the OPUS web application;

(g) Enter a narrative documenting the above process.

.0308 MODIFICATION OF CONDITIONS

The Commission may, for good cause shown, modify the conditions of post-release or parole supervision at any time before the termination of the supervision period. G.S. 15A-1368.3 and 15A-1374.

The Probation/Parole Officer may seek the modification of conditions for any purpose to enhance the supervision of a compliant offender.

Upon determination that modification to an offender's conditions of parole or post release supervision is needed, the Probation/Parole Officer will:

(a) Consult with the Chief Probation/Parole Officer regarding the desired modification(s);

(b) If the offender is compliant with the conditions of parole or post release supervision, forward to the Parole and Post Release Specialist a memorandum signed by both the supervising officer and the CPPO requesting the specific modification(s) and the rationale for the request.

(c) If the offender is non-compliant with the conditions of parole or post release supervision, complete the Violation Process in OPUS with the recommendation for modification. See section E.0400 Noncompliance in Parole and Post Release Cases.

APPROVED.

08/01/2016

Director of Community Corrections

Date

Chapter E Parole and Post Release

Section .0400 Noncompliance in Parole and Post Release Cases

.0401 GENERAL STATEMENT ON RESPONSE TO NONCOMPLIANCE

Officers will proactively engage with offenders to prevent noncompliance and foster pro-social behavior. The Division recognizes that some offender noncompliance is inevitable. Officers will respond quickly and proportionately, taking into account the particular offender's risk and needs when determining the appropriate response. Offenders will be held accountable for noncompliance. There will be a response to every detected violation.

This section sets out the minimum response to offender noncompliance. The chart establishes which actions should be taken at a minimum and can be elevated upon proper review with the chief probation parole officer.

.0402 THE NONCOMPLIANCE GRID

The authorized response to offender noncompliance by offenders of each supervision level is set out in the chart below. The five types of noncompliance (S1 being the most severe, S5 being the least severe, as further discussed below) are placed vertically on the left side of the chart. The five supervision levels are placed horizontally on the top of the chart. Knowing an offender's supervision level and the type of violation(s) he or she has committed, an officer can use the grid to determine the appropriate class of response.

The three classes of officer response, A, B, and C, are set out to the right of the grid. Particular responses within a response class are listed from highest to lowest in terms of seriousness. Each type of response is discussed below in §.0404, Descriptions of Responses to Noncompliance.

When an offender's supervision level and type of noncompliance direct a class A response, the officer will submit a violation report to the Post Release Supervision and Parole Commission requesting a Warrant for Arrest. When an offender's supervision level and type of noncompliance direct a class B or class C response, the officer will choose the appropriate response from the options set out to the right of the grid, taking into account the particular facts associated with the noncompliance, the case plan, the need for control versus the need for treatment, and responses to prior noncompliance.

For all noncompliance by L1 offenders, the supervising officer will, except for emergencies, make a recommendation to the chief probation/parole officer and obtain prior approval before responding. For all other offenders, the supervising officer will obtain prior approval from the CPPO only if the response requires Commission involvement (Those responses are marked with an asterisk on the grid.)

Noncompliance by an offender whose supervision level has not yet been established will be addressed on a case-by-case basis through coordination between the supervising officer and the chief probation/parole officer.

		SUPERVISION LEVEL					
		L1*	**L2**	**L3**	**L4**	**L5**	**MINIMUM RESPONSE HEIRARCHY**
TYPE OF NONCOMPLIANCE	**S1** (public safety)	*A*	*A*	*A*	*A*	*A*	**A** PC-14*
	S2 (new crime)	*A or B*	*A or B*	*B*	*B*	*B*	**B** Noncompliance Report* Modify* Increase searches Increase drug screens Increase contacts
	S3 (reoccur/multiple)	*A or B*	*B*	*B*	*C*	*C*	
	S4 (nonrecurring)	*B*	*B*	*C*	*C*	*C*	**C** Refer treatment/services Reprimand by CPPO Modify payment schedule Initiate contact Reprimand by PPO
	S5 (non-willful)	*C*	*C*	*C*	*C*	*C*	

*** CPPO approval required for responses marked (*) and all responses to violations by L1 offenders**

.0403 TYPES OF NONCOMPLIANCE DEFINED

Offender noncompliance is any behavior contrary to the offender's conditions of supervision. The Division categorizes noncompliance into five types, S1 through S5, from most to least severe. Categorizing violations is not an exact science; officers are expected to use their professional judgment in determining, for example, when a new criminal act or a combination of a new criminal act and technical violations

constitute imminent threat to public safety and should thus be categorized as S1 instead of S2.

(a) **Severity 1 (S1) noncompliance.** Offender behavior that causes a current or imminent threat to public safety, including actions that cause actual or threatened physical or mental harm.

(b) **Severity 2 (S2) noncompliance.** Offender behavior that constitutes a new crime (other than a Class 3 misdemeanor), but falls short of actual or threatened physical or mental harm.

(c) **Severity 3 (S3) noncompliance.** Recurring or multiple violations of supervision conditions or program rules and regulations.

(d) **Severity 4 (S4) noncompliance.** Isolated or non-recurring violations of supervision conditions or program rules and regulations, or behavior that constitutes a Class 3 misdemeanor.

(e) **Severity 5 (S5) noncompliance.** Noncompliance with supervision conditions or program rules and regulations attributable to circumstances beyond the offender's control

.0404 DESCRIPTIONS OF RESPONSES TO NONCOMPLIANCE

(a) **PC-14 and Arrest.** If the noncompliance grid directs a class A response, the officer will:

(1) Review the case with the chief probation/parole officer;

(2) Complete the violation process in OPUS with the recommendation for a Warrant, being sure to provide specific details about the violations alleged;

(3) If the Post Release Supervision and Parole Commission issues a Warrant, serve the offender with the violation report (PC-14), the Warrant For Arrest (PC-201) and provide a copy to the offender; *See §.0500 Arrests of Parole and Post Release Offenders*

(4) Identify all outstanding warrants against the offender and notify the

appropriate law enforcement agency of the location of the offender. (G.S. 15A-301.1(o) S.L. 2015-48)

(5) If additional violations are discovered before the offender has been served with the Warrant for Arrest, the officer may complete a Supplemental Violation Report via OPUS.

(b) **Non Compliance Report.** If the noncompliance grid directs a class B response, the officer may, under the following procedure, complete the violation process in OPUS with the recommendation for modification. The officer will:

(1) Review the case with the chief probation/parole officer;

(2) Complete the violation process in OPUS with the recommendation for modification, being sure to provide specific details about the violations alleged; and making a specific modification request.

(3) If the Post Release Supervision and Parole Commission orders a modification of supervision conditions, the officer will obtain the offender's signature on the modification, provide the offender with a copy, and forward a signed copy to the Parole and Post Release Specialist.

(4) If the Post Release Supervision and Parole Commission issues a Letter of Reprimand, the officer will obtain the offender's signature on the Letter of Reprimand, provide the offender with a copy and retain the original signed copy in the case file

(c) **Other class B responses.** If the noncompliance grid directs a class B response, the supervising officer may, in his or her discretion, take the following actions. If the officer takes any of these actions, he or she will document the response in the case plan:

(1) Search the offender more frequently (if a condition of supervision);

(2) Conduct more frequent substance abuse screening (if a condition of supervision)

(3) Contact the offender more frequently.

(d) **Class C responses.** If the noncompliance grid directs a class C response, the supervising officer may, in his or her discretion, take any of the following actions. In every case, the officer will first inform the offender of the specific noncompliance that gave rise to the officer's response. Every response must be documented in the case plan.

(1) **Refer to treatment or services.** The officer may, in his or her discretion, refer the offender to treatment or other service providers in the community.

(2) **Reprimand by chief probation/parole officer.** The supervising officer may inform the chief probation/parole officer of the offender's noncompliance and ask the CPPO to issue a written or verbal reprimand.

(3) **Reprimand by supervising officer.** The officer may issue a written or verbal reprimand to the offender in response to the offender's noncompliance.

(4) **Initiate contact.** The supervising officer may simply contact the offender, in person or through other means, to inform the offender of the specific noncompliance.

.0405 SERIOUS CRIME REPORTS

When an offender is arrested for a serious crime alleged to have been committed while under our supervision or named a suspect by a law enforcement agency for a crime that warrants a serious crime review, the supervising officer will immediately notify the Chief Probation/Parole officer, who will notify the Judicial District Manager. The supervising officer will prepare an automated Serious Crime Report, and submit the file for review to the CPPO and JDM within 2 business days. The CPPO and JDM will complete their respective portions of the automated Serious Crime Report and send a final pdf report to the Division Administrator within 3 business days. The Division Administrator will submit the final report to the Deputy Director within 2 business days. Notification on high profile crimes should immediately be made to the Deputy Director. A timeline should be submitted when requested.

Serious Crime Offenses

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter E Noncompliance

Section .0500 Arrests of Parole or Post Release Offenders

.0501 PURPOSE

This section sets out the circumstances in which a supervised parole or Post Released offender may be arrested and the proper procedure for conducting the arrest.

.0502 ARREST GENERALLY

An arrest is a seizure of person by a public officer in which, given all the circumstances surrounding the incident, a reasonable person, innocent of criminal activity, would have believed that he or she was not free to leave.

.0503 CIRCUMSTANCES OF ARREST

An offender on parole or post release may not be arrested for violations of the conditions of supervision unless a warrant has been issued by the Post Release Supervision and Parole Commission.

.0504 PAROLE/POST RELEASE WARRANTS

Upon receipt of notification via the OPUS offender tracking system that a Warrant for Arrest had been issued by the Post Release Supervision and Parole Commission for an offender on parole or post release supervision, the officer will:

(a) Print the Violation Report (PC-14) and the Warrant for Arrest (PC-201);

(b) Either execute the arrest or seek law enforcement assistance;

(c) Identify all outstanding warrants against the offender and notify the appropriate law enforcement agency of the location of the offender. (G.S. 15A-301.1(o) S.L. 2015-48)

(d) The same day, if possible, or as soon as possible the following day, submit a DCC-111, Notice of Arrest Worksheet, the executed parole/post release warrant and the served violation report (PC-14) to the Parole and Post Release Supervision Specialist at ParoleSupervisionOffice@ncdps.gov; and DCI at DCCDCI@ncdps.gov;

(e) If the offender has absconded supervision , submit a Supplemental PC-14 via the automated violation process in OPUS.

.0505 REQUESTS FOR WARRANTS AFTER HOURS

In the event that a violation occurs after normal business hours and involves behavior which the officer feels requires the immediate arrest of an offender in order to ensure public safety, the Probation/Parole Officer will contact the Chief Probation/Parole Officer or, if not available; another Chief Probation/Parole Officer within the Judicial District (or, if not available, the Judicial District Manager).

The Chief Probation/Parole Officer will:

(a) Decide if the warrant request is justified and, if so, complete the PC-6 Emergency Warrant Worksheet with information provided by the Probation/Parole Officer;

(b) Contact the appropriate Post Release Supervision and Parole Commissioner based on the rotation schedule. If the scheduled Commissioner is not available contact the next Commissioner on the list until one can be contacted; Commissioner on call list

(c) If the Post Release Supervision and Parole Commissioner agrees with the warrant request, notify the DCI Monitoring Center to have them transmit the message to the nearest DCI terminal;

(d) Notify the Probation/Parole Officer as to the status of the warrant.

The Probation/Parole Officer will then:

(a) Coordinate the service of the DCI authorization to hold warrant;

(b) Complete and submit a DCC-111, Notice of Arrest Worksheet to the Parole and Post Release Specialist at ParoleSupervisionOffice@ncdps.gov and DCI at DCCDCI@ncdps.gov;

(c) IMMEDIATELY the next business day, complete the violation process in OPUS so that a formal Warrant for Arrest can be issued.

Upon receipt of notification via the OPUS offender tracking system that the Warrant for Arrest has been issued by the Post Release Supervision and Parole Commission, the officer will:

(a)) Print the Violation Report (PC-14) and the Warrant for Arrest (PC-201)

(b) Serve the Warrant for Arrest (see Arrest Procedure below)

(c) Notify the Parole and Post Release Specialist of the service of the warrant

(d) Submit the served Violation Report (PC-14) and executed Warrant for Arrest to the Post Release Supervision Specialist at ParoleSupervisionOffice@ncdps.gov

Law enforcement assistance. Officers will seek law enforcement assistance when conducting an arrest alone that may compromise the officer's personal safety.

Arrest procedure. An officer will do the following when arresting an offender:

(a) Identify himself or herself, informing the offender that he or she is under arrest and, as promptly as is reasonable under the circumstances, inform the offender of the cause of the arrest. G.S. 15A-401(c)

(b) Handcuff the offender;

(c) Search the offender, the offender's immediate surroundings, and objects within the offender's immediate control, to ensure that weapons are not available and for evidence related to the alleged violation; see §C.0800, Searches, for additional guidance;

(d) Read and explain to the offender the Post Release Supervision and Parole Commission Warrant for Arrest and the Violation Report (PC-14), and sign and date all copies of both documents.

(e) Ensure that the offender is transported to the appropriate county detention facility; it is not necessary to go before a magistrate since the offender is ineligible for bond, and

(f) Distribute the original Warrant for Arrest and a copy of the Violation Report to the detention facility; give the offender a copy of each document and retain a copy of the executed Warrant for Arrest and Violation Report and file in the offender's case file.

.0506 ASSISTANCE TO LAW ENFORCEMENT

In emergency situations only, upon request of a law enforcement officer for assistance in effecting an arrest or preventing an escape, a probation officer may, if able and in the near vicinity, assist the law enforcement officer. However, it is not permissible to be involved in motor vehicle pursuits or chases. G.S. 15A-405.

APPROVED.

08/01/2016

Director of Community Corrections

Date

Chapter E Parole and Post Release

Section .0600 Absconders

.0601 PURPOSE

This section sets out the approach to offenders who abscond from supervision.

.0602 ABSCONDER DEFINED

An absconder is an offender who willfully avoids supervision or makes their whereabouts unknown to the supervising officer. An officer may only declare an offender to be an absconder after completing an absconder investigation under the procedure set out below. G.S. 15A-1368.4(e)(7a)

.0603 ABSCONDER INVESTIGATION

Eligibility criteria. An officer will conduct an absconder investigation when the offender has violated the conditions requiring him or her to report as directed by the Post Release Supervision and Parole Commission to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit him or her at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment (a "fail-to-report" violation);

Investigation steps. Prior to declaring an offender to be an absconder, the officer must do all of the following, documenting each step in the automated narrative system:

(a) Review AOC alerts;

(b) Attempt to contact the offender via telephone and give reporting instructions;

(c) Conduct a minimum of two home contacts on separate days (one daytime and one evening) and leave written reporting instructions at the residence. Check with the offender's landlord, property or office manager, and neighbors (if applicable) to see if they have information about the offender's whereabouts.

(d) Look for the offender at his workplace or school;

(e) Attempt to contact and speak with any relatives and associates listed in the offender's contact information and give reporting instructions;

(f) Contact any treatment providers (TASC, RRS, etc.);

(g) Contact local law enforcement, including the county or regional jail and/or CJLEADS.

(h) If the offender was being monitored with GPS technology, attempt to locate the offender via the vendor application.

If the offender was subject to an electronic monitoring program and cannot be located, attempt to retrieve the equipment.

Investigation timeframe. The absconder investigation, including the documentation and reporting requirements set out immediately below, must be completed within the following timeframes, measured from the time the initial remain-within-the-jurisdiction or fail-to-report violation is detected.

(a) Level 1 and level 2 offenders, sex offenders, documented SRG offenders, EHA offenders, and domestic violence offenders: 5 business days

(b) All other offenders: 10 business days

If the offender is located during the investigation and the officer is able to conduct a face-to-face contact or schedule a face-to-face contact, he or she is not an absconder and the officer should respond to the violation according to the noncompliance grid.

If the offender is unable to be located during the investigation or the officer is unable to conduct or schedule a face-to-face contact due to the offender willfully avoiding supervision, the offender is an absconder.

absconder and the officer should respond to any violation according to the noncompliance grid.

.0604 ABSCONDER DOCUMENTATION AND REPORTING

If an officer determines that an offender is an absconder, the officer will complete the automated Parole and Post Release Violation Process.

Addendum. In the event that an offender absconds after the issuance of a Parole Warrant but prior to the warrant being served, the supervising officer will enter the addendum in the violation process in OPUS.

.0605 CAPTURE OF ABSCONDERS

When an absconder is arrested, the officer will:

(a) The same day, if possible, or as soon as possible the following day, submit a DCC- 111, Notice of Arrest Worksheet, the executed parole/post release warrant and the served violation report (PC-14) to the Parole and Post Release Supervision Specialist at ParoleSupervisionOffice@ncdps.gov; and DCI at DCCDCI@ncdps.gov;

(b) Update OPUS to reflect the offender's removal from absconder status.

APPROVED.

Anne L. Precythe

Director of Community Corrections

08/01/2016

Date

Chapter E Parole and Post Release

Section .0700 Parole/Post Release Revocation Hearings

.0701 PURPOSE

This section sets out policies and procedure for revocation hearings for offenders released on post-release supervision.

.0702 PRELIMINARY REVOCATION HEARINGS

(a) Upon receipt of a Notice of Arrest Worksheet from the Chief Probation/Parole Officer the Parole and Post Release Specialist will:

(1) Assign a Hearing Officer to the case and establish the date, time, and location of the preliminary revocation hearing, which must be held within seven working days of arrest G.S. 15A-1376(b)

(2) Forward the ISC-14A Notice of Preliminary Hearing to the supervising Probation/Parole Officer, Chief Probation Parole Officer and Judicial District Manager.

(b) Upon receipt of the Notice of Preliminary Hearing, the Probation/Parole Officer will:

(1) Respond via email to the Parole Post Release Specialist confirming receipt of the Notice of Preliminary Hearing;

(2) At least 48 hours prior to the scheduled hearing, read and explain forms ISC-14A Notice of Preliminary Hearing to the offender;

(3) Complete the bottom portion and sign the Notice of Preliminary Hearing;

(4) Give a copy of the Notice of Preliminary Hearing to the offender;

(5) Provide a copy of the Notice of Preliminary Hearing to the appropriate detention facility;

(6) File a copy of the Notice of Preliminary Hearing in the offender's case file;

(7) Update OPUS to reflect the hearing date;

(c) At the preliminary hearing, the Probation/Parole Officer will:

(1) Attend the hearing at the designated time and location. The Chief Probation/Parole Officer must approve any substitutions and notify the Parole and Post Release Specialist in advance;

(2) Bring a signed copy of the Post Release Supervision or Parole Agreement and two copies of the signed Violation Report and any addendums;

(3) Present the evidence from the Violation Report when requested by the hearing officer;

(4) Answer questions regarding the Violation Report from the hearing officer, attorney, and/or offender;

(5) Provide copies of any court judgments resulting from new criminal charges or convictions;

(6) Be prepared to offer additional information regarding pending criminal charges, new convictions, the offender's residence and/or employment;

(7) Provide current facts regarding payment of supervision fees, restitution and/or community service fees and completion of community service hours; and

(8) Be prepared to make a recommendation regarding disposition of the case if requested.

(9) Be prepared to transport the offender in the event that no probable cause is found and/or the offender is reinstated to supervision;

Pending Criminal Charges. In the event that an offender is in the custody of a county jail on pending criminal charges in addition to a Post Release Supervision and Parole Commission Warrant for Arrest, the preliminary revocation hearing will be held within seven working days. If, at the hearing, the offender waives his right to a preliminary hearing until pending charges have been disposed, the Probation Officer will notify the Parole and Post Release Specialist within two business days of the disposition of the pending charges so that the hearing can be rescheduled.

Probable Cause. If probable cause is found at an offender's preliminary revocation hearing and the offender waives his right to a Commission hearing, the offender will be returned to custody pending the final decision of the Post Release Supervision and Parole Commission. If the offender requests a permanent revocation hearing before the Post Release Supervision and Parole Commission, the Parole and Post Release Specialist will schedule the hearing within 45 days of the offender's reconfinement to determine whether to revoke post release/parole finally.

Reinstatement. If the Hearing Officer rules to reinstate the offender under supervision, the supervising officer will resume supervision of the offender immediately. The supervising officer will review the case to determine if reassessment is needed.

Reinstatement by the Commission. If the Post Release Supervision and Parole Commission overturns the Hearing Officer's ruling to revoke supervision and rules to reinstate the offender under supervision, the Parole and Post Release Specialist will notify the Supervising Officer and Chief Probation Officer of the release instructions. The offender must be picked up by a Probation/Parole Officer on the date ordered by the Commission. The supervising officer will review the case to determine if reassessment is needed.

Three Month Reimprisonment. For offenders under post release supervision where the offense was committed on or after December 1, 2011, and technical noncompliance exists, the Commission may order a three month period of reimprisonment. Offenders will be returned to prison for three months and may be returned for two subsequent periods of reimprisonment for additional technical noncompliance.

If the Post Release Supervision Commission or Hearing Officer rules to return the offender to prison for a three month period of reimprisonment, the officer will:

(a) Update OPUS to reflect the three month period of reimprisonment.

(b) Monitor the release date of the offender every 30 days.

(c) Upon completion of the three month period of reimprisonment, verify release of the offender.

(d) Offenders will be direct released with the exception of sex offenders (active case), homeless offenders and offenders with outstanding warrants or pending charges in which bond has not been posted. See Direct Release Eligibility policy

A three month reimprisonment tolls the period of supervision. GS 15A-1368.3(c)(1)

The offender is required to report to the supervising officer within 72 hours of release. If the offender fails to report, the officer will initiate the absconder investigation prior to requesting a warrant from the Post Release and Parole Commission.

Partial Revocation. The Commission may order an offender who has been revoked to be released again on post release supervision under the same conditions of the initial release. GS 15A-1368.3(d)

If the Post Release Supervision Commission rules to return the offender to serve a partial revocation, the officer will:

(a) Update OPUS to reflect the Partial Revocation.

(b) Monitor the release date of the offender every 30 days.

(c) Upon completion of the Partial Revocation, verify release of the offender.

(d) Partial Revocation offenders will be direct released with the exception of sex offenders (active case), homeless offenders and offenders with outstanding warrants or pending charges in which bond has not been posted.

The offender is required to report to the supervising officer within 72 hours of release. If the offender fails to report, the officer will initiate the absconder investigation prior to requesting a warrant from the Post Release and Parole Commission.

Contempt for Sex Offenders. The Commission may order imprisonment for contempt for any sex offender that refuses post release or due to non-compliance. The supervision period shall be tolled during this imprisonment and the offender will not receive credit toward the sentence. GS 15A-1368.2(b)

Revocation. For revocation (offenses committed on or after December 1, 2011 and on post release supervision) the offender must have committed a new criminal offense as described in G.S. 15A-1368.4(b) or absconded in violation of G.S. 15A-1368.4(e)(7a) or be an offender who was convicted of an offense for which registration is required under Article 27A of Chapter 14 of the General Statutes and have violated any condition of post release supervision.

If the Post Release Supervision and Parole Commission rules to permanently revoke the offender's supervision the Parole and Post Release Specialist will forward a copy of the ruling to the supervising officer so that the case may be closed. **Parole and Post Release cases cannot be closed until receipt of the offender's Order of Revocation of Parole/Post Release.**

Upon receipt of the Order of Revocation of Parole/Post Release the supervising officer will do the following:

(a)) Update the status of special conditions in OPUS;

(b) Notify the clerk of court's bookkeeper of the case closure;

(c) Give the physical case file to the chief probation/parole officer, who will close the case in OPUS and file the case file with closed cases for the appropriate year.

.0703 PERMANENT REVOCATION HEARINGS

When an offender requests a permanent revocation hearing, the hearing will be

scheduled within 45 calendar days of the offender's reconfinement to determine whether to revoke parole/post release finally. G.S.15A-1376(e) and 15A-1368.6(e)

The Parole and Post Release Specialist will:

(a) Schedule the date, time and location of the hearing;

(b) Email the hearing date, time and location to the supervising officer, CPPO, and JDM;

(c) Revocation hearings may be conducted via videoconference. GS 143B-720(f)

The supervising officer will update OPUS with the hearing date. A Parole/Post Release Hearing Officer will:

(a) Serve the PC-15 Notice of Post Release Supervision and Parole Commission Hearing as notification that a permanent revocation hearing has been scheduled;

(b) Read and explain the Notice of Post Release Supervision and Parole Commission Hearing to the offender;

(c) Complete the bottom section of the form;

(d) Give a copy to the offender;

(e) Forward the original to the Parole and Post Release Specialist

At the permanent revocation hearing, the supervising officer will:

(a) Attend the hearing at the designated time and location. The Chief Probation/Parole Officer must approve any substitutions and notify the Parole and Post Release Specialist in advance;

(b) Have a signed copy of the Post Release Supervision or Parole Agreement and the signed Violation Report and any addendums available upon request;

(c) Present the evidence from the Violation Report , without volunteering additional information unless requested by the hearing officer;

(d) Answer questions regarding the Violation Report from the commissioner, attorney, and/or offender;

(e) Provide copies of any court judgments resulting from new criminal charges or convictions;

(f) Be prepared to offer additional information regarding pending criminal charges, new convictions, the offender's residence and/or employment;

(g) Provide current facts regarding payment of supervision fees, restitution and/or community service fees and completion of community service hours; and

(h) Be prepared to make a recommendation regarding disposition of the case if requested.

Reinstatement. If the Post Release Supervision and Parole Commission rules to reinstate the offender under supervision, the Parole and Post Release Specialist will notify the Supervising Officer and Chief Probation Officer of the release instructions. The offender must be picked up by a Probation/Parole Officer on the date ordered by the Commission. The supervising officer will review the case to determine if reassessment is needed.

Revocation. If the Post Release Supervision and Parole Commission rules to permanently revoke the offender's supervision the Parole and Post Release Specialist will forward a copy of the ruling to the supervising officer so that the case may be closed. **Parole and post release cases cannot be closed until receipt of the offender's Order of Revocation of Parole/Post Release.**

Upon receipt of the Order of Revocation of Parole/Post Release the supervising officer will do the following:

(a)) Update the status of special conditions in OPUS;

(b) Notify the clerk of court's bookkeeper of the case closure;

(c) Give the physical case file to the chief probation/parole officer, who will close the case in OPUS and file the case file with closed cases for the appropriate year.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter E Parole and Post Release

Section .0800 Closing Parole and Post Release Cases

.0801 PURPOSE

This section sets out an officer's responsibilities when a period of supervision comes to an end for a reason other than revocation. If an offender is being supervised in multiple cases, each case will be handled individually.

.0802 EXPIRING CASES

When an offender reaches the end of his or her period of supervision, the case expires. Officers will receive a notification when a case is within 120 days of expiration. Upon receipt of that notice, the supervising officer will:

(a) Review the case with the chief probation/parole officer to identify any noncompliance and to plan for the offender's transition from supervision;

(b) Report any noncompliance to the controlling authority;

(c) Once any noncompliance is resolved, the officer will follow the procedure set out in § E.0806, Close Out.

.0803 EXPIRED CASES

Upon receipt of the Certificate of Unconditional Discharge and Restoration of Rights, the supervising officer will follow the procedure set out in § E.0806, Close Out.

.0804 EARLY TERMINATION – PAROLE

The Commission may terminate a period of parole and discharge a parolee at any time after the expiration of one year of successful parole if warranted by the conduct of the parolee and the ends of justice. G.S. 15A-1373(a).

Post Release cases cannot be terminated early.

Before recommending termination the supervising officer will review the case with the chief probation/parole officer to determine compliance with all conditions, including monetary obligations;

In order to be recommended for early termination of parole, the offender must:

(a) Be in compliance with all special conditions of supervision, including community service and any monetary obligations;

(b) Have been under parole supervision for at least one year;

(c) Have been on parole for one-third of the unserved sentence balance, defined as the length of time between the parole date and the unconditional discharge date. An unserved sentence balance of over 10 years or a life sentence balance will be treated as an unserved sentence balance of 10 years;

(d) Be assigned to supervision level 3, 4, or 5.

To process an early parole termination an officer will:

(a) Complete a form PC-112, Early Termination Request and submit it to the Commission;

(b) If the Commission rules to terminate the case, a Certificate of Unconditional Discharge and Restoration of Rights will be generated and forwarded to the supervising officer.

(c) Upon receipt, the supervising officer will follow the procedure set out in §E .0806, Close Out.

.0805 OFFENDER DEATH

If an offender dies while on parole or post release, the supervising officer will:

(a)) Verify the death through the register of deeds/vital records, or by a copy of the death certificate or obituary;

(b) Scan/email a copy of the death certificate or obituary to the Parole Post Release Specialist;

(c) Update the status of special conditions in OPUS;

(d) Give the physical case file to the chief probation/parole officer, who will close the case in OPUS and file the case file with closed cases for the appropriate year.

.0806 CLOSE OUT

Parole and post release cases cannot be closed out until receipt of the offender's Certificate of Unconditional Discharge and Restoration of Rights.

Officers will do the following when a case comes to an end:

(a) Conduct a close-out interview with the offender;

(b) At the interview the officer will review the case plan with the offender, emphasizing areas of achievement. Give the offender a copy of the case plan;

(1) Provide the offender a copy of the Certificate of Unconditional Discharge and Restoration of Rights;

(2) Reinforce pro-social behaviors developed during supervision; The officer may suggest treatment or support group referrals that would contribute to ongoing pro-social behavior.

(c) Update the status of special conditions in OPUS;

(d) Notify the clerk of court's bookkeeper of the case closure;

(e) Give the physical case file to the chief probation/parole officer, who will close the case in OPUS and file the case file with closed cases for the appropriate year.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter E Parole and Post Release

Section .0900 Early Medical Release

.0901 PURPOSE

The Medical Release of Ill and Disabled Inmates Program was established in 2008 based upon the enactment of Article 84B "Medical Release of Inmates."

This program enables the Post- Release Supervision and Parole Commission to release inmates who are terminally ill, permanently and totally disabled and geriatric.

.0902 DEFINITIONS

Terminally Ill – An inmate who, as determined by a licensed physician, has an incurable condition caused by illness or disease that was unknown at the time of sentencing or, since the time of sentencing, has progressed to render the inmate terminally ill, and that will likely produce death within six months, and that is so debilitating such that the inmate does not pose a public safety risk.

Permanently and Totally Disabled – An inmate who, as determined by a licensed physician, suffers from permanent and irreversible physical incapacitation as a result of an existing physical or medical condition that was unknown at the time of sentencing or, since the time of sentencing, has progressed to render the inmate permanently and/or totally disabled, such that the inmate does not pose a public safety risk.

Geriatric – An inmate who is 65 years or older who suffers from chronic infirmity, illness or disease related to aging that has progressed such that the inmate is incapacitated to the point the inmate does not pose a public safety risk.

.0903 MEDICAL RELEASE PLAN

A comprehensive written medical and psychosocial care plan that is specific to the inmate and includes at a minimum:

(a)) The proposed course of treatment.

(b) The proposed site for treatment and follow-up.

(c) Documentation that medical providers qualified to provide the medical services identified in the medical release plan are prepared to provide services.

(d) The financial program in place to cover the cost of this plan for the duration of medical release, which shall include eligibility for enrollment in commercial insurance plan, Medicare, Medicaid or access to other adequate financial resources.

.0904 ELIGIBILITY

(a)) Diagnosed as permanently and totally disabled, terminally ill, or geriatric.

(b) Incapacitated to the extent that the inmate does not pose a public safety.

.0905 FACILITY RESIDENCE INVESTIGATION PROCESS

Medical Release approvals and release dates are statutorily driven; the entire facility/residence investigation process must be completed within two weeks.

(a)) When an inmate is being considered for Early Medical Release, the medical release parole case analyst will generate an IT02 - Medical Residence Investigation (MRI) to the transmittal CPPO based on the address provided.

(b) The transmittal CPPO assigns the investigation to the appropriate probation/ parole officer making sure that it's not a vacant or phantom caseload.

(c) Once assigned, the IT02 status changes from open, ordered (01) to open, assigned (02).

(d) The probation/parole officer has three days from the date ordered to complete the facility/ residence investigation. Because the timeframe for EMR approval is statutorily mandated, EMR Residence investigations cannot be extended past the three days. During the investigative process, officers will take into consideration the level of care needed for the offender and ensure that the proposed residence and caretakers are appropriate prior to approving the home plan.

(e) Once the PPO completes the investigation, the date and the recommendation will be entered on the IT02 with an alert generated to the CPPO for approval.

(f) Once the residence plan is accepted and approved by the CPPO, notification will be generated to the medical release parole case analyst.

(g) Once the Commission approves EMR for the inmate, a release date will be set and an alert in OPUS will be generated.

.0906 RESIDENCE PLAN REJECTED/DENIED

(a) If the residence plan is rejected /denied, the PPO will enter the recommendation (denied) and add the mandatory comments.

(b) Following review of the recommendation and if in agreement, the CPPO will enter completion date, status R2 (residence rejected) and decision (denied) on the IT02.

(c) The R2 (residence rejected) status will alert the medical release parole case analyst that the residence plan has been rejected. Due to time restraints, the officer and/or CPPO will follow up with a phone call to the medical parole case analyst.

(d) The medical parole case analyst will generate a new residence plan, forward to the transmittal CPPO and the officer will have only two days to complete the investigation.

.0907 RELEASE/PICK UP OF OFFENDERS

Since the Medical Release is statutorily driven, the offender must be released/picked- up on the release date. Medical Release papers are forwarded to the releasing facility by the parole case analyst.

A probation/parole officer must be present at the Prison facility to explain the medical release conditions and have them signed by the offender and distributed accordingly.

If the offender has been determined to not pose a public safety risk and is permanently and totally disabled and terminally ill, the transport of this offender can be a direct release to a family member or transport by ambulance.

If the offender is being released from a Prison facility outside the county of residence, the release officer in the county of incarceration will go to the unit to explain the medical release conditions, get them signed and distributed.

.0908 SUPERVISION OF MEDICAL RELEASE OFFENDERS

Low to no risk to the community is one of the criteria for Medical Release approval; therefore offenders coded as medical release will not require a risk/need assessment and will be supervised at a minimum standard. Since medical release conditions restrict offenders from leaving their residence and/or medical facility except for medical appointments, officers will make contact with the offender at their residence and/or medical facility at a minimum of every 90 days following the initial contact.

.0909 PROGRESS REPORTS

The supervising officer will submit a progress report within the first 30 days of supervision and every six months thereafter. The progress report will be submitted to the medical release parole case analyst. The progress report will include the officer's observations in memo form with attached updates from the treating physician.

.0910 VIOLATIONS - MEDICAL RELEASE OFFENDERS

When a violation occurs the supervising officer will assess the type of violation and follow the standard protocol for reporting violations found in E.0400-NonCompliance of Parole and Post Release Cases; and take appropriate action. If the Parole Commission issues a warrant for the offender's arrest, the officer or CPPO will call Prisons Transportation at (919) 838-3750 to obtain authorization to transport the offender to either Central Prison or North Carolina Correctional Institution for Women in Raleigh, N.C. to await a preliminary hearing. In no event will an Early Medical Release offender be taken to a local county facility.

.0911 DEATH OF A MEDICAL RELEASE OFFENDER

Refer to Section E.0805 Offender Death.

.0912 CLOSING CASES – MEDICAL RELEASE

Refer to Section E.0806, Closing Cases.

APPROVED.

Anne L. Precythe — 08/01/2016

Director of Community Corrections — Date

Chapter F Interstate Compact

Section .0100 General Statement on Officer Expectations

.0101 PURPOSE

The Interstate Compact for Adult Offender Supervision is an agreement between states to regulate the travel and/or transfer of adult probation, parole, and post-release supervision cases across state boundaries. The purpose of the Compact is to promote public safety, protect the rights of victims, control movement of offenders, and provide for effective tracking, supervision and rehabilitation of offenders. [Statutory Authority: G.S. 148-65.6 (b)] Complete listing of ICAOS Rules

.0102 ORGANIZATION

Responsibility

Interstate Compact policy is subject to review by the Compact Administrator of Community Corrections. Any variation in the policies and procedures specified herein must immediately be reported to the Compact Administrator for review and approval. This includes any local practices that are different than those outlined herein. Local practices that alter this policy will be submitted as Standard Operating Procedure (SOP) to the Division Administrator for approval. Administrative directives and updates to the offender supervision guidelines will be issued by the office of the Director as required to specify and update this policy.

Duties

(a) A probation officer shall keep informed concerning the conduct and condition of each person under his or her supervision, using all practicable and suitable methods, consistent with the conditions imposed by the controlling authority, to aid and encourage persons on probation to bring about improvement in their conduct and condition. G.S. 15-205

(b) Officers shall keep detailed records of their work. G.S. 15-205 Officers will record accurate detailed narratives on all offender contacts as they are made, but no

later than the end of the next working day;

(c) In all engagements with offenders, officers will operate in a professional manner and will:

(1) Be prepared, having reviewed the case file;

(2) Know the results of drug screens and treatment status;

(3) Be aware of the offender's goals;

(4) Work to gain the offender's trust;

(5) Show respect;

(6) Maintain eye contact;

(7) Avoid undue familiarity

(d) The principal purposes of supervision are:

(1) To hold offenders accountable for making restitution;

(2) To ensure compliance with the court's judgment;

(3) To effectively rehabilitate offenders by directing them to specialized treatment or education programs; and

(4) To protect the public safety. G.S. 15A-1343.2(b).

Staff

Offender supervision is performed by probation officers certified by the North Carolina Criminal Justice Education and Training Standards Commission. Officers must communicate effectively using motivational interviewing techniques; must exercise

independent judgment as emergency situations arise; must maintain a professional demeanor while interacting with potentially volatile and assaultive offenders; must be able to defend self and others; must pass firearms testing and self defense course; must maintain a professional relationship with all community partners, offenders and the general public, and must have sufficient writing skills to include typing and use of computer software.

Review

The judicial district manager will review offender supervision operations to ensure policy is followed based on the standards established by the Deputy Director as approved by the Director of Community Corrections.

APPROVED.

Anne L. Precythe — 08/01/2016

Director of Community Corrections — Date

Chapter F Interstate Compact

Section .0200 Definitions

.0201 PURPOSE

This section sets out definitions of terms and concepts that appear in multiple sections of Chapter F – Interstate Compact.

.0202 DEFINITIONS

(Rule 1.101)

(a) **Abscond**. To be absent from the offender's approved place of residence or employment with the intent of avoiding supervision.

(b) **Adult**. Both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

(c) **Application Fee**. A reasonable sum of money charged an interstate compact offender by the sending state for each application for transfer prepared by the sending state.

(d) **Arrival**. To report to the location and officials designated in reporting instructions given to an offender at the time of the offender's departure from a sending state under an interstate compact transfer of supervision.

(e) **By laws**. Those by laws established by the Interstate Commission for Adult Offender Supervision for its governance, or for directing or controlling the Interstate Commission's actions or conduct.

(f) **Compact**. Interstate Compact for Adult Offender Supervision.

(g) **Compact administrator**. The individual in each compacting state appointed under the terms of this compact and responsible for the administration and management of the state's supervision and transfer of offenders subject to the

terms of this compact, the rules adopted by the Interstate Commission for Adult Offender Supervision, and policies adopted by the State Council under this compact.

(h) **Compact commissioner or commissioner**. The voting representative of each compacting state appointed under the terms of the Interstate Compact for Adult Offender Supervision as adopted in the member state.

(i) **Compliance**. An interstate compact offender that is abiding by all terms and conditions of supervision, including payment of restitution, family support, fines, court costs or other financial obligations imposed by the sending state.

(j) **Deferred sentence**. A sentence the imposition of which is postponed pending the successful completion by the offender of the terms and conditions of supervision ordered by the court.

(k) **Detainer**. An order to hold an offender in custody.

(l) **Discharge**. The final completion of the sentence that was imposed on an offender by the sending state.

(m) **Extradition**. The return of a fugitive to a state in which the offender is accused, or has been convicted of, committing a criminal offense, by order of the governor of the state to which the fugitive has fled to evade justice or escape prosecution. Offenders under the ICAOS agreement are not subject to extradition proceedings.

(n) **ICOTS**. The Interstate Compact Offender Tracking System web application used to transmit compact activities

(o) **Involvement of Interstate Compact Offices** (Rule 2.101). All communications with out-of-state authorities will be made through the Interstate Compact Office. Aside from ICOTS related activities, officers are prohibited from directly communicating with out-of-state authorities. Any out-of-state information requests or notification of offenders that have moved to North Carolina and have reported and the Interstate Compact Offices were not involved should be communicated to the CPPO for submission to the Interstate Compact Office.

(p) **Offender**. An adult placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community under the

jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, and who is required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

(q) **Plan of supervision**. The terms under which an offender will be supervised, including proposed residence, proposed employment or viable means of support and the terms and conditions of supervision.

(r) **Probable cause hearing**. A hearing in compliance with the decisions of the U.S. Supreme Court, conducted on behalf of an offender accused of violating the terms or conditions of the offender's parole or probation.

(s) **Receiving State**. A state to which an offender requests transfer of supervision or is transferred.

(t) **Relocate**. To remain in another state for more than 45 consecutive days in any 12 month period.

(u) **Reporting Instructions**. The orders given to an offender by a sending or receiving state directing the offender to report to a designated person or place, at a specified date and time, in another state. Reporting instructions shall include place, date and time on which the offender is directed to report in the receiving state.

(v) **Resident**. A person who has continuously inhabited a state for at least one year prior to the commission of the offense for which the offender is under supervision, with the intent that such state shall be the person's principal place of residence, and who has not, unless incarcerated, relocated to another state or states for a continuous period of six months or more with the intent to establish a new principal place of residence.

(w) **Resident Family**. A parent, grandparent, uncle, adult child, adult sibling, spouse, legal guardian, or step-parent who has resided in the receiving state for 180 days or longer; and indicates willingness and ability to assist the offender as specified in the plan of supervision.

(x) **Retaking**. The act of a sending state in physically removing an offender, or causing to have an offender removed, from a receiving state. Offenders under an approved ICAOS agreement are subject to retaking not extradition procedures.

(y) **Rules**. Acts of the Interstate Commission, which have the force and effect of law in the compacting states, and are promulgated under the Interstate Compact for Adult Offender Supervision, and substantially affect interested parties in addition to the Interstate Commission.

(z) **Sending State**. A state requesting the transfer of an offender, or which transfers supervision of an offender, under the terms of the Compact and its rules.

(aa) **Sex offender**. An adult placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, and who is required to register as a sex offender either in the sending or receiving state and who is required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

(bb) **Shall**. That a state or other actor is required to perform an act, the non-performance of which may result in the imposition of sanctions as permitted by the Interstate Compact for Adult Offender Supervision, its by-laws and rules.

(cc) **Significant Violation**. An offender's failure to comply with the terms or conditions of supervision that, if occurring in the receiving state, would result in a request for revocation of supervision.

(dd) **Special Condition**. A condition or term that is added to the standard conditions of parole or probation by either the sending or receiving state.

(ee) **Subsequent receiving state**. A state to which an offender is transferred that is not the sending state or the original receiving state.

(ff) **Substantial Compliance**. The offender is abiding by all terms and conditions of supervision, including payment of restitution, family support fines, court costs or other financial obligations imposed by the court.

(gg) **Supervision**. The oversight exercised by authorities of a sending or receiving state over an offender or a period of time determined by a court or releasing authority, during which time the offender is required to report or be monitored by supervising authorities, and comply with regulations and conditions, other than monetary conditions, imposed on the offender at the time of the offender's release to the community or during the period of supervision in the community.

(hh) **Supervision Fee**. A fee collected by the receiving state for the supervision of an offender.

(ii) **Victim**. A natural person or the family of a natural person who has suffered physical injury or serious emotional harm as a result of an act or omission of an offender.

(jj) **Victim-Sensitive**. A designation made by the sending state in accordance with its definition of "crime victim" under the statutes governing the rights of crime victims in the sending state.

(kk) **Waiver**. The voluntary relinquishment, in writing, of a known constitutional right or other right, claim or privilege by an offender.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter F Interstate Compact

Section .0300 North Carolina as the Sending State

.0301 ELIGIBLITY AND TRANSFER CRITERIA

(*Rule 2.105, 2.106, 3.101, 3.101-1*)

(a) All supervised or unsupervised felony cases and certain misdemeanants are eligible for transfer consideration through the Interstate Compact (Rule 2.105) if the offender is:

(1) Subject to one year or more of supervision;

(2) Convicted of or placed under supervision for one of the following Misdemeanor offense categories:

a. An offense in which a victim has incurred direct or threatened physical or psychological harm;

b. An offense that involves the use or possession of a firearm;

c. A second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol;

d. A sexual offense which requires a person to register as a sex offender in the sending state;

(3) Deferred Prosecution and Probation without Conviction for Certain Drug Offenses (G.S. 90-96) and Conditional Discharges (Rule 2.106)

(4) In the military or who live with a family member in the military;

(5) Lives with a family member whose employment is being transferred;

(6) Being transferred at the direction of the employer and is necessary in order to maintain existing employment (Rule 3.101-1)

(b) Once eligibility has been determined the following criteria must be met in order for the transfer to be considered mandatory (Rule 3.101):

(1) Has 90 days or more of supervision remaining at the time of the transfer request;

(2) Has a valid plan of supervision;

(3) Is in substantial compliance with the conditions of supervision;

(4) Is a resident (by compact definition) of the receiving state; or

(5) Has resident family (by compact definition) in the receiving state who has resided there for more than 180 days and indicates willingness and has the ability to assist in the plan of supervision; and

(6) The offender can obtain employment or has means of support.

.0302 TRANSFER PROCEDURES

There are two types of transfer procedures for a North Carolina convicted offender: offenders that were living in the receiving state at the time of sentencing §F.0304 and offenders that have been supervised in North Carolina for a period of time and now wish to transfer to another state §F.0303, below. In either situation, eligibility and transfer criteria must be met in order for the transfer to be considered mandatory and in certain instances, reporting instructions can be requested and, if granted, will allow the offender to proceed to the receiving state prior to completion of the investigation.

.0303 N.C. OFFENDER REQUEST TRANSFER

Transfer of supervision is not a constitutional right. The decision to transfer an offender rests solely with the sending state (Rule 3.101). Officers and Supervisors can say “no” to the transfer request for good reason (i.e.: non-compliant, not in the best interest of the victim or offender) and should document such in OPUS.

In the event that an offender on probation, parole, or post-release supervision in North Carolina requests transfer to another state for supervision the officer will:

(a)) Determine if the offender is in substantial compliance with the terms of supervision;

(b) Verify if the offender meets the resident definition or has resident family in the receiving state;

(c) Consult with the Chief Probation and Parole Officer for transfer authorization;

(d) The CPPO will contact their respective Interstate Compact Coordinator to discuss the details of the transfer and status of offender’s ability to pay the ISC Transfer Application fee. Upon agreement the case is suitable for transfer the CPPO will advise the officer; and the officer will when addressing the transfer fee:

(1) Review and obtain the offender’s signature on the Notice and Agreement to Pay section of the ISC Transfer Application Fee form; if the offender is unable to pay the application fee, document all attempts to collect fee in OPUS and complete The Request to Waive Fee form and scan a copy to the ISC office for a decision or;

(2) Instruct the offender to make a $250.00 payment through JPay with one of the following methods:

www.JPay.com

Phone: 1-800-574-5729

JPay Mobile App

Walk-up Cash/MoneyGram Money Order

Upon Notification that the payment has been received:

(e) Review and obtain the offender's signature on the Offender Application for Interstate Compact Transfer form.

(f) Complete the transfer process in ICOTS (Rule 3.107) and submit to the Interstate Office:

(1) Global Record Check from CJLEADS; send court records printout from CJLEADS.

(2) Offender Application for Interstate Compact Transfer;

(3) Photograph of offender;

(4) Judgment with Judge's signature or Conditions of Parole or Post-Release & all court orders including a modification order to remit the supervision fee and community service fee, if applicable;

(5) Any order(s) restricting offender contact with victim or other persons;

(6) Any known order(s) protecting the offender from contact with any other person;

(7) Information about whether the offender is subject to sex offender registry;

(8) Copy of Arrest Report/Warrant and a narrative description of the instant offense in sufficient detail to describe the circumstances, type and severity of offense and whether the charge has been reduced at the time of imposition of the sentence;

(9) Copy of the offender case plan;

(10) Pre-sentence investigation report, if available;

(11) Psychological evaluation, if available;

(12) Medical information, if available;

(13) Supervision history (if offender has been under supervision 30 days or longer).

Requesting Reporting Instructions. (*Rule 3.101, 3.102, 3.106*)

(a) A decision will be made during the staffing with the CPPO as to whether a request for reporting instructions will be included with the transfer request. The following offenders are entitled to request mandatory reporting instructions from the receiving state (Rule 3.101-1):

(1) Offenders in the military;

(2) Offenders that reside with a family member in the military that have been transferred to another state;

(3) Offenders that reside with a family member whose employment has been transferred to another state;

(4) Offenders whose existing employment is transferred to another state at the direction of the employer and as a condition of maintaining employment.

(b) In the event that an offender does not meet any of the above criteria for requesting mandatory reporting instructions, yet emergency circumstances exist and the receiving state agrees with that determination, expedited reporting instructions can be requested and the receiving state will immediately provide the reporting instructions. (Rule 3.106)

(c) If approved to request reporting instructions, the officer will:

(1) Complete the Request for Reporting Instructions process in ICOTS. Reporting instructions shall be granted within 48 hours;

(2) Upon receipt of the reporting instructions, give the offender a DCC-17 Travel Permit with the reporting instructions included and a copy of the signed Offender Application for Interstate Compact Transfer;

(3) Immediately upon verification that the offender has departed sending state, complete the Notice of Departure in ICOTS. (Rule 4.105)

(d) **Under no circumstances will a travel permit be given to the offender until reporting instructions have been issued by the receiving state. (Rule 3.102)**

(e) The transfer request must be submitted to the receiving state no later than 7 calendar days from the date reporting instructions were granted. Failure to submit the request within the required timeline will result in North Carolina demanding the offender to return immediately. (Rule 3.106)

Replies to Transfer Request.

(a)) A receiving state shall investigate a transfer request and respond within 45 calendar days from receipt of the request by the receiving state's compact office. (Rule 3.104)

(b) If a receiving state determines that an offender transfer request in ICOTS is incomplete and the request is subsequently denied, and the offender is in the receiving state with reporting instructions, those instructions shall remain in effect provided that the sending state submits a completed transfer request within 15 calendar days following the rejection. (Rule 3.104)

(c) If the offender remained in North Carolina during the investigation, upon receipt of the Reply to Transfer Request, and the case is accepted, the officer will:

(1) Provide the offender with reporting instructions as given in the Reply to Transfer Request;

(2) Issue a DCC-17 Travel Permit and complete the Notice of Departure in ICOTS at the time of departure.

(3) Give the offender the following documents:

a. DCC-17 Travel Permit (original)

b. Copy of the signed Offender's Application for Interstate Compact Transfer

(d) The Chief Probation and Parole Officer will make certain that all information is complete and accurate in OPUS according to policy. The Chief Probation and Parole Officer shall:

(1) Conduct a case review;

(2) Ensure that a copy of a current FMS screen is included in the field file;

(3) Update the OPUS offender tracking system to reflect that the transfer out-of-state has been made (See OPUS Manual).

(4) In addition to the above, the Chief Probation and Parole Officer shall ensure that the following are included in the field file for probation cases:

a. A signed DCC-2 Acknowledgement and Monetary Conditions,

b. A signed ISC-2 (Offender Application for Transfer)

c. A copy of the probation judgment and any modifications,

d. If applicable, a DNA sample must be collected or a date must be scheduled for the DNA collection prior to offender leaving state.

e. Special probation must be completed or scheduled prior to offender leaving state.

f. Upon acceptance complete CPPO Summary and attach required forms (See ISC forms)

(e) If the offender remained in North Carolina during the investigation, upon receipt of the Reply to Transfer Request, and the case is denied, the officer will advise the offender and continue supervision in North Carolina. If no additional request will be made, withdraw the case in ICOTS.

(f) If the offender was allowed to proceed to the receiving state on approved reporting instructions, upon receipt of the Reply to Transfer Request, and the case is denied, the officer will:

(1) Discuss the reason for denial with the CPPO, who can contact the ISC office for assistance with the other state, if reconsideration is necessary, otherwise,

(2) Contact and instruct the offender to return to North Carolina within 15 calendar days of receipt of the rejection. Failure of the offender to return as instructed will result an order for the offender's arrest being issued within 10 calendar days. All interstate compact offenders are subject to retaking, including qualifying misdemeanors. (Rule 3.106)

(g) The receiving state will continue to supervise the offender until the Violation Report and Order for Arrest is received and the offender is returned to North Carolina. (Rule 3.103)

.0304 REPORTING INSTRUCTIONS AND TRANSFER REQUEST FOR PROBATION CASES – OFFENDER WAS LIVING IN THE RECEIVING STATE AT THE TIME OF SENTENCING

(a) Offenders living in the receiving state at the time of sentencing are entitled to reporting instructions and a 7-day travel permit to return home prior to investigation and acceptance by the receiving state. The receiving state must provide reporting instructions no later than 2 business days following receipt of such notification. Reporting instructions for sex offenders may take up to 5 business days for a response.

(b) Most conditions of supervision, including house arrest with electronic monitoring, can transfer to the other state. Special probation sentences, DNA collection and sex offender registration must be completed or scheduled with a return date for the offender to report and supervision, community service and/or electronic monitoring fees must be waived by the Court before allowing the offender to leave.

(c) When an offender has been placed on probation in North Carolina and advised of living in another state at the time, the officer or coordinator will process the case as usual and:

(1) Determine eligibility for transfer of supervision. See .0301 Eligibility and Transfer Criteria

(2) Verify the offender was residing in the receiving state prior to sentencing or is a resident of the receiving state. Acceptable means of verification are utility bill, driver license, tax statements, and recent check stub from employer. The officer may also need to place out-of- state phone calls to verify residency and employment or means of support; document all information in OPUS;

(3) Discuss payment of the Transfer Application Fee:

a. Review and obtain the offender's signature on the Notice and Agreement to Pay section of the ISC Transfer Application Fee form; if the offender is unable to pay the application fee, document all attempts to collect fee in OPUS and complete The Request to Waive Fee form and scan a copy to the ISC office for review.

b. Instruct the offender to make a $250.00 payment through JPay with one of the following methods:

www.JPay.com

Phone: 1-800-574-5729

JPay Mobile App

Walk-up Cash/MoneyGram Money Order

Upon notification that the payment was received:

(4) Review and obtain the offender's signature on the Offender Application for Interstate Compact Transfer.

(5) Complete the Request for Reporting Instructions via ICOTS;

(d) A 7 day travel permit may be granted until reporting instructions are received from the receiving state and provided to the officer. Under no circumstances shall a sex offender be granted a travel permit prior to receipt of reporting instructions. (Rule 3.101-3c)

(e) If the offender is allowed to proceed to the receiving state before reporting instructions have been approved, the officer will:

(1) Prepare the DCC-17 Travel Permit and obtain the offender's signature before departure to the receiving state;

(2) Give the offender the following documents:

a. DCC-17 Travel Permit (original),

b. A copy of the Offender's Application for Interstate Compact Transfer

(3) Complete the Request for Reporting Instructions. Upon approval of the reporting instructions submit the Notice of Departure in ICOTS.

(f) **The Request for Reporting Instructions must be completed within 7 calendar days of sentencing or release from incarceration (6 months or less) to probation supervision.** (Rule 3.103)

If the request is submitted after the 7th calendar day, the reason for requesting the reporting instructions must be checked as "expedited" and the justification should include the offender was living in the receiving state at the time of sentencing and why the request was not completed within the 7 calendar days.

(g) Upon receipt of reporting instructions and the offender was allowed to proceed on a 7-day travel permit prior to receiving the approved reporting instructions, the officer or coordinator will contact the offender and instruct the offender to report per the instructions.

(h) Upon receipt of reporting instructions, if the offender is still in North Carolina, the officer or coordinator will:

(1) Prepare the DCC-17 Travel Permit and obtain the offender's signature;

(2) Complete the Notice Of Departure in ICOTS.

(3) Give the offender the following documents:

a. DCC-17 Travel Permit with the reporting instructions included (original),

b. A copy of the ISC-2 Offender's Application for Interstate Compact Transfer

(4) Review the Notice of Arrival as submitted by the receiving state to ensure the offender reported as instructed. The receiving state shall assume the responsibility for supervision of the offender immediately upon arrival and submission of the Notice of Arrival. (Rule 3.104- 1)

(i) **If reporting instructions were denied, immediately contact the Interstate Office for assistance.**

(j) The Transfer Request must be completed in ICOTS and submitted to the Interstate Office within 10 calendar days following the approved reporting instructions. The following information must be included in the transfer process in ICOTS: (Rule 3.107)

(1) Global Record Check from CJLEADS; send court records printout from CJLEADS.

(2) DCC-2 Acknowledgement and Monetary Conditions

(3) Offender's Application for Interstate Compact Transfer;

(4) Photograph of offender;

(5) Judgment with Judge's signature & all court orders including a modification order to remit the supervision fee, electronic monitoring fee and community service fee if applicable;

(6) Any order(s) restricting offender contact with victim or other persons;

(7) Any known order(s) protecting the offender from contact with any other person;

(8) Information about whether the offender is subject to sex offender registry;

(9) Copy of Arrest Report/Warrant and a narrative description of the instant offense in sufficient detail to describe the circumstances, type and severity of offense and whether the charge has been reduced at the time of imposition of the sentence;

(10) Pre-sentence investigation report, if available;

(11) Psychological evaluation, if available;

(12) Medical information, if available.

(k) The transfer request must be submitted to the receiving state no later than 15 calendar days from the date the reporting instructions were granted. Failure to send the request within the required time line will result in North Carolina demanding the offender to immediately return. (Rule 3.103)

(l) If a receiving state determines that an offender transfer request is incomplete and the request is subsequently denied and the offender is in the receiving state with reporting instructions, those instructions shall remain in effect provided that the sending state submits a completed transfer request within 15 calendar days following the rejection. (Rule 3.104)

(m) If supervision is rejected, discuss the reason for denial with the CPPO who can contact the ISC office if reconsideration by the receiving state is needed. Otherwise the offender must be instructed to return to North Carolina within 15 calendar days of the notice of rejection (provide return date and reporting instructions to the offender.) (Rule 3.103)

(n) If the offender does not return as instructed, the officer must initiate a Violation Report and Order for Arrest for the retaking of the offender back to North Carolina, no later than 10 calendar days following the offender's failure to return to North Carolina. (Rule 3.103) All interstate compact offenders are subject to retaking, including qualifying misdemeanors. (Rule 3.103)

(o) The receiving state will continue to supervise the offender until the Violation Report and Order for Arrest is received and the offender is returned to North

Carolina.

(p) Upon receipt of the Reply to Transfer Request, and the case is accepted and officially transferred for supervision, the Chief Probation/Parole Officer is to make certain that all information is complete and accurate in OPUS (See OPUS Manual). The Chief Probation/Parole Officer shall:

(1) Conduct a case review

(2) Ensure that the following are included in the field file:

a. A signed DCC-2 Acknowledgment and Monetary Conditions,

b. A signed ISC-2 (Offender Application for Transfer),

c. A copy of the probation judgment and any modifications,

d. A copy of a current FMS screen,

e. If applicable, a DNA sample must be collected or a date must be scheduled for the DNA collection prior to offender leaving state.

f. Special probation must be completed or scheduled prior to offender leaving state.

g. Upon acceptance complete CPPO Summary and attach required forms. (See ISC forms)

(q) Update the OPUS offender tracking system to reflect that the transfer out-of-state has been made (See OPUS Manual).

.0305 FEES

(*Rule 4.107*)

(a) **Supervision Fees.** North Carolina shall not impose a supervision fee on an offender whose supervision has been transferred to a receiving state. The Officer must get the supervision fee waived at the time the offender is allowed to move to the receiving state and prior to the transfer package being forwarded to the Interstate Compact. For parole and post-release supervision cases, the Interstate

Compact Office will assist in getting the fee waived from the Post-Release Supervision and Parole Commission.

In the event that an offender moves back to North Carolina, the supervising Officer will reinstate the supervision fee. In probation, a modification order reinstating the supervision fee is required. The Interstate Compact will handle reinstating the supervision fee requirement in parole and post release cases through the Post Release Supervision and Parole Commission.

(b) **Community Service and Electronic Monitoring Fees.** An offender may perform required Community Service hours or be placed on House Arrest with Electronic Monitoring in the receiving state, if available. An offender should not pay the fees in North Carolina when the conditions are being completed in the receiving state. The officer will notify the court the fees are to be waived in cases transferred immediately out-of-state. For parole cases, the Interstate Compact Office will obtain the appropriate decision from the Post Release Supervision and Parole Commission.

.0306 SPECIAL PROBATION, CONTINGENT CASES

(a) In Special Probation Cases, the Officer will initiate the offender's transfer for out-of-state investigation and transfer for supervision as soon as the out-of- state residence is determined.

(b) The Chief Probation and Parole Officer will contact the Interstate Compact Office for instructions in the event the offender is scheduled for release in less than 45 days so that an expedited request for reporting instructions can be initiated with the receiving state.

(c) For contingent cases with an out-of-state residence, the officer will initiate the transfer for supervision at least four months prior to the offender's release from prison. (Rule 3.105) See §F.0303.

.0307 VIOLATIONS IN SENDING STATE PROBATION CASES

(a) Violations in sending state probation cases will be staffed by the Interstate Compact District Coordinators with the Interstate Compact Manager. Upon the recommendation of the Interstate Compact Manager, an Offender Violation Report reporting significant violations will be forwarded to the Chief Probation and Parole Officer in the county of origin. Upon receipt of the

Offender Violation Report, the CPPO will, for absconders, follow the procedures as set out in Non-compliance §D.0500 Absconders.

(1) **Absconder violations**: Offenders that abscond while under supervision in another state will have their case reassigned and corresponding paperwork returned to the county of origin's Chief Probation/Parole Officer for assignment to a PPO.

(2) **Non-absconder violations**: Case will be reassigned and corresponding paperwork will be returned to the county of origin's Chief Probation and Parole Officer for assignment to a PPO. A determination will need to be made to either order the offender to return to North Carolina for a specific court date or follow procedures for preparing extraditable packages for the return of the offender to NC via the retaking process.

(3) **Monetary Violations Only**: Upon completion of the 180 day prior to discharge review, if the ISC Manager determines there are monetary violations the case and corresponding paperwork will be returned to the Chief Probation Parole Officer in the county of origin to discuss with the Court. As with any NC case, options include citing the offender back to Court or issuing an order for arrest.

(b) In the event the Court wants the offender to return to NC for a hearing, but does not issue an order for arrest, the Officer will:

(1) Prepare a "DCC-10 Violation Report", citing the offender to court

(2) Submit the DCC-10 attached to a Response to Violation Report if one is required, or a Compact Action Request in ICOTS; requesting the officer in the receiving state to obtain the offender's signature on the "DCC-10 Violation Report" and return the original by mail.

(3) Be sure to indicate that failure to appear as ordered will result in an order for arrest being issued.

(c) Upon a request from the receiving state, North Carolina shall retake or order the return of an offender from the receiving state upon the conviction of a new felony offense and completion of a term of incarceration or release to community supervision for that conviction (Rule 5.102) or a showing that the offender has committed three or more significant violations arising from separate incidents that establish a pattern of non-compliance of the conditions of supervision. (Rule 5.103)

(d) If the Court issues an Order for Arrest:

(1) Submit the Response to Violation Report via ICOTS within 10 calendar days providing information that the Order for Arrest will be forthcoming;

(2) When the Order for Arrest has been obtained, send a DCC-110 Absconder Cover Letter, copy of the Order for Arrest, DCC-10 Offender Violation Report, copy of the original judgment and a copy of the ISC-2 Offender Application for Transfer to the Extradition Office.

(3) Once OT80 is entered, complete an addendum Response to Violation Report, via ICOTS and attach a copy of the "Order for Arrest" and "DCC-10 Violation Report".

(4) Once subject is returned to NC, the offender is to remain in NC until disposition.

(e) If, after return of the offender through the Interstate Compact and the violation hearing, the offender's probation supervision is continued:

(1) Obtain retrieval costs from the Extradition Office and request that the Court order the offender to reimburse the Department of Public Safety for the return costs;

(2) If the offender is returning to out-of-state supervision;

a. If the receiving state allows case to remain open during violation process, send Compact Action Request with attached modification order.

b. If receiving state closes their interest in the case, contact ISC Manager.

(3) If the offender is returning to out-of-state supervision in a different state, begin transfer process.

.0308 VIOLATIONS IN PAROLE OR POST-RELEASE SUPERVISION CASES

These functions will be performed by an Interstate Compact District Coordinator.

.0309 EXPIRATION OR TERMINATION OF PROBATION, PAROLE OR POST-RELEASE CASES

The sending state determines the length of supervision. The receiving state may not close interest without the approval of the sending state. (Rule 4.102) These functions will be performed in the Interstate Compact Office.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter F Interstate Compact

Section .0400 North Carolina as the Receiving State

.0401 TRANSFER REQUEST INVESTIGATION

In the event that an offender in another state requests transfer to North Carolina and can remain in the other state during the investigation by North Carolina, the Chief Probation/Parole Officer will:

(a) Receive an e-mail notification of the investigation request;

(b) Receive a Transfer Request with the necessary case material via ICOTS;

(c) Assign the case to a Officer;

(d) Ensure narratives detail the steps taken to complete the investigation are entered

(e) Ensure that the investigation is completed and forwarded to the Interstate Compact Office via ICOTS on the Reply to Transfer Request within 30 calendar days.

(f) The assigned Officer will then:

(1) Investigate the request, document investigation findings in OPUS, and make a recommendation regarding acceptance or denial using the Reply to Transfer Request via ICOTS within 30 calendar days; include any differences found in the actual plans from those given in the sending state's proposed plans, and any pending criminal charges and/or convictions received while on under investigation.

a. If accepting supervision, include any conditions imposed by North Carolina, reporting instructions and any other additional information deemed appropriate.(Rule 3.104-1, 4.103)

b. If recommending denial of supervision, state the specific reason(s) and narrate in OPUS. Pending charges alone are not grounds for denial. Complete the Reply to Transfer Request via ICOTS;

(2) Review the Notice of Departure when completed in ICOTS for the departure date;

(3) Upon offender arrival, prepare a Notice of Arrival, via ICOTS and begin supervision;

(4) If the offender fails to report as instructed, complete the Notice of Arrival detailing all attempts to contact offender and mark as fail to report. A Case Closure Notice can be submitted following notification of the failure to report; (Rule 4.105)

(5) Upon notification by the Interstate Compact that the case has been officially accepted and transferred for supervision, the ISC office will complete data entry and assign the case in OPUS;

(6) Review the ISC-7 North Carolina Probation/Parole Interstate Compact Conditions with the offender; indicate if the case is probation or parole; enter the offender's name and any additional conditions imposed at the time of acceptance; have the document signed, dated, and witnessed;

(7) Maintain the original in the offender file and give the offender a copy. Complete a Bill of Costs, if required by the Clerk, for any special condition added that resulted in the payment of monies and deliver the Bill of Costs with attached copy of ISC-7 to the Clerk of Court. If a Bill of Costs is not required, provide the Clerk of Court with only a copy of the ISC-7;

(8) Enter comments in OPUS that the ISC-7 has been signed and appropriately distributed (See OPUS Manual);

(9) Notify the Clerk of Court to begin collecting the supervision fee;

.0402 REPORTING INSTRUCTIONS APPROVED BY THE INTERSTATE COMPACT OFFICE

(*Rule 3.101-1, 3.101-3, 3.103, 3.106*)

In the event that an offender has been granted reporting instructions, **prior to investigation and acceptance** by North Carolina, supervision requirements must begin, as North Carolina assumes responsibility for supervision during the investigation phase. The Chief Probation/Parole Officer will:

(a) If requested by the Interstate Office, assist in conducting a "pre-check" of the residence in sex offender cases so that reporting instructions can be provided for the resident offender to return to North Carolina.

(b) Upon notice that reporting instructions have been approved, assign the case to an Officer in ICOTS.

(c) The assigned Officer will then determine if the offender has arrived in North Carolina:

(1) Upon the initial contact with the offender, in person, complete the Notice of Arrival in ICOTS.

a. Implement any special conditions as ordered by the sending state;

b. Follow procedure as set out above in §F.0401, Receiving State Transfer Request_Investigation

(2) If the offender fails to report as scheduled, have a probation parole officer attempt to contact offender and/or family.

a. If unable to make contact with anyone, the PPO should submit the Notice of Arrival via ICOTS, indicating the offender failed to report the next workday following the failure to report.

b. Submit a Case Closure Notice via ICOTS detailing all attempts to locate the offender.

.0403 SUPERVISION OF RECEIVING STATE CASES

The receiving state shall supervise an offender transferred from another state in a manner determined by the receiving state and consistent with the supervision of other similar offenders in the receiving state. (Rule 4.101) During the period of supervision, special conditions may be imposed by the receiving state for purposes of rehabilitation or as a response to non-compliance. The receiving state is required to notify the sending state via ICOTS of any conditions imposed and the purpose. (Rule 4.103)

Progress Reports (Rule 4.106). Progress reports are required to be completed annually using the ICOTS Progress Report. If the sending state requests a progress report, the officer will complete and submit within 30 days. The progress report shall include:

(a) Supervising officer's summary of offender's conduct, progress and attitude, and compliance with conditions of supervision;

(b) Programs of treatment attempted and completed by the offender;

(c) Information about any sanctions that have been imposed on the offender since the previous progress report;

(d) Supervising officer's recommendation;

(e) Any other information requested by the sending state that is available in the receiving state.

(f) Any violation that would not warrant a violation report in NC should be reported on a progress report.

Supervision, Community Service & Electronic Monitoring Fees (Rule 4.107). North Carolina, as the receiving state, shall impose a monthly supervision fee in cases we supervise for other states. Offenders under supervision in North Carolina required to complete community service hours or submit to house arrest with electronic monitoring will pay the community service and/or house arrest with electronic monitoring fee(s) to the Clerk of Court in the county of supervision.

Community Service. Out-of-state offenders ordered to perform community service hours will be referred for placement in the Community Service Work Program and will be required to pay the community service fee. Receipt for payment is required prior to intake.

.0404 VIOLATIONS

(*Rule 4.109*)

In the event that a receiving state offender has significantly violated the terms of probation or parole, the Officer will:

(a) Staff the case with the Chief Officer to determine that a significant violation(s) has occurred;

(b) Submit an Offender Violation Report to the Interstate Compact Office via ICOTS within 30 calendar days of discovery.

(c) The Violation Report shall contain the following:

(1) Date of the offense or infraction that forms the basis of the violation(s);

(2) Description of the offenses or infractions

(3) Scan copies of any pending warrants, citations or bill of indictment(s)

(4) Disposition of offense or infraction to include copy of judgment/commitment;

(5) Recommendation of actions to be taken by the sending state which may include placement of the offender under an electronically monitored curfew, house arrest with electronic monitoring, DART, Black Mountain or any other appropriate condition;

(6) If the offender has absconded, the offender's last known address and

telephone number, name and address of the offender's employer, and the date of the offender's last personal contact with the supervising officer as well as the date of the last home contact and detailed information regarding attempts to locate offender.

.0405 RESPONSE TO VIOLATION REPORTS

(*Rule 4.109*)

The sending state shall respond to a report of a violation made by North Carolina no later than 10 business days following receipt by the sending state. The response by the sending state shall include action to be taken by the sending state and the date by which that action will begin and its estimated completion date.

.0406 MANDATORY RETAKING BY THE SENDING STATE

(Rule 5.102, 5.103)

(a) Upon the request of the supervising Officer, the sending state shall retake or order the return of an offender:

(1) Upon conviction of a new felony offense at the completion of a term of incarceration or release to community supervision for that conviction

(2) Upon showing that the offender has committed three or more significant violations arising from separate incidents that establish a pattern of non-compliance of the conditions of supervision.

(b) If the offender does not return as ordered, an Order for Arrest shall be issued no later than 10 calendar days following the offender's failure to appear.

.0407 OUT-OF-STATE WARRANTS AND PROBABLE CAUSE HEARINGS

(*Rule 5.108*)

(a) Before the sending state is asked to pick-up and return an offender in the receiving state, the offender must receive a preliminary hearing in North Carolina

to determine probable cause, unless the offender admits to one or more of the violations by the signing the Waiver of Probable Cause Hearing. In the event that a warrant is issued by the sending state, the Officer will:

(1) Upon receipt of the out-of-state warrant which will be accompanied by the Authority to Detain and Hold and the Waiver of Probable Cause Hearing, serve the Authority to Detain and Hold and review the other state's warrant.

(2) Ensure that the offender is denied bond while the sending state is in the process of returning the offender (Rule 5.111); bond determination will be made by the court of conviction at the time that the offender arrives back to the sending state.

If the local authorities allow bond, in error, please immediately call the Interstate Compact Office for further instructions.

(3) Explain the Waiver of Probable Cause Hearing giving the offender the option to waive the hearing. During the explanation, the Officer must stress to the offender that waiving the hearing means that he/she admits to one or more of the significant violations; if the offender signs the waiver, email a copy to the Interstate Compact Office, who will advise the sending state of the offender's availability for return.

(4) Immediately contact the Interstate Compact Office by email to provide information regarding the service of the warrants, the place of incarceration, whether there are any pending charges and execution of the waiver. If the offender refused to sign the Waiver of Probable Cause Hearing, the Interstate Compact Office will schedule a Probable Cause Hearing within 15 calendar days.

(5) The Officer will be notified of the hearing date, time, and place via the Notice of Probable Cause Hearing.

(b) For probation or parole cases, a Hearing Officer will conduct the preliminary hearing. The Interstate Compact Office will schedule the hearing where the offender is incarcerated.

(c) If no probable cause is found, the Hearing Officer will:

(1) Immediately call the Interstate Compact Office to notify the sending state by phone to rescind their warrant;

(2) Upon notification of the sending state's agreement, arrangements will be made with the detaining authorities that the warrant has been rescinded and that release should take place. This will be done in concert with the Chief Probation and Parole Officer;

(3) Release the offender to continue supervision and forward to the Interstate Compact Office written documentation of the findings of the preliminary hearing.

(d)) If probable cause is found, the Hearing Officer will:

(1) Forward to the Interstate Compact Office written documentation of the findings of the probable cause hearing.

(2) The sending state must retake an offender within 30 calendar days after the decision to retake has been made. (Rule 5.105)

(3) North Carolina cannot close supervision interest while the sending state is in the process of retaking the offender. (Rule 4.112)

.0408 EMERGENCY REQUEST FOR AN IMMEDIATE ARREST OF A RECEIVING STATE'S OFFENDER

(*Rule 4.109-1*)

The Chief Probation/Parole Officer will call the Interstate Compact Office and provide complete details of the violations and the circumstances that place the offender and/or public at a greater risk.

(a) Contact the Interstate Compact Office to request the issuance of an Authority to Detain and Hold and provide a justifiable explanation for the request;

(b) Submit the Offender Violation Report, via ICOTS, to the Interstate Compact

Office;

(c) Upon receipt of the Authority to Detain and Hold, serve the warrant and follow the same procedures as it relates to service of the Authority to Detain and Hold and scheduling of a probable cause hearing. §F.0407, Out of State Warrants and Probable Cause Hearings

.0409 IN-STATE TRANSFERS

In the event that a Receiving state's offender requests a transfer to another county while under supervision in North Carolina, the Officer will transfer the case according to the same procedures for any other case (See Chapter §C.0615 Transfers).

.0410 RETURN TO THE SENDING STATE

(*Rule 4.111*)

In the event that an offender in receiving state status requests a transfer back to the sending state, the offender will remain in North Carolina until the request can be submitted in ICOTS and approval is granted by the sending state. The officer will:

(a) Submit a Request for Reporting Instructions indicating the offender wishes to return to the sending state.

(b) The officer will forward a Progress Report detailing performance while under supervision and reasons why they wish to return to the sending state. Include information regarding the employment and residence plans, and the current circumstances;

(c) Upon receipt of approved reporting instructions, submit a Case Closure Notice via ICOTS;

(d) Issue the appropriate DCC-17 Travel Permit and include the reporting instructions on the DCC-17 Travel Permit;

(e) Follow closing instructions from the Interstate Compact Office.

.0411 THIRD STATE TRANSFER

(Rule 4.110)

No offender under supervision in North Carolina for other states shall be allowed to move from North Carolina without permission from the sending state. In the event that an offender in receiving state status requests a transfer to a third state, the officer will:

(a) Staff case with Chief Probation/Parole Officer;

The North Carolina Transfer Application Fee will not be imposed

(b) Complete a detailed Progress Report in ICOTS providing the sending state with third state information as well as Supervision History summary;

(c) Complete ISC-2 (Offender Application for Transfer) with third state information and attach to a Compact Action Request to be submitted in ICOTS;

(d) Continue to supervise offender in North Carolina. Under no circumstances can the offender be given a travel permit to proceed to the third state until the probation officer has been notified of the approved reporting instructions.

(e) Upon notification from sending state that Reporting Instructions have been granted, a DCC- 17 Travel Permit will be issued.

(f) Submit Case Closure notice via ICOTS.

.0412 CLOSING OF SUPERVISION IN RECEIVING STATE CASES

(*Rule 4.102, 4.112*)

The period of supervision is determined by the sending state; therefore, a CPPO cannot authorize an officer to close interest in a receiving state's case until instructed to do so by the North Carolina Interstate Compact Office.

With the approval of the Chief Probation/Parole Officer, the supervising Officer may submit a recommendation for discharge by expiration or termination of probation or parole cases using the same criteria as for North Carolina cases. The Officer will:

(a) For early termination, make a recommendation for early termination including the supporting criteria on the Progress Report via ICOTS;

(b) For expiration, the Case Closure Notice will be submitted to the sending state via ICOTS and the Interstate Compact office will provide closing instructions to the Officer;

(c) Death Notification requires use of the Case Closure Notice. Explain how the death was verified, forward supporting documentation;

(d) When closing instructions are provided by the North Carolina Interstate Compact Office, notify the Clerk of Court to close their bookkeeping record.

(e) Update the status of special conditions on the OPUS Offender Tracking System

(f) Give the file to the Chief Probation/Parole Officer;

(g) The Chief Probation/Parole Officer will ensure the case has been closed properly and will close the case in OPUS (see Opus Manual).

Interstate Compact Office will forward Closure Notice to the sending states and will advise field staff to close case in OPUS once confirmation to close is received from the sending state.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter G Technology and Monitoring Programs

Section .0100 General Provisions

.0101 PURPOSE

This section sets out the basic policy for the use of technology when managing offenders. Currently Community Corrections utilizes the technology of GPS to monitor the following three programs:

(a) House Arrest with Electronic Monitoring

(b) Electronically Monitored Curfew

(c) Satellite Based Monitoring

(d) In addition, other technologies may be used for monitoring curfews (RF), searches of sex offenders' computers and continuous alcohol monitoring.

.0102 ORGANIZATION

Responsibility

Technology policy is subject to review by the Assistant Director and Special Operations Administrator of Community Corrections. Any variation in the policies and procedures specified herein must immediately be reported to the Assistant Director for review and approval. If a needed variation exists, requests must not alter Division policy, but should be submitted and implemented through use of Standard Operating Procedure (SOP) to the Judicial Division Administrator for approval. Administrative directives and updates to the technology guidelines will be issued by the office of the Director as required to specify and update this policy.

Duties

(a)) A probation officer shall keep informed concerning the conduct and condition of each person under his or her supervision, using all practicable and suitable methods, consistent with the conditions imposed by the controlling authority, to aid and encourage persons on probation to bring about improvement in their conduct and condition. *G.S. 15-205*

(b) Officers shall keep detailed records of their work. *G.S. 15-205* Officers will

record accurate detailed narratives on all offender contacts as they are made, but no later than the end of the next working day;

(c) In all engagements with offenders, officers will operate in a professional manner and will:

(1) Be prepared, having reviewed the case file;

(2) Know the results of drug screens and treatment status;

(3) Be aware of the offender's goals;

(4) Work to gain the offender's trust;

(5) Show respect;

(6) Maintain eye contact;

(7) Avoid undue familiarity

(d) The principal purposes of supervision are:

(1) To hold offenders accountable for making restitution;

(2) To ensure compliance with the court's judgment;

(3) To effectively rehabilitate offenders by directing them to specialized treatment or education programs; and

(4) To protect the public safety. *G.S. 15A-1343.2(b).*

Staff

Offender supervision is performed by probation officers certified by the North Carolina Criminal Justice Education and Training Standards Commission. Officers must communicate effectively using motivational interviewing techniques; must exercise independent judgment as emergency situations arise; must maintain a professional demeanor while interacting with potentially volatile and assaultive offenders; must be able to defend self and others; must pass firearms testing and self defense course; must maintain a professional relationship with all community partners, offenders and the general public, and must have sufficient writing skills to include typing and use of computer software.

Review

The judicial district manager will review offender supervision operations to ensure

policy is followed based on the standards established by the Deputy Director as approved by the Director of Community Corrections.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter G Technology and Monitoring Programs

Section .0200 Definitions

.0201 DEFINITIONS OF TERMS

a. **Continuous Alcohol Monitoring** (CAM) - Method of monitoring the alcohol consumption of an individual. An electronic device worn around the body, usually in the form of an anklet or bracelet, estimates the blood alcohol content of the wearer by measuring the ethanol concentration of their perspiration.

b. **Electronically Monitored Curfew** (EM) Supervision tool used to monitor curfew. Submit to a curfew which requires the offender to remain in a specified place for a specified period each day and wear a device that permits the offender's compliance with the condition to be monitored electronically. (GPS Technology)

c. **Exclusion Zone** (Red) – A specified area in which the offender is not allowed to enter.

d. **Global Positioning Satellite** (GPS) – Satellite technology used for monitoring and tracking offenders.

e. **House Arrest with Electronic Monitoring –** Probation in which the offender is required to remain at his or her residence. The court, in the sentencing order, may authorize the offender to leave the offender's residence for employment, counseling, a course of study, vocational training, or other specific purposes and may modify that authorization. The probation officer may authorize the offender to leave the offender's residence for specific purposes not authorized in the court order upon approval of the probation officer's supervisor. The offender shall be required to wear a device which permits the supervising agency to monitor the offender's compliance with the condition. (GPS Technology)

f. **Inclusion Zone** (Blue) – A specified area in which the offender must be present during a predefined schedule.

g. **Radio Frequency (RF)** - Non-GPS technology used to monitor curfew by determining an offender's presence or absence from their residence.

h. **Satellite Based Monitoring** (SBM) – An electronic monitoring system that works through the use of global positioning satellite systems (GPS) and cellular communication capability to establish offender location and track movement of certain sex offenders. (GPS Technology)

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter G Technology and Monitoring Programs

Section .0300 Use of Technology

.0301 USE OF TECHNOLOGY

If the offender is subject to house arrest with electronic monitoring, an electronically monitored curfew or RF curfew, ensure that a DCC-70 is completed; for SBM, ensure that a form DCC-44 is completed. Ensure the offender is aware of the created schedule and what information will be needed for future changes of schedules, equipment maintenance and response to violations of program rules and regulations.

Give a brief explanation of how electronic monitoring program works:

(a) Discuss the offender's daily schedule to ensure proper compliance;

(b) Determine and discuss inclusion/exclusion zones;

(c) Determine exclusion zones appropriate for the supervision and compliance of general statutes;

(d) Discuss how to charge the unit and the importance of maintaining a proper charge;

(e) Explain the consequences of violation, including the fact that another Probation/Parole Officer may respond to, or call the residence if a violation occurs after normal working hours.

.0302 RESPONSIBILITIES OF SUPERVISING PROBATION/PAROLE OFFICER

(a) The Probation/Parole Officer will inspect the electronic monitoring equipment within 72 hours of installation.

(b) For cases ordered to house arrest with electronic monitoring, enter zones/schedules within 24 hours of installation.

(c) For cases ordered to all other electronic monitoring programs, enter zones/schedules within 72 hours of installation.

(d) Respond to all violation alerts and review daily summary reports.

(e) Updating information i.e., schedule changes and/or residence changes must be updated by the end of the business day to avoid unnecessary violations.

.0303 SET UP PROCEDURES

ALL REGISTERED SEX OFFENDERS PLACED ON EHA, EM OR SBM MUST HAVE THE SCHOOL EXCLUSION ZONES ADDED TO THEIR MONITORING PROFILE (G.S. 14-208.18)

The probation officer will be required to input the zones, schedules and photo. All other information will be provided to the vendor for data entry and installation assignment. CPPO approval is required for schedule changes to all EHA cases. This information must be updated by the end of the business day to avoid false violations.

(a) House Arrest with Electronic Monitoring (EHA)

(1) Ensure the EHA condition (04) has been entered on the OT24 – Conditions and Sanctions screen in OPUS;

(2) Enroll the offender within 24 hours of being ordered;

(3) Create zones and initial schedules within 24 hours of installation. All zones must have a name and address;

(4) Review and ensure the offender has signed the DCC-70 .

(5) Review points as part of violation investigatory process.

(b) Electronically Monitored Curfew – GPS Technology

(1) Ensure the EM condition (05) or (DG for delegated authority) has been

entered on the OT24 – Conditions and Sanctions screen in OPUS;

(2) Enroll the offender within 72 hours of being ordered;

(3) Within 72 hours of installation, offender must have home zone in place for curfew conditions. The home location should be the only designated zone and curfew schedule must be set. If the court orders no curfew for the offender, find out the requirements of the court;

(4) Review and ensure the offender has signed the DCC-70;

(5) Review points as part of violation investigatory process.

(c) Radio Frequency (RF)/Curfew – Non GPS Technology

The probation officer will initiate the installation and establish the curfew schedule. For court ordered curfews:

(1) If not specified by the court to be electronically monitored, conduct a minimum of two random face to face curfews checks per month.

(2) If offender exhibits non-compliant behavior, enhance supervision using RF monitored curfew; no modification required.

(3) As a response to continued non compliance, use EM or EHA via delegated authority or modification as appropriate.

(4) Once compliance is maintained, remove conditions and equipment.

(d) Satellite Based Monitoring (Supervised) Levels 1-3

(1) Offenders will have the appropriate designated inclusion zones and exclusion zones including but not limited to all primary and secondary schools in North Carolina. All zones must have a name and address;

(2) Ensure the SBM condition (BB) has been entered on the OT24 – Conditions and Sanctions screen in OPUS;

(3) Review and ensure the offender has signed the DCC-44;

(4) Email the AOC 615 or 616 to the Special Operations Office;

(5) Review points 3 times per week for patterns of movement indicating risk for re-offense and issues related to public safety.

(e) **Change From Supervised (Monitoring) to Unsupervised (Tracking)**

An offender on supervision, assigned to lifetime satellite based monitoring past the period of supervision, will go to unsupervised upon completion of the supervision period. The officer will:

(1) Notify Special Operations to make appropriate changes to the database; it is not necessary to physically change the equipment. Special Operations can be contacted by phone 888-663-0156 or e-mail sexoffendermanagement@doc.nc.gov;

(2) Explain the DCC-45, Satellite Based Monitoring Program Unsupervised Sex Offenders Maintenance Agreement and obtain the offender's signature;

(3) Email a copy of the DCC-45 to the Special Operations Office at sexoffendermanagement@doc.nc.gov.

(f) **Unsupervised** (bring back hearing/DOP releases)

(1) Explain the DCC-45, Satellite Based Monitoring Program Unsupervised Maintenance Agreement and obtain the offender's signature. Make sure the offender's address and contact phone number are included on the DCC-45;

(2) Provide the offender with the Offender PREA Education Form and obtain their signature on the PREA Acknowledgement form;

(3) Email the DCC-45, the PREA Acknowledgement form, and the AOC-616 to the Special Operations Office at sexoffendermanagement@doc.nc.gov the same day the offender is ordered to SBM;

(4) Unsupervised offenders being released from Prison will still be advised to report to the probation office in their county of residence the first business day after their release at 10:00 AM. The same steps above will need to be followed for these offenders with the exception of obtaining the AOC-616.

Special Operations will be responsible for enrolling the unsupervised offenders.

(g) **Homeless**

All electronic monitoring equipment will be installed and removed by the vendor at the Probation Office.

.0304 REMOVAL OF EQUIPMENT

Interruption or emergency removal of electronic monitoring (i.e., incarceration via Quick Dip or CRV, hospitalization, moving out of state, death) will be investigated by the supervising officer and documented in the narratives.

(a) Officer will be notified through various alarms/alerts;

(b) Officer will investigate and confirm unavailability of offender;

(c) Determine status of equipment and retrieve equipment if necessary and enter an OPUS narrative;

(d) Determine if the offender and/or equipment needs to be deactivated.

For a regular end of service, the supervising probation officer will:

(a) Deactivate equipment per system requirements; the Expected End Date does not End of Service the equipment.

(b) The Vendor Install Team will arrange for equipment removal

(1) If the equipment cannot be retrieved within five business days, the Dispatch Center will notify the supervising officer that assistance is needed in recovering the equipment;

(2) If the officer has already removed the equipment, advise Dispatch immediately by e-mail where the equipment can be located and picked up; this will prevent an installer from being sent to an offender's residence;

(3) Verify offender was deactivated in the system via the daily summary.

.0305 OFFICER RESPONSIBILITY FOR ALL EM PROGRAM MONITORING

(a) Replacement of Damaged/Faulty/Lost Equipment

(1) Officer Responsibility When Equipment is Damaged - If, after investigation, damage to or disappearance of equipment is determined to be intentional, the supervising Probation/Parole Officer will:

a. Respond to the noncompliance according to the Noncompliance Grid;

b. Use the smart phone to take pictures of damaged monitoring equipment

c. Follow the procedures in *Chapter A Section .1007 Lost, Stolen or Damaged Equipment (Offender)* to complete the SBI-78 *State Property Incident Report*. The SBI-78 should be completed for all incidents, whether accidental or intentional.

(2) When equipment is damaged or is not in working order, the Probation/Parole Officer will:

a. Deactivate the equipment;

b. Return equipment to Dispatch/Install team.

Equipment Management performed by the Account Representative - To provide for replacement of the On Call equipment, the Response CPPO will contact the designated account representative for replacement On Call equipment.

.0306 RESPONSIBILITIES FOR UNSUPERVISED SBM

(a) Field Officer Responsibilities

(1) Verify any change of address and notify Special Operations

(2) Provide Technical Support to the local Sheriff's Office

(3) Conduct inspections of equipment

(4) Provide emergency response to equipment needs

(5) Remove equipment as necessary

(b) Special Operations' Responsibilities

(1) Initiate installation

(2) Monitor equipment

(3) Notify designated staff in the county of residence when inspection or equipment removal is necessary

(4) Advise designated staff to notify the Sheriff's Office in the county of residence of any alerts/alarms that need to be investigated

(5) Ensure the equipment is tracking the offender

(c) Violations shall be reported to the District Attorney and Special Operations.

(d) The Special Operations Office will contact the probation officer with directives. Any and all information having an impact on an unsupervised tracker must be communicated to the Special Operations Office.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter G Technology and Monitoring Programs

Section .0400 Field Search

.0401 TECHNOLOGY: FIELD SEARCH

Computer Field Search as a condition of supervision

Computer searches will be conducted only with software, devices, etc. that have been approved by Community Corrections.

.0402 SPECIAL CONDITION FOR SEX OFFENDERS

North Carolina General Statute North Carolina General Statute 15A-1343(b2)(9) Special Condition for Sex Offenders - "*Submit at reasonable times to warrantless searches by a probation officer of the probationer's person and of the probationer's vehicle and premises while the probationer is present, for purposes specified by the court and reasonably related to the probation supervision, but the probationer may not be required to submit to any other search that would otherwise be unlawful. For purposes of this subdivision, warrantless searches of the probationer's computer or other electronic mechanism which may contain electronic data shall be considered reasonably related to the probation supervision.*"

All computer searches must be conducted by Probation/Parole Officers that have been trained in the use of Community Corrections approved software, devices, etc.

(a) Seizure of Evidence – New crime
If inappropriate material is found on the offender's computer that may constitute a new crime, the officer is to stop the search and immediately contact law enforcement. The officer should secure the computer or device until law enforcement arrives.

(b) Seizure of Evidence – Violation of probation/parole/post release
In the event evidence is located that shall be a violation of the conditions of probation, which does not necessitate a charge for a new crime, the officer shall secure the evidence and initiate the violation process.

All evidence shall be seized as required in the search and seizure policy §C.0800 *Searches*

Cell/Smart Phones, tablets, computers will not be searched pursuant to the warrantless search condition (with the exception of sex offenders above) unless specifically ordered by the court.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter G Technology and Monitoring Programs

Section .0500 Continuous Alcohol Monitoring

.0501 NEW CASES

Continuous Alcohol Monitoring – The practice of automatically and continually testing for alcohol consumption while detecting and measuring any ethanol that is present in the skin's perspiration by the use of a bracelet that is attached to an offender's leg.

Upon notification that the Court or Commission has ordered Continuous Alcohol Monitoring (CAM) for an offender under Community Corrections authority, the supervising officer will:

(a) Review the order of the Court or Commission to ensure the appropriate conditions are indicated for CAM to include the special condition of probation and post release: *Abstinence from alcohol consumption as verified by a continuous alcohol monitoring system*

(b) Determine if the offender has land line telephone service or any circumstance that prevents or restricts the use of CAM and notify the Court or Commission of any problems or restrictions;

(c) Within 2 business days log onto http://ncdps.scramsystems.com/ using the appropriate user name and password and complete the electronic referral form. Upon submission of the referral form, the CAM provider for the county of supervision will email a confirmation notice to the supervising officer.

(d) Email the order placing the offender on CAM to the provider.

The CAM provider will complete the following steps within 7 business days:

(a) E-mail a confirmation of receipt of the order;

(b) Contact the offender to schedule intake and orientation;

(c) Conduct intake, orientation and equipment installation;

(d) Notify the supervising officer of successful completion of intake, orientation and installation; or if any issues or problem occurred during the attempted installation.

(e) E-mail to the supervising officer a copy of the CAM program participant agreement signed and dated by the CAM provider representative and the offender.

(f) Provide cost of services information to the Clerk of Superior Court as requested.

The supervising officer will notify the Court or Commission of any reports from the CAM provider of orientation issues that prevent CAM use or of failed installations.

.0502 CAM MONITORING AND OFFENDER SUPERVISION

(a) During the period of monitoring the CAM provider will:

(1) Telephone the supervising officer within 24 hours of all confirmed violations and e-mail a violation report; and be available to testify at probation violation hearings or parole post release hearings concerning the validity of the violation as requested;

(2) Provide the supervising officer with a non-compliance violation report as agreed upon in the MOU; or upon request from the supervising officer;

(3) Perform routine maintenance on equipment

(b) The supervising officer will forward to the CAM provider any subsequent Court or Commission orders affecting monitoring. The officer will supervise the offender according to current case management standards within Chapter C Offender Supervision section of the manual.

.0503 RESPONSE TO NONCOMPLIANCE

(a) Upon receipt of a confirmed violation alleging alcohol consumption, removal or disconnection of the CAM device, placing any obstruction material between the device and skin, or willful tampering with equipment by the offender; the supervising officer will:

(1) Immediately staff the violation with a supervisor; and

(2) Issue a Violation Report and Order for Arrest in probation cases or treat as an Emergency Violation if a post release case;

(3) Inform the CAM provider of violation outcome and facilitate equipment removal if necessary and use the chain of custody form to maintain integrity of stored data.

(b) For other types of noncompliance violations, such as not returning to home location for data downloads or not keeping modem plugged in, the supervising officer will staff the violation with their supervisor to develop an appropriate response following policy as outlined in Chapter D Noncompliance. The supervising officer will notify the CAM provider of all actions taken.

(1) For nonpayment of monitoring services, phone service or electricity service the service provider will notify the supervising officer. The supervising officer will staff the occurrence with their supervisor and set court date or preliminary hearing for determination of continuation of services. G.S. 15A-1343.3(a)(b)

(2) The supervising officer will notify the CAM provider of the Court or Commission decision.

.0504 DISCHARGE

(a)) Upon completion of the specified time period for CAM, the provider will:

(1) Contact the supervising officer to verify the discharge date; CAM provider will deactivate the offender on that date if equipment removal is not able to be completed the same day.

(2) Schedule a discharge appointment with the offender.

(3) Remove the equipment and

(4) E-mail the completion report to the supervising officer.

(b) The supervising officer will update OPUS to show completion of the condition.

.0505 CAM FEE

(a) The Clerk will collect the fee and transmit it to the CAM provider according to AOC guidelines for offenses committed prior to 12/1/2012.

(b) For offenses committed on or after 12/1/2012 the offender will pay any fees or costs directly to the service provider. G.S. 15A-1343.3.b

(c) The Court may make a finding and not require the offender to pay the CAM fee, which will remove the offender from consideration for CAM unless the local government entity responsible for incarceration (county/sheriff) agrees to pay the fee.

(d) Any fees paid in this manner are paid by the county to the Clerk and then transmitted to the CAM provider according to AOC guidelines. ***Same guideline as above***.

.0506 CAM EQUIPMENT AND VENDORS

G.S. 20-179 (h1) and *15A-1374(b)(8b)* require DPS to approve CAM systems for use by the Courts or Commission as a means to determine the offender's abstinence from the use of alcohol.

(a) An approved listing of CAM providers is available by selecting the following link: http://www.scramsystems.com/

(b) There may be more than one CAM system or provider approved for use. In the event of multiple providers within a county: please refer to Section .0501 New Cases and the electronic referral form and website.

(c) If a CAM provider fails to comply with these regulations or refuses to accept an offender for orientation, the CAM provider will be reported through the chain of command to Community Corrections Administration, which will report to DPS to determine if the CAM provider should remain on the approved list.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter H Programs

Section .0100 General Provisions

.0101 PURPOSE

This section sets out the basic policy for managing offenders ordered to participate in special programs or initiatives.

.0102 ORGANIZATION

Responsibility

Programs policy is subject to review by the Deputy Director of Special Operations of Community Corrections. Any variation in the policies and procedures specified herein must immediately be reported to the Assistant Director for review and approval. If a needed variation exists, requests must not alter policy, but should be submitted and implemented through use of Standard Operating Procedure (SOP) to the Judicial Division Administrator for approval. Administrative directives and updates to the offender supervision guidelines will be issued by the office of the Director as required to specify and update this policy.

Duties

(a) A probation officer shall keep informed concerning the conduct and condition of each person under his or her supervision, using all practicable and suitable methods, consistent with the conditions imposed by the controlling authority, to aid and encourage persons on probation to bring about improvement in their conduct and condition. *G.S. 15-205*

(b) Officers shall keep detailed records of their work. *G.S. 15-205* Officers will record accurate detailed narratives on all offender contacts as they are made, but no later than the end of the next working day;

(c) In all engagements with offenders, officers will operate in a professional manner and will:

(1) Be prepared, having reviewed the case file;

(2) Know the results of drug screens and treatment status;

(3) Be aware of the offender's goals;

(4) Work to gain the offender's trust;

(5) Show respect;

(6) Maintain eye contact;

(7) Avoid undue familiarity

(d) The principal purposes of supervision are:

(1) To hold offenders accountable for making restitution;

(2) To ensure compliance with the court's judgment;

(3) To effectively rehabilitate offenders by directing them to specialized treatment or education programs; and

(4) To protect the public safety. *G.S. 15A-1343.2(B).*

Staff

Programs administration is performed by probation officers certified by the North Carolina Criminal Justice Education and Training Standards Commission. Officers must communicate effectively using motivational interviewing techniques; must exercise independent judgment as emergency situations arise; must maintain a professional demeanor while interacting with potentially volatile and assaultive offenders; must be able to defend self and others; must pass firearms testing and self defense course; must maintain a professional relationship with all community

partners, offenders and the general public, and must have sufficient writing skills to include typing and use of computer software.

Review

The judicial district manager will review Programs operations to ensure policy is followed based on the standards established by the Deputy Director as approved by the Director of Community Corrections.

APPROVED.

Anne L. Precythe 08/01/2016

Director of Community Corrections Date

Chapter H Programs

Section .0200 Community Service Work Program

.0201 GENERAL PROVISIONS

The Community Service Work Program will provide oversight of offenders placed under the supervision of Community Corrections and ordered to perform community service hours for criminal violations including driving while impaired violations under GS 20-138.1. This program will assign offenders to perform service to the local community in an effort to promote the offender's rehabilitation and to provide services that help restore or improve the community. The Program will provide appropriate work site placement for offenders ordered to perform community service hours. The Division may adopt rules to conduct the program. Each offender will be required to comply with the rules adopted for the program. G.S. 143B-708

.0202 REFERRALS

Controlling Authority. The Courts, Parole/Post-Release Commission, District Attorney and Probation/Parole Officers constitute the controlling authorities that will order offenders to perform community service. Offenders are responsible for reporting to the community service staff.

.0203 RECIPIENT AGENCIES

Types of Agencies

Governmental. City, county, state and federal agencies can be used for community service work.

Non-profit. Agencies that serve the general public and conform to the tax-exempt status as set forth in the Internal Revenue code Section 501(c)(3).

Other Non-Profit. Churches and religious organizations or fraternal organizations, staff must reject any project that appears to benefit a fraternal organization or a particular church, advance a particular religion, or engage the state in church affairs. Staff may

accept fraternal organization or church-sponsored projects of an educational or charitable nature that benefit the community as a whole, with the approval of the Judicial District Manager.

Recipient Agency Exclusions

(a) Donations in lieu of community service hours are prohibited.

(b) A community service offender may not fulfill his obligation at an agency where he is employed, where he resides, where he serves as a regular volunteer, where he has relatives or where he would be supervised by individuals who would normally be involved in his day-to-day life. Exceptions must be approved by the supervisor, in writing.

(c) A community service offender may not perform his community service in a Community Corrections office without direct staff supervision. While performing community service in a Community Corrections office, offenders may not work in files, on computer, or work directly with offenders or recipient agencies.

(d) Community service workers may provide services for upkeep of property owned by a government agency or a non-profit organization. Community service workers may not provide services for upkeep of property leased/rented by the agency.

New Recipient Agencies

Should the need arise for developing more recipient agencies, the Judicial District Manager or their designee will:

(a) Recruit and visit prospective agencies and discuss the Community Service Work Program;

(b) Complete the following forms with the new recipient agency:

(1) Recipient Agency Agreement; and

(2) Work Site Information Form and enter work site information into CSAS;

(3) Provide PREA brochure

(c) Review with the agency the contents of the Recipient Agency Agreement;

(d) Provide the recipient agency with a Recipient Agency Guidebook that explains the rules and regulations and general information about the Community Service Work Program.

(e) Ensure the recipient agency receives a supply of the Volunteer and Agents: A Guide for the Prevention and Reporting of Undue Familiarity and Sexual Abuse with Offenders/Inmates for agency staff.

Recipient Agency Agreement

The agreement is formalized when the agency and Judicial District Manager sign the *Recipient Agency Agreement*. Every agreement must be signed by an authorized representative of the agency. The county or city manager and school superintendent may sign one agreement for multiple recipient agencies under their supervision. A *Work Site Information Form* will need to be completed for each site.

(a) The Judicial Services Coordinator will conduct an annual review of each recipient agency including an onsite visit and make appropriate updates in CSAS;

(b) A new *Recipient Agency Agreement* must be signed if the authorizing representative of the recipient agency or Community Corrections change, or a review indicates substantial changes of the original contract.

(c) The Judicial District Manager or designee will ensure the recipient agency receives a supply of the NCDPS "A Guide for the Prevention & Reporting of Undue Familiarity & Sexual Abuse with Offender/Inmates" for all agency staff.

Reporting and Investigation of Allegations Made Against Recipient Agency or Offender

Employees will report all allegations of impropriety and/or complaints affecting the Community Service Work Program to the Chief Probation/Parole Officer or Judicial District Manager before any action is taken. Allegations must be handled in the strictest confidence. The manager will conduct a preliminary investigation and report the findings through the appropriate chain of command.

Agency/Offender Fraud

Community service staff and/or recipient agencies may never use workers for personal use or accept gifts, money, labor, materials, etc., while that worker is enrolled in the Community Service Work Program. This is in direct violation of the North Carolina General Statutes and may subject the employee to an internal investigation and possible criminal prosecution. The above offense will be reported through the chain-of-command for referral to the SBI.

Offender Accidents

Upon notification that an offender has been injured while performing community service hours, the Judicial Services Coordinator will immediately notify the Judicial District Manager to notify the chain of command and complete the following:

(a) Within 3 days, obtain a written synopsis of the incident from the recipient agency;

(b) Assist the offender with the completion of the insurance claim form;

(c) Within 7 days of incident, forward the original claim form, noting the district and county where the incident occurred and the agency synopsis to the insurance carrier.

(d) Within seven days of receipt of the offender's medical bills forward to the insurance carrier

(e) Forward copies of the claim form, agency synopsis, offender's medical bills and

signed copy of the Rules and Placement Form (DCC-CSW-1), through the chain of command, to the Community Corrections Fiscal Office and retain copies to be placed in the offender file;

(f) Make appropriate contact notes regarding incident and follow-up action taken in CSAS See CSAS Guide.

.0204 PROCESSING NEW CASES

Upon notification that an offender has been ordered to perform community service (supervised or non-supervised), the assigned Judicial Services Coordinator will phone the offender or mail a Contact Request Letter (*DCC-CSW-8*) scheduling an initial contact within seven days:

(a) Non-Supervised Cases

The Judicial Services Coordinator will:

(1) Obtain the written authority to start the community service, which may include the AOC disposition printout;

(2) Obtain and enter OPUS and Community Service Automated System (CSAS) information See CSAS Guide;

a. For offenders already being supervised, an alert will be generated in OPUS to the supervising Probation/Parole Officer of the non-supervised community service case. For the offender supervised in another county, the non-supervised community service case will be automatically transferred to a coordinator in the county of probation supervision.

b. The coordinator will notify the Chief Probation/Parole Officer or the supervising Probation/Parole Officer if the offender is in absconder status.

(3) Complete a criminal record check or CJLEADS check;

(4) Place the offender at an appropriate agency;
(.0205 PROCESS FORDETERMINING AGENCY PLACEMENT)

(5) Obtain the offender's signature on the Rules & Placement Information (DCC-CSW-1.) Forms must be signed and dated by offender and DCC staff. Provide the offender a copy of the DCC-CSW-1 with placement information and agency reporting instructions;

(6) Notify the recipient agency of the offender placement by forwarding a copy of the signed Rules & Placement Information (DCC-CSW-1);

(7) Explain the PREA Brochure: Sexual Abuse Awareness for the Offender and obtain the offender signature on the PREA Orientation: Offender Acknowledgement Form.

(8) Prepare a case file including:

a. Copy of written authority imposing community service;

b. Signed Rules & Placement Information (DCC-CSW-1);

c. Signed PREA Offender Acknowledgement Form

d. Any other related documentation (i.e. medical statements, disability verification, etc).

(b) **Supervised Cases**

Offenders supervised by a Probation/Parole Officer will be referred to the Judicial Services Coordinator through OPUS. Offenders that are unavailable to perform community service, i.e. incarcerated, contingent cases, DART, etc., will be referred when the offender becomes available.

When the Judicial Services Coordinator receives a case through CSAS, the coordinator will:

(1) Schedule an appointment with the offender;

(2) Complete a criminal record check or CJLEADS check;

(3) Place the offender at a recipient agency within thirty days of JSC assignment See CSAS Guide;

(4) Obtain the offender's signature on the *Rules & Placement Information (DCC-CSW-1.)* Review and provide the offender with a copy of the *DCC-CSW- 1* with placement information and agency reporting instructions;

(5) Notify the recipient agency of the offender placement by forwarding a copy of the signed *Rules & Placement Information (DCC-CSW-1)*; *and*

(6) Forward all documentation to the supervising Probation/Parole Officer to be maintained in the offender case file.

.0205 PROCESS FOR DETERMINING AGENCY PLACEMENT

Prior to placing an offender with an agency, the coordinator will:

(a) Conduct a criminal record check or CJLEADS check;

(b) Check CJLEADS or AOC's Civil Case Processing System (VCAP) for any protective or no-contact orders;

(c) Conduct a National and North Carolina Sex Offenders Registry search;

(d) Document findings in CSAS;

(e) Interview and place the offender at a recipient agency within thirty (30) days of JSC assignment.

(f) Areas for consideration prior to placement:

(1) Type of offense;

(2) Offender's prior criminal record;

(3) Safety of the community and recipient agency;

(4) Attitude and demeanor of the offender;

(5) Physical, mental and medical condition, and age of the offender;

(6) Offender's place of employment and work schedule;

(7) Location of the offender's residence and availability of transportation.

.0206 TRANSMITTALS

In the event an offender, at the time of sentencing, will perform hours in a county other than the county of conviction:

(a) Non-Supervised Cases

The county of conviction will:

(1) Obtain judgment information, if judgment information will not be available on AOC, send a copy of the written authority to start community service to the county of placement;

(2) Direct the offender to report to a coordinator in the receiving county within three calendar days;

(3) Set a follow-up date of three days See CSAS Guide;

(4) Set a return to court date, if applicable See CSAS Guide;

(5)Transfer the case in CSAS See CSAS Guide; and

The receiving county will:

(1) Prepare a case file;

(2) Obtain judgment information and place copy in file;

(3) Obtain offender's signature on DCC-CSW-1, Rules & Placement Information; and

(4) Explain the PREA Brochure: Sexual Abuse Awareness for the Offender and obtain the offender signature on the PREA Orientation: Offender Acknowledgement Form.

(5) Interview and place the offender at a recipient agency within thirty days. See CSAS Guide

(6) Upon completion of hours, send the DCC-CSW-1 and PREA acknowledgement form to the county of conviction.

(b) Supervised Cases

The receiving Probation/Parole Officer will, upon acceptance of the case, refer the offender to a Judicial Services Coordinator through OPUS.

.0207 TRANSFERS

(a) Non-Supervised Cases

An offender who has been interviewed in one county and is to perform hours in another county will be transferred to the receiving county. The coordinator must address, in CSAS, any dates that are past due or any cases indicated as needs follow up prior to transfer. The supervisor must complete any pending case reviews prior to transfer.

The sending county will:

(1) Direct the offender to report within three calendar days to a coordinator in the receiving county;

(2) Set a follow-up date of three days;

(3) Set a return to court date, if applicable;

(4) Transfer the case in CSAS; and,

(5) Send all case file documentation to the receiving county.

The receiving county will:

(1) Prepare a case file;

(2) Obtain judgment information and place a copy in the file;

(3) Obtain offender's signature on the DCC-CSW-1, Rules and Placement Information;

(4) Explain the PREA Brochure: Sexual Abuse Awareness for the Offender and obtain the offender signature on the PREA Orientation: Offender Acknowledgement Form;

(5) Interview and place the offender at a recipient agency within thirty days. See CSAS Guide;

(6) Upon completion of hours, send the DCC-CSW-1 and PREA acknowledgement form to the county of conviction.

(b) **Supervised Cases**

The supervising Probation/Parole Officer will notify the Judicial Services Coordinator when a supervised probation offender transfers to another county. The Probation/Parole Officer and the Judicial Services Coordinator will decide if the community service will be transferred. If the decision is made to transfer the community service, then the Coordinator will transfer the community services as set out above in subsection (a) Non Supervised cases.

.0208 OFFENDERS MOVING TO OR FROM OTHER STATES

(a) Non-supervised cases

Offenders ordered to perform community service who are eligible under Interstate Compact guidelines will be processed in OPUS as a supervised case, entered into ICOTS and will be subject to all rules of the Interstate Compact. (*See Chapter F - Interstate Compact*). No community service fee will be charged for offenders performing community service in another state. Offenders moving into North Carolina must be processed through Interstate Compact. The community service fee must be paid prior to enrollment and proof of payment presented to the coordinator.

(b) Supervised cases

Offenders ordered to perform community service who move to another state through the Interstate Compact prior to enrollment in the Community Service Work Program will be directed to the receiving state to perform community service hours. The offender will not pay the community service fee in North Carolina. Offenders ordered to perform community service who move to another state after enrollment in the Community Service Work Program and have not completed their hours will be directed to complete the community service in the receiving state. Any part of the community service fee already paid will not be reimbursed. Offenders moving to North Carolina and supervised by a Probation/Parole Officer will be eligible for the Community Service Work Program upon payment of the community service fee. Upon verification of the community service fee payment, the supervising Probation/Parole Officer will refer the offender to the Judicial Services Coordinator through OPUS.

.0209 MONITORING CASES

(a) Hours

Judicial Services Coordinators are responsible for ensuring timely reporting by recipient agencies of community service hours performed by both supervised and non- supervised offenders. If the controlling authority does not set a due date for completion of the community service hours, the Judicial Services Coordinator will establish a due date based upon the offender performing 24 hours of community service per month. The Judicial Services Coordinator will submit Weekly Agency Time Entry Sheets, weekly, to any agency with active placements for documentation of hours performed. An agency time sheet file containing all written documentation of community service hours performed at the work site will be maintained in the community service office. Written verification from the recipient agency is required before hours may be entered in CSAS. Designated staff will enter the hours performed or failure to perform hours within a week of receipt of documentation. See CSAS Guide After entry has been made in CSAS,

the documentation will be filed in the appropriate recipient agency time sheet file in chronological order.

(b) **Case Contacts (Non-Supervised)**

(1) Non-Supervised Cases (Hours Not Completed)

The minimum requirement for non-supervised community service cases is one contact per month. A contact is defined as:

a. Offender contact, or

b. Recipient Agency Contact, or

c. For offenders unable to perform hours, a collateral contact to verify the offender's inability to perform community service.

Verification of hours performed is considered a recipient agency contact. If the offender fails to perform any community service hours for a 30-day period, the Community Service Coordinator will contact the offender within ten days to determine why the offender has failed to perform community service and take appropriate action (*§ H.0211 Non-Compliance*). For non-supervised deferred prosecution cases that have completed the ordered hours, follow local standard operating procedures regarding required case contacts.

(2) Non-Supervised Cases (Hours Completed Pending Payment of all Monies)

The minimum requirement for non-supervised community service cases is one contact every 90 days. A contact is defined as:

a. Offender contact, or

b. FMS check

(c) **Supervised Cases**

The Judicial Services Coordinator serves as the liaison between the Probation/Parole Officer and the recipient agency to ensure timely reporting by recipient agencies of community service hours performed.

(d) **Community Service Fee**

It is the responsibility of the Judicial Services Coordinator to monitor the community service fee in non-supervised cases. Verification of payment, i.e., payment receipt or copy of Administrative Office of the Courts' Financial Management System (FMS) printout or disposition printout must be maintained in the file. Failure to pay will be reported to the controlling authority *§ H.0211 Non-Compliance*. It is the responsibility of the Probation/Parole Officer to ensure the community service fee is paid in supervised probation and parole cases. The community service fee is to be paid by the offender to the Clerk of Court in the county of conviction except in the following situations:

(1) Community Service Parole Program parolees pay the Clerk of Court in the county of release;

(2) Federal probation offenders pay the Clerk of Court in the county where the community service will be performed and a receipt for payment is required prior to intake;

(3) Interstate Compact offenders will pay the Clerk of Court in the county where the community service will be performed and a receipt for payment is required prior to intake.

(4) Any motion to strike the community service fee must be initiated by the offender.

(e) **Other Financial Obligations and Conditions**

In non-supervised cases the Judicial Services Coordinator will monitor other financial conditions such as fines, court costs, restitution, and attorney fees. Verification of payment, i.e. receipt of payment or copy of Administrative Office of the Courts' Financial Management System (FMS) printout or disposition printout must be maintained in the file. The Community Service Coordinator will report non- compliance of financial conditions (*§ H.0211 Non-Compliance* and *§ H.0213 Closing Cases*). In the event the Court orders a Judicial Services Coordinator to monitor conditions, other than any financial obligations of non-supervised cases, the Judicial Services Coordinator will inform their supervisor for intervention with the controlling authority.

.0210 MODIFICATIONS

Non-Supervised Cases

(a) Extension of Time

When the court establishes a due date to complete the ordered hours and the offender is unable to complete the community service hours within the time frame, the coordinator will for the initial extension:

(1) Prepare an Order Modifying Judgment (CSW-15) or AOC-CR-609, Order on Violation of Probation or on Motion to Modify requesting an extension of time;

(2) Obtain the judge's signature on the Order Modifying Judgment;

(3) File the original with the Clerk of Court in the county of origin;

(4) Forward a copy to the offender and maintain a copy for the file;

(5) Update CSAS;

(6) Notify the agency of any modification.

When the court does not establish a due date and the offender is unable to complete the community service hours by the date set by the Judicial Services Coordinator, the coordinator may extend the time. The period of extension cannot exceed the case expiration date.

For all subsequent modifications for an extension of time to complete community service hours, the Judicial Services Coordinator will staff the case with their supervisor before seeking any modification.

(b) Other Modification

Upon verification that an offender is unable to complete the community service hours, the Judicial Services Coordinator will staff the case with their supervisor before seeking any modification of the community service hour requirement. Upon obtaining approval of the supervisor and offender's signature, where required, present any necessary documentation to the controlling authority regarding the community service hour requirement and fee and:

(1) Prepare an Order Modifying Judgment (CSW-15) or AOC-CR-609, Order on Violation of Probation or on Motion to Modify requesting the modification;

(2) Obtain the judge's signature on the Order Modifying Judgment;

(3) File the original with the Clerk of Court in the county of origin;

(4) Forward a copy to the offender and maintain a copy for the file;

(5) Update CSAS;

(6) Notify the agency of any modification.

Supervised Cases

It is the responsibility of the Probation/Parole Officer to address an extension of time or modification in supervised cases when an offender has failed to complete the hours prior to the coordinator due date or court ordered due date. For cases where a modification order is issued by the court, or by the Post-Release/Parole Commission, the supervising Probation/Parole Officer will update the applicable OPUS screens and notify the coordinator. For cases where the coordinator and officer agree an extension of the coordinator due date is appropriate, the coordinator will update CSAS. The Judicial Services Coordinator will notify the recipient agency.

.0211 NON-COMPLIANCE

Non-compliance within the community service work program is defined as failure to complete the hours, failure to pay the community service fee, failure to abide by the rules of the Community Service Work Program or failure to pay any monies due the State under any court order or payment schedule adopted by Community Corrections.

When the violation occurs, file the appropriate paperwork within 30 days with the controlling authority alleging non-compliance of community service. The placement of the offender at the recipient agency is terminated. The Judicial Services Coordinator will notify the agency. During the period awaiting court appearance for non-compliance of community service the Judicial Services Coordinator may allow an offender to perform community service upon re-placement. The coordinator, offender and supervising probation officer must be in agreement prior to re- placement. The offender will be given every opportunity to comply, provided re-

placement will not adversely affect public safety or agency relationships.

(a) Supervised Cases

The Judicial Services Coordinator will consult the supervising Probation/Parole Officer any time an agency notifies the Judicial Services Coordinator an offender has violated the rules of agency placement. The supervising probation officer will determine if an extension or a violation staffing with the Chief Probation/Parole Officer is appropriate. It is the responsibility of the Probation/Parole Officer to address violations of community service for supervised probation cases *See Chapter D* - Noncompliance

(b) Non-Supervised cases

The Judicial Services Coordinator will staff the case with their supervisor to determine the appropriate response to non-compliance.

For cases originating in another county, the Judicial Services Coordinator in the county of placement will ensure CSAS case notes explain the need for a non- compliance report, transfer the case by CSAS and return the case file to the county of origin to initiate the violation process.

(1) Unsupervised Probation - Unsupervised probation cases in violation of the community service program will be reported to the court by the use of the *Notice of Hearing on Violation of Unsupervised Probation Form, AOC-CR-220*

a. Complete the *Notice of Hearing on Violation Of Unsupervised Probation Form AOC-CR-220* within 30 days;

b. Notify the offender of the hearing on violation by personally serving the offender or mailing a copy to the offender's last known address at least 10 days prior to the hearing;

c. File the original file date stamped AOC-CR-220 with the clerk of court to be placed on the court docket; and

d. Retain a copy in the offender case file.

e. When reporting failure to perform community service hours and/or failure to pay the community service fee and other fees have not been

paid as directed by the court, all unpaid monetary obligations will be reported to the court on the *Notice of Hearing on Violation of Unsupervised Probation, AOC-220*.

Follow local SOP regarding reporting monetary violations only to the court.

f. Should offenders fail to appear for the hearing after being served with the *Notice of Hearing on Violation of Unsupervised, AOC-CR-220* or the offender could not be located for service, the case is to be closed. *§H.0213 Closing Cases; See CSAS Guide*.

(2) Deferred Prosecution, 90-96, Conditional Discharge, Prayer-For-Judgment (PJC) and Non-Judgment

Offenders on deferred prosecution, 90-96, Conditional Discharge, Prayer-For-Judgment and non-judgment cases that violate the rules and regulations of the community service program will be reported to the District Attorney or the court in the county of origin according to local standard operating procedures. For cases originating in a county other than the county of placement, transfer the case in CSAS and return the case file to a coordinator in the county of origin to initiate and complete the violation process.

.0212 CASE REVIEW PROCEDURE

The Chief Probation/Parole Officer or Lead Judicial Services Coordinator will be alerted through CSAS of cases scheduled or randomly selected for review. Supervisors can select additional cases for review. Supervisors will enter case review results on the CSAS case review screen. When conducting a case review, the Chief Probation/Parole Officer or Lead Judicial Services Coordinator will:

(a) Review the selected files with the supervising Judicial Services Coordinator for:

(1) Written authority to start the community service for non-supervised probation cases;

(2) Timely and appropriate offender placement;

(3) Required contacts;

(4) Required documentation;

(5) Signed offender PREA Orientation Offender Acknowledgement Form, Non-compliance, show cause orders, follow-up on violations, etc;

(6) Appropriate case closure;

(7) Any other areas of concern needing action;

(b) Document any serious deficiencies and schedule a 30-day follow-up review;

(c) Document positive comments for case files that are up-to-date and in order; and

(d) Enter a contact note in CSAS including a summary of relevant issues and the date of the review.

.0213 CLOSING CASES

(a) Non-Supervised

Prior to closing the case, all pending reviews must be completed by the supervisor. Requirements for closing cases vary, based on the status of the hours, the community service fee and other fees as detailed below.

(1) When hours are completed, indicate the status of the community service fee and other fees in CSAS. See CSAS Guide

(2) For cases originating in another county, the Judicial Services Coordinator in the county of placement will return the case via CSAS to the county of origin to determine the status of all court indebtedness. The original Rules and Placement (CSW-1) and PREA acknowledgement will be forwarded to the county of origin.

(3) When the hours are completed, and all court indebtedness is paid: complete the Certificate of Completion, DC-CSW-2. File the original with the clerk of court in the county of origin and place a copy in the offender's case file and close the case in CSAS. See CSAS Guide

(4) When hours are not completed but the case needs to be closed (i.e., death, disability, incarceration), staff the case with the supervisor and enter in CSAS a reason for closure without working the required hours. (*§H.0210(b) Other Modification*) and close the file. See CSAS Guide

(5) When an AOC-CR-220 has been issued but the offender has failed to appear for the hearing or could not be located for service, the case is to be closed. See CSAS Guide

(b) **Supervised**

When the hours are completed the placement with the recipient agency and CSAS will be automatically updated as closed. The status of the community service condition will be updated in OPUS. See CSAS Guide

(1) When the hours are waived or stricken the Probation/Parole Officer will update the status of the community service condition in OPUS See CSAS Guide.

(2) In the event a supervised case is modified to unsupervised prior to completion of the community service hours, the supervising Probation/Parole officer will prepare an *AOC-609,Order on Violation of Probation or on Motion to Modify* addressing the remaining community service hours and any other conditions.

a. A copy of the order will be forwarded to the community service office.

b. The Judicial Services Coordinator will begin non-supervised required contacts as noted above and update OPUS and CSAS. *§H.0204, Processing New Cases*

(c) **Reopening Cases**

In the event a closed case needs to be reopened:

(1) Non-supervised cases

The Coordinator will update CSAS and enter a case note to explain why the case was reopened. See CSAS Guide

(2) Supervised cases

The supervising probation/parole officer will call the coordinator to advise the case is active and will update OPUS. See CSAS Guide

.0214 RETENTION OF COMMUNITY SERVICE FILES

(a) **Closed Offender Case Files**

Offender case files are to be destroyed after a 1-year retention in the county of origin.

(b) **Agency Time Sheet Files**

Weekly agency time sheet files will be retained for the current calendar year plus the two previous calendar years. Any agency time sheet records older than three years are to be destroyed.

(c) **Agency Agreements**

Destroy in office when superseded or obsolete.

APPROVED.

Anne L. Precythe

Director of Community Corrections

08/01/2016

Date

Chapter H Programs

Section .0300 DART/Black Mountain

.0301 GENERAL PROVISIONS

Under the authority of the Division of Adult Corrections and Juvenile Justice, Section of Alcoholism and Chemical Dependency Programs, the DART (Drug Alcohol Recovery Treatment) Cherry Program and Black Mountain Substance Abuse Treatment Center for Women operate specialized inpatient treatment program for multiple DWI offenders and chemically dependent offenders who meet the criteria for probation or parole/post release supervision. Community Corrections staff, under the supervision of a Chief Probation/Parole Officer, provides on-site offender supervision as well as coordination of participants to and from the facility. A screening and assessment must be completed by TASC before the Court or Post Release and Parole Supervision Commission imposes the condition that an offender go to DART Cherry or Black Mountain. G.S. 143B-705; 15A-1343(b3); 20-179

.0302 TARGET POPULATION

The target population for these programs is offenders convicted at DWI Level 1 or 2 and chemically dependent offenders 18 years of age or older or offenders required to participate in the program as a result of the violation process. (Chapter D Noncompliance)

.0303 TARGET PRIORITY BED POPULATION

Offenders in the target population who are experiencing severe substance dependence related problems, and in need of immediate residential treatment due to the severity of existing problems are eligible for a priority bed after appropriate screening and assessment. The priority population consists of the following:

(a) Offenders in Drug Treatment Court who are at risk of revocation due to continued alcohol/drug use and/or the consequences of continued alcohol/drug use

(b) Incarcerated offenders awaiting transfer to the DART-Cherry/Black Mountain program because of continued alcohol/drug use who may be released from jail before their transfer to DART-Cherry, and are likely to begin alcohol/drug

use upon release.

(c) Offenders whose alcohol/drug use is determined by TASC to meet the criteria specified below:

(1) The offender is actively chemically dependent (addicted)

(2) The offender demonstrates repeated inability to control impulses to use alcohol/drugs and/or engage in alcohol/drug-related criminal or other behaviors that have a high probability of resulting in harm to the probationer or others.

.0304 INELIGIBLE OFFENDERS

Debilitating factors that prohibit the admission of an offender into the DART-Cherry/Black Mountain program are listed on the DPS Internal Web page in the Division of Alcohol and Chemical Dependency Program section (DART-Cherry/Black Mountain). These factors should be reviewed by the Probation/Parole Officer for compliance prior to a DART-Cherry/Black Mountain recommendation.

Offenders determined to be in need of medical detoxification may not be admitted into either program.

.0305 SCREENING AND ASSESSMENT

The screening and assessment process will be followed whether the offender is in custody or in a non-custody status.

(a) Court Sentenced Offender. Upon receipt of a probation judgment ordering the offender to participate in the DART-Cherry/Black Mountain program, the Probation/Parole Officer will immediately submit an automated TASC referral through the case plan application for a screening and assessment of the offender prior to proceeding to the DART Cherry/Black Mountain Intake Procedure. If the TASC assessment recommendation is other than DART Cherry/Black Mountain, the Probation/Parole Officer will prepare and present a modification order, reflecting the TASC recommendation for the Court's consideration.

(b) Offender in Violation

(1) Probation. When a violation staffing results in a DART-Cherry/Black Mountain recommendation, the Probation/Parole Officer will submit an automated TASC referral through the case plan application for screening and assessment of the offender prior to the hearing. When the assessment returns with DART-Cherry/Black Mountain as the recommended treatment, the Probation/Parole Officer will recommend to the Court referral to DART-Cherry/Black Mountain. If the recommended treatment is other than DART-Cherry/Black Mountain the Probation/Parole Officer will consult with the Chief Probation/Parole Officer, prior to proceeding with the violation process. (*Chapter D Noncompliance*)

(2) Post-Release and Parole. When a violation staffing results in a DART-Cherry/Black Mountain recommendation, the Probation/Parole Officer will submit an automated TASC referral through the case plan application for screening and assessment of the offender. When the assessment returns with DART-Cherry/Black Mountain as the recommended treatment, the Probation/Parole Officer will submit to the Post-Release Supervision and Parole Commission a PC-10, *Non-Compliance Report* with a recommendation that the offender participate in DART-Cherry/Black Mountain. If the TASC assessment recommendation is other than DART-Cherry/Black Mountain, the Probation/Parole Officer will submit a PC-10, *Non-Compliance Report* to the Post-Release Supervision and Parole Commission requesting modification of the Post-Release Supervision and Parole Agreement, reflecting the TASC recommended level of treatment for the Commission's consideration.

If DART is ordered by the Post Release and Parole Commission attendance is required regardless of the results of the TASC assessment.

.0306 INTAKE PROCEDURE

(a) Priority Bed Intake Procedure. For probation cases and parole/post release cases that meet the target priority bed population criteria and are in need of immediate residential care and movement to DART-Cherry/Black Mountain, the PPO will:

(1) Notify TASC immediately by phone to request an assessment for the potential priority bed offender

(2) Complete an automated TASC referral through the case plan application

(3) Contact the program staff at the DART-Cherry/Black Mountain facility to request a priority bed in the Program after obtaining an assessment that indicates that the offender meets the criteria for a priority bed and is in need of immediate residential care;

(4) Complete the 'Regular Intake Procedure'.

(b) Regular Intake Procedure. For probation cases and parole or post-release supervision cases that have a TASC assessment recommending DART-Cherry/Black Mountain, the field Probation/Parole Officer will:

(1) Ensure that the court order or *Post Release Supervision or Parole Agreement* reflects the statement that the offender is assigned to the DART-Cherry/Black Mountain Program, the offender is eligible to be recycled for further treatment, and further, will be required to abide by all rules and regulations of the program and to follow the recommended aftercare plan until successful completion".

(2) Ensure that the order, or parole or post-release modification includes additional conditions of supervision allowing the Probation/Parole Officer to conduct warrantless searches of the offender's person and property, to require the offender to submit to breath, urine, and/or blood analysis for substance abuse, and to require follow-up treatment upon release;

(3) Discuss with the offender the DART-Cherry/Black Mountain Program requirements and rules and regulations;

(4) Process the case according to the same procedure for regular cases;

(5) Contact the DART-Cherry/Black Mountain facility to request a slot in the program and obtain scheduling and intake instructions;

(6) Complete the *DART-Cherry/Black Mountain Medical History Statement,*

DCC-29 to assist in the identification of possible medical problems. If medical problems are identified, the Probation/Parole Officer will contact the DART-Cherry/Black Mountain immediately for program review of the medical condition; *and*

(7) Obtain a copy of the substance abuse assessment from TASC and before the offender's transport to the DART-Cherry/Black Mountain facility prepare the following case material to forward to DART-Cherry/Black Mountain (with the facility driver) ensuring all paperwork is complete and accurate, including;

a. One copy of the Probation Judgment and any applicable modifying order,

b. One copy of the Post-Release Supervision or Parole Agreement and any applicable modification,

c. One copy of the DART-Cherry/Black Mountain Medical History Statement, DCC-29,

d. One copy of the criminal history record check,

e. One copy of the TASC assessment and any prior treatment information.

(8) On the day of transport:

a. Conduct a drug screen;

b. Conduct a search of all personal effects and a search of the offender to ensure the absence of weapons, tobacco products and other contraband;

c. Place all case material in a sealed envelope, marked "Confidential" and address to the DART Cherry/Black Mountain Chief Probation/Parole Officer; place offender's medications in the envelope;

d. Transport the offender to a designated pick-up point to meet the DART-Cherry/Black Mountain facility vehicle; Offenders who have met the *priority bed* intake requirements will be transported to DART-Cherry/Black Mountain by the field unit.

e. Release the offender, the sealed envelope of case material and medications, and personal effects to the vehicle driver and update OPUS.

f. For cases entering the DART-Cherry/Black Mountain Program directly from prison or SMCP, the DART-Cherry/Black Mountain Probation/Parole Officer will enter the offender's proposed residence plan information into OPUS (see OPUS Manual). The Chief Probation/Parole Officer in the county of residence will receive an alert and will assign the case to a field Probation/Parole Officer, who will verify the residence plan and enter reporting instructions into OPUS (see OPUS Manual).

g. The DART-Cherry/Black Mountain Probation/Parole Officer will receive notification as to whether the residence plan is acceptable or not and, if not, request that the inmate submit another plan.

h. For registered sex offenders – notify the Sheriff (county of registration) of the offender's temporary residence relocation to DART or Black Mountain.

.0307 SUPERVISION PERIOD/DISCHARGE

(a) Courtesy Supervision

A designated DART-Cherry/Black Mountain Probation/Parole Officer at the DART-Cherry/Black Mountain facility will provide courtesy supervision for the duration of the inpatient treatment period. Upon arrival at the facility, the DART-Cherry/Black Mountain Probation/Parole Officer assigned supervision of the case will meet the vehicle to receive the offender, case file, and personal effects.

DART-Cherry/Black Mountain treatment staff will schedule an appointment with TASC for the offender and will prepare an individualized aftercare program, a summary of which will be included in the case file upon the offender's return from the facility to the field Probation/Parole Officer.

During the inpatient period, any violations or non-compliance issues will be addressed by the DART-Cherry/Black Mountain Probation/Parole Officer unless a formal violation hearing is necessary (Chapter D Noncompliance) The DART-Cherry/Black Mountain Probation/Parole Officer may conduct substance abuse screening if deemed necessary, and will notify the field Probation/Parole Officer of all violations and actions taken. Offenders, who violate facility rules or conditions of the Probation Judgment, modifying order, or Post Release Supervision or Parole Agreement, will be subject to discharge from the program.

In the event the offender is discharged before completion of the program, the DART-Cherry/Black Mountain Probation/Parole Officer will immediately notify the field Probation/Parole Officer to prepare the Violation Report and Authority to Arrest. The field Probation/Parole Officer will transport the offender back to his county of residence for a violation hearing.

(b) Program Completion and Return to Supervision

Upon completion of the program, the DART-Cherry/Black Mountain Probation/Parole Officer will prepare all case file material for return to the field Probation/Parole Officer. Included in the case file will be a complete aftercare plan developed by facility treatment staff to ensure continued follow-up treatment in the offender's community. The DART-Cherry/Black Mountain Probation/Parole Officer will release the case file to the DART-Cherry/Black Mountain facility vehicle driver for return to the field Probation/Parole Officer.

The DART-Cherry/Black Mountain facility vehicle will transport the offender to a designated return point. The field Probation/Parole Officer will meet the vehicle, pick up the case file, and transport the offender to his residence. The field Probation/Parole Officer will update OPUS PP05 screen to reflect that the program has been closed.

For registered sex offenders – the field Probation/Parole Officer will ensure that the offender is registered in the county of residence.

.0308 MINIMUM SUPERVISION REQUIREMENTS

During the inpatient period, contact requirements for courtesy supervision by the DART-Cherry/Black Mountain Probation/Parole Officer will be case by case to accommodate program rules as determined in consultation with the Chief Probation Parole Officer.

APPROVED.

Anne L. Precythe

08/01/2016

Director of Community Corrections

Date

Chapter H Programs

Section .0400 Substance Abuse Screening Program

.0401 GENERAL PROVISIONS

The Substance Abuse Screening Program is a supervision tool used to identify offenders with substance abuse problems in order that appropriate treatment services may be provided. Community Supervision recognizes denial and relapse are expected components of the treatment and recovery process.

Probation/Parole Officers will use substance abuse screening to:

(a) Augment substance abuse treatment plans; *and*

(b) Provide validation to encourage offenders to enter into treatment.

.0402 SUBSTANCE ABUSE SCREENING DEFINITIONS

The following are commonly used terms and definitions related to substance abuse screening:

(a) **Adulteration.** Intentional interference with the analysis of a specimen by introducing a known or unknown substance

(b) **Approved Container.** A sturdy plastic container with lid, properly labeled *BIOHAZARD*, which is used to transport specimens.

(c) **Cause-and-Suspicion Collection.** Specimen sampling carried out when a Probation/Parole Officer or other staff member has reason to believe or has information from a reliable source that an offender:

(1) Has used or is currently under the influence of illicit drugs

(2) Is found to be in possession of drugs or drug paraphernalia; and/or

(3) Is controlling or inhabiting an area where illicit drugs are found.

(d) **Chain of Custody.** Documenting the identity and integrity of an offender's specimen from the time of collection through transport, screening, and reporting of the result; ensured through proper specimen identity, security, and careful documentation.

(e) **Collector.** A Probation/Parole Officer who has been trained in the proper procedures for specimen collection and maintenance of the chain of custody

(f) **Confirmation** – testing done by a second party or private/independent laboratory on a contested positive result

(g) **Creatinine**. A normal constituent of blood, semen, and urine; urine creatinine concentration can be used to indicate the dilution of urine

(h) **Cut-Off Level.** The dividing line between a positive and negative result; urine samples that register equal to or above the cut-off level are positive; those that register below the cut-off level are negative

(i) **Inconclusive Result.** A test result caused by a prescribed medication or other unknown substance which causes interference in the analysis of the specimen

(j) **Metabolite.** The end structural presence produced during the metabolic process of ingesting a drug or other substance

(k) **Negative Screen Result.** A urine specimen that has a concentration of prescribed or illegal drugs and/or drug metabolites below the specified cut-off; negative screen results do not indicate the absence of drugs or drug metabolites, only that any drug or drug metabolites present are below the

specified cut-off concentration

(l) **Observer.** Any employee who has completed blood borne pathogen and PREA training who witnesses specimen collection, but is not responsible for administering the screen

(m) **Positive Screen Result.** A urine specimen that has a concentration of prescribed or illegal drugs and/or drug metabolites at a concentration equal to or above the specified cut-off

(n) **QNS (Quantity Not Sufficient).** Specimen that contains an insufficient amount of urine for screening or confirmation testing

(o) **Random Collection.** Specimen sampling which is carried out at the Probation/Parole Officer's discretion utilizing a process in which each offender in a group has the same probability of being selected

(p) **Routine Collection.** Scheduled specimen sampling with regular frequency as ordered by the court and carried out by the Probation/Parole Officer

(q) **Secured Environment/Storage Area.** A secured area or container with access limited to authorized personnel only

(r) **Substance Abuse Screening.** A tool used to identify the substance abusing offender in need of education and treatment and/or to document an offender's relapse into drug abusing behavior

.0403 COLLECTION, CONTROL AND CONFIRMATION OF URINE SPECIMENS

All authorized staff will follow universal precautions while collecting, observing or packaging urine specimens from offenders.

(a) Preparing for Collection. The Probation/Parole Officer will gather the following:

(1) One 4-ounce non-reusable container designed for the collection of urine specimens and a handheld testing device;

(2) An OPUS generated DCC-26 *Request for Substance Abuse* form;

(3) Latex gloves;

(b) Requesting the Specimen

(1) To reduce the possibility of an offender returning with a substance used to adulterate the specimen or concealing a container with a clean urine specimen that could be substituted, the Probation/Parole Officer will not allow the offender to leave the vicinity after a urine specimen has been requested.

(2) If the offender refuses to submit a specimen or is unable to provide a specimen, the Probation/Parole Officer will allow the offender no more than two hours to provide one.

a. Because the consumption of increased amounts of water lowers the concentration of drug in the specimen and possibly renders it undetectable, the offender will consume no more than eight ounces of liquid every hour and no more than sixteen ounces during the entire two-hour period.

b. If the offender does not provide a specimen during the two-hour period, he/she will be in violation of the conditions of his/her probation, parole, or post-release supervision (*Chapter D Noncompliance*).

(c) Collecting the Specimen. The Probation/Parole Officer will follow these procedures when collecting a urine specimen from an offender:

(1) Female offenders selected during their menstrual cycle will still be required to produce a urine specimen.

(2) Prior to collecting a urine specimen, the Probation/Parole Officer will give the offender a brief orientation, including but not limited to the following:

a. The reason and selection process for substance abuse screening;

b. The procedures that will be followed during specimen collection; *and*

c. The consequences for refusal or for producing an adulterated, diluted, or substitute specimen.

(3) A staff member of the same gender will escort the offender to the restroom. If a staff member of the same gender is not available, indicate on the DCC-26 *Request for Substance Abuse Screening* form, "No Observer Available". If possible, drug screening should be conducted in the office. To ensure officer safety, drug screens performed outside the office will be conducted in the presence of two Probation/Parole Officers.

(4) The Probation/Parole Officer or other staff member will:

a. Not allow the offender to take extra clothing, a pocketbook, or any other contraband into the restroom;

b. Ensure that the offender remains in his/her presence without access to a water fountain, faucet, soap dispenser, cleaning agent, or any other material which could be used to adulterate the specimen;

c. Ensure that the offender rolls up his/her sleeves, washes and dries his/her hands;

For all screens:

(a) Give the offender a new specimen collection container. Place a temperature strip or other temperature sensing device on the collection container if available;

(b) Observe the collection from a side or frontal view;

(c) Immediately following collection, inspect the specimen to determine its color and check for signs of contaminants; Note unusual findings on the OPUS generated DCC-26 Form; and in OPUS under the Officer Comment Section

(see OPUS Manual for instructions)

(d) Use marked measurements on the collection cup to determine if a minimum of 30 milliliters (ml) of urine has been produced; if the volume is less than 30 milliliters, follow manufacturer's instructions regarding testing.

(e) Within four minutes following collection, use the Temperature Strip or other temperature sensing device if available, to determine if it falls within the range of 32 to 38 degrees Celsius or 90 to 100 degrees Fahrenheit; If the temperature falls outside this range, indicating the possibility of an altered or substituted specimen, discard and collect a second specimen;

(f) Keep the collection container in view at all times prior to screening or sealing and labeling;

(g) The screen shall be performed while the offender is present; Refer to manufacturer's instructions for current screening device screening instructions;

(h) If the screening device produces a negative result:

(1) Dispose of the specimen in the toilet;

(2) Dispose of the screening device in a trash can that has been double-bagged;

(3) Fill out the OPUS generated DCC-26 Request for Field Substance Abuse Screening form; File the original in the offender's case file; and enter results and comments into OPUS via the web based application.

(i) If the screening device produces a positive result and the offender admits guilt:

(1) Instruct the offender to list any illegal drugs used in the three weeks prior to giving a specimen; and

(2) Verify the statement by signature and date on the DCC-26;

(3) Dispose of the specimen in the toilet;

(4) Dispose of the screening device in a trash can that has been double-bagged;

(5) Fill out the OPUS generated DCC-26 Request for Field Substance Abuse Screening form; file the original in the offender's case file; and enter results, offender reaction and administrative action taken into OPUS via the web based application; confirmation screening is not necessary

(j) If the screening device produces a positive result and the offender denies guilt:

(1) Fill out the OPUS generated DCC-26 Request for Field Substance Abuse Screening form; file the original in the offender's case file; enter results, offender reaction and administrative action of "Third Party Confirmation" into OPUS via the web based application and request the confirmation.

(2) The collecting officer will prepare the sample to be sent to the substance abuse screening lab for confirmation:

a. In an area designated as biohazard (bathroom or sample collections area where it is clean), take the sample and inspect to ensure 30 milliliters are in the cup, if not, the sample will be QNS (quantity not sufficient);

b. Secure the specimen container lid securely;

c. Have the offender initial and date the security label on the vendor's chain of custody form. Peel off and place over top of the specimen collection container as indicated on the label;

d. Fill out the vendor's chain of custody form based on the information from the DCC-26 ensuring the offender and collecting officer sign and date where indicated. Separate the carbon copy of the vendor's chain of custody form and place in the offender's file;

e. Place the original copy of the vendor's chain of custody form into the vendor's sample bag, side without the absorbent pad (bar code exposed). Place the specimen collection container into the sample bag, side with the absorbent pad and seal the sample bag;

f. Place the prepared sample in the designated secured environment/storage area until packaged for delivery.

g. At least once per week, the designated person will collect all samples for confirmation and place them in the large sample bag and seal;

h. Place the large sample bag into the FedEx clinical bag and seal;

i. Take the preprinted label addressed to the vendor and place onto the bag where indicated and contact FedEx for pick up.

j. Upon receiving the results of the confirmation screening from the substance abuse screening lab, the officer will enter the confirmation results into OPUS via the web based application.

.0404 COMPLETING THE DCC-26 REQUEST FOR SUBSTANCE ABUSE SCREENING FORM

The Probation/Parole Officer will follow these instructions when completing the DCC-26 *Request for Substance Abuse Screening* form:

Request Drug Screen in OPUS and generate the DCC-26 form. See OPUS Manual for instructions

Part I Identification Information

The following information will be obtained from OPUS and automatically printed in the header: the offender's name, facility code, OPUS number, supervising Probation/Parole Officer's name, and five digit staff ID.

Part II- A Drug Use Statement and Collection Statement

Instruct the offender to:

(a) List medication(s) taken within the past three weeks in the given space and sign the statement.

(b) Provide proof of prescription medication(s);

(c) Have the offender sign the collection statement. Have the collection observer sign the collection statement. Record the date and time of the collection.

Part II-B Admission

(a) If the offender admits to drug use within the past three weeks, list the drug used in the given space and have the offender sign and date the admission.

(b) The Probation/Parole Officer will treat as a positive result any urine specimen collected from an offender who admits to illegal drug use in the past three weeks.

Part II-C Refusal

In the event that the offender refuses to submit a specimen for screening, the collecting officer will document the refusal on the DCC-26. Have the offender sign and date the refusal. The collecting officer will also sign the refusal.

Part III Chain of Custody

The Probation/Parole Officer or other staff member will instruct the offender to verify by date and signature the release of the specimen. The Probation/Parole Officer or other staff member will:

(a) Verify by date and signature the receipt of the specimen;

(b) List the purpose of the exchange in the section designated “Purpose of Change” to indicate collection/testing, collection/refrigerator, or collection/freezer;

(c) Place the specimen in the designated secured environment/secured area if a confirmation test is required.

Part IV Field Drug Screens

(a) Record the lot number and expiration date of the handheld screening device on the DCC-26 and enter into the OPUS web application.

(b) Enter test result by placing a +/- sign in area of drugs tested and enter the results into the OPUS web application.

(c) If the results are negative or if the offender admits to a positive screening result, discard the sample and the collection container.

(d) Retain the original DCC-26 in the offender's file.

APPROVED.

Anne L. Precythe 08/01/2016

Director of Community Corrections Date

Chapter H Programs

Section .0500 Special Initiatives

.0501 GENERAL PROVISIONS

Community Corrections continually strives to enhance public safety by using a combination of progressive and innovative strategies in addition to traditional supervision. The following special initiatives support the proactive, collaborative approach toward providing effective control and treatment.

.0502 COMMUNITY POLICING PARTNERSHIPS

The Community Policing Partnership strategy called "Taking Back Our Streets!" involves probation officers working side-by-side with community police officers from local police and sheriff's departments in selected areas of the state. "Taking Back Our Streets!" is a formal agreement which focuses on these specific objectives: control, compliance, enforcement, and treatment.

Community Policing Partnerships are designed to foster interagency collaboration for monitoring offenders within their communities. This teaming concept involves Community Corrections and local law enforcement agencies in:

(a) Sharing pertinent information and data;

(b) Coordinating surveillance efforts;

(c) Conducting team meetings and special joint operations;

(d) Focusing on curfew enforcement; *and*

(e) Joint community involvement and treatment/prevention efforts.

Program Objectives. The identified specific objectives of Community Policing

Partnerships include the following:

(a) To establish and enhance the sharing of information between law enforcement, Community Corrections, and community citizens;

(b) To use community resources to aid in ensuring that offenders comply with the terms and conditions of their probation, parole, or post-release supervision;

(c) To cross-train personnel from local law enforcement agencies and Community Corrections to enhance their performance and understanding of community policing;

(d) To enhance the enforcement efforts of Community Corrections through special operations with law enforcement agencies; *and*

(e) To increase the visibility and participation of Community Corrections in the community by actively assisting in the development and implementation of community enrichment programs.

Target Populations. Populations targeted for monitoring by Community Policing Partnerships include high risk offenders, non-compliant offenders, sex offenders, domestic violence offenders, SRG offenders, post-release offenders and high-school-aged offenders.

A DCC-160 Special Initiative/Joint Law Enforcement Operations Report will be completed and submitted to the Division Office for approval before participating in a special initiative with law enforcement.

.0503 SCHOOL PARTNERSHIP PROGRAM

G.S. 115C-46.2 Probation Officer Visits at School prohibits probation officer visits to students during school hours on school property except when working as part of the Division's School Partnership Program. The School Partnership Program's purpose is to enhance the Probation/Parole Officer's supervision of students on supervised probation by working together with students, teachers, guidance counselors, assistant principals, and principals. The program strives to guide youthful offenders toward a

positive lifestyle by:

(a) Expanding student offenders' involvement in prevention programs;

(b) Keeping student offenders in school through the use of specialized conditions of probation; *and*

(c) Developing solutions to problems through communication, behavioral objectives, realistic goal setting, and court intervention.

Target Population. Students targeted for participation in the School Partnership Program offenders age 21 and under who are enrolled in a public school or in a local community college adult basic education or GED program.

Special Conditions. Special conditions of the School Partnership Program may require student offenders to:

(a) Remain in school until high school diploma or GED is obtained;

(b) Make a good-faith effort to maintain a passing grade point average, or show improvement;

(c) Attend and be on time for school each day, with no absences except for valid medical reasons;

(d) Follow all school rules and discipline policies;

(e) Abstain from the use, possession, or control of any drug, controlled substance, or alcoholic beverage unless it has been prescribed by a licensed physician and is in the original container with the prescription number affixed;

(f) Not knowingly associate with any known or previously convicted users, possessors, or sellers of any illegal drug or controlled substance;

(g) Not knowingly be present at any place where illegal drugs or controlled substances are being sold, kept, or used;

(h) Submit at reasonable times to warrantless searches by the offender's Probation/Parole Officer, in the offender's presence, for stolen goods, controlled substances, contraband, or other items on the offender's person, vehicle, or premises;

(i) Supply a breath, urine, and/or blood specimen for analysis of the possible presence of a prohibited drug or alcohol when instructed by the offender's Probation/Parole Officer;

(j) Treat school administrators, faculty, and staff with respect and courtesy;

(k) Abstain from the use, possession, or control of any flammable device on school property;

(l) Abstain from any involvement in gang activities, possession of any visible signs of gang activity, or the creation, demonstration, or display of gang symbols or gestures; *and*

(m) Abide by and adhere to curfews established at the discretion of the Probation/Parole Officer.

Managers are to work with local school officials to sign a local MOU that incorporates the School Partnership Program participation with school visits. (DCC -156 – MOU Template)

APPROVED.

Anne L. Precythe 08/01/2016

Director of Community Corrections Date