

Chapter E Noncompliance

Section .0200 THE NONCOMPLIANCE GRID AND RESPONSES TO NONCOMPLIANCE

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.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 [§E.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					MINIMUM RESPONSE HIERARCHY
		L1*	L2	L3	L4	L5	
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	C	C	B Delegated Authority Quick Dip*
	S3 (reoccur/multiple)	A/B/C	B/C	B/C	D	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 treatment CPPO reprimand Modify pay 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.

Note: 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).

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.

Note: 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 within 10 days of a positive substance abuse screening test. Officers should perform more frequent random screens on offenders who have previously tested positive on multiple occasions.

Note: The following responses do not include baseline assessment information.

- (d) **Positive Substance Abuse Screening Guidelines.** Following confirmation of the first positive screen result, the Probation/Parole Officer will confront the offender with the positive screen result within 10 days:

(1) **First Positive Drug Screen Result - Offender Admits Illegal Drug Use**

- a. If the offender agrees to seek treatment, make a referral to TASC on a DCC-27 DCC TASC Referral and Report Form for assessment and referral to treatment or to any licensed treatment program where TASC is unavailable. Provide a copy of the short summary report from the RNA if or when available. Follow up with TASC for results and needed treatment. If treatment is not ordered, use delegated authority (if applicable) to add the condition of treatment. In Post Release/Parole cases use the non compliance report to request the condition be added.
- b. If the offender refuses to submit to assessment and/or treatment, the officer will staff the case with the Chief Probation/Parole Officer and will use delegated authority to have the offender submit to assessment and treatment. If delegated authority is not available issue a DCC-10 Violation Report or PC-10 Non-Compliance Report and recommend a modification to the conditions of supervision requiring substance abuse assessment and compliance with the results.

(2) First Positive Drug Screen Result - Offender Denies Illegal Drug Use

- a. If the offender refuses to submit to a treatment assessment, using the DCC-26B obtain a confirmation test of the positive drug screen from the substance abuse screening lab. Upon receipt of the positive confirmation test proceed with a DCC-10 Violation Report to the court of conviction or PC 10 to the Post-Release Supervision and Parole Commission.
- b. During the violation hearing, recommend a modification to the conditions of supervision requiring 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, including but not limited to therapeutic sanctions.

(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 the notification codes for EM, EHA, SBM and Lifetime offenders as outlined in the response chart on the following page:

ELETRONIC MONITORING NONCOMPLIANCE RESPONSE CHART

EM and Curfew (RF) (Probation, Parole, SxO)	EHA and SBM (Probation, Parole, SxO)	Lifetime (Unsupervised)
IMMEDIATE NOTIFICATION AND RESPONSE	IMMEDIATE NOTIFICATION AND RESPONSE	ALL Violations NEXT DAY RESPONSE
Exclusion Zone Violations	Exclusion Zone Violations	Special Operations staff may call upon field staff for assistance in clearing violations during normal business hours.
0800-1700 Contact PPO/CPPO all exclusion zones 1700-0800 Contact On Call for exclusion zones Determine time in zone and proceed to last known location. Contact LEO if necessary	0800-1700 Contact PPO/CPPO all exclusion zones 1700-0800 Contact On Call for exclusion zones Determine time in zone and proceed to last known location. Contact LEO if necessary	
Tampers/Removals	Tampers/Removals	
PPO to determine if intentional or equipment issue Automatic Arrest if true tamper.	PPO to determine if intentional or equipment issue Automatic Arrest if true tamper.	
No Motion	No Motion	
PPO is to contact offender by phone if available. If contact is made with the offender contact the Monitoring Center to verify alert has cleared. If no contact is made contact the Monitoring Center to see if alert has cleared if not resolved proceed to residence.	PPO is to contact offender by phone if available. If contact is made with the offender contact the Monitoring Center to verify alert has cleared. If no contact is made contact the Monitoring Center to see if alert has cleared if not resolved proceed to residence.	
ALL OTHER VIOLATIONS NEXT DAY RESPONSE EMAIL NOTIFICATION	Leaves - Did not return/Absent	
EM	Investigate offender's whereabouts to include proceeding to residence upon return	
Leaves/Did Not Return	Low battery	
Low battery	Call offender to try to resolve if unable proceed to residence	
Miss call	ALL OTHER VIOLATIONS NEXT DAY RESPONSE EMAIL NOTIFICATION	
RF	Miss call	
Leaves/Did not return		
Miss call		
Transmitter low battery		
Receiver power loss and Low battery		

(f) **Interference or tampering with an electronic device.** 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 receives an equipment alert notification the officer will:

- (1) Investigate the alert notification to determine whether any potential tampering or interference was intentional or accidental;
- (2) If the alert was caused by an unintentional act, the officer will either make or arrange for any necessary technical repairs by emailing the Dispatch Center for a service call;
- (3) If the alert was caused by an intentional act, the officer will complete the following steps:
 - a. Consider whether a new charge is appropriate
 - b. If, in the case of an offender subject to electronic house arrest or electronic monitoring as a condition of probation, the officer determines that the offender knowingly removed, destroyed, or circumvented the operation of the device or solicited any other person to do so, the officer will consult with local law enforcement or the district attorney about bringing a criminal charge under [G.S. 14-226.3](#);
 - c. If, in the case of an offender subject to satellite-based monitoring as a sex offender, the officer determines that the offender intentionally tampered with, removed, vandalized, or otherwise interfered with the proper functioning of the device, the officer will consult with local law enforcement or the district attorney about bringing a criminal charge under [G.S. 14-208.44](#);
 - d. If a criminal charge is brought, the officer will give the district attorney information about the cost of any damage the offender did to the monitoring equipment and recommend that the offender be required to make restitution in that amount.
 - e. If the tampering or interference amounts to a willful violation of the offender's probation (either as a new criminal offense, or as a technical violation of the offender's house arrest, curfew, or sex offender conditions), the officer will respond to the noncompliance according to the noncompliance 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;
- (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;

Note: 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 certified copy;

Note: 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 [§ E.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) Document any conditions of release set by the magistrate in OPUS;
 - (9) Disable the accountability report PIN for level four and level five offenders;
 - (10) If level four and level five offenders are released on bond, they will be informed to report within 72 hours of release. Conduct a face to face contact every 30 days until the violation hearing is held.
 - (11) 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. GS 15A-1343.2(e)(5) and (f)(6)
- (1) **Imposing quick-dip confinement through delegated authority**

Before confinement may be imposed through delegated authority the offender must be in supervision level 1, 2 or 3, based on the risk and needs assessment and has failed to comply with 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

Note: 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.

Note: 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

Note: OPUS will automatically track the confinement periods upon update to the system

(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;

Note: 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;
 - e. Note: 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 officer 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;

Note: Community Supervision 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.

Note: 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 [§D.0608, Modifications](#) or to have probation extended under the procedures set out in [§D.0609, 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.

Note: 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 may be enforced using electronic monitoring, as described in Chapter H, Technology.
 - 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. (L1 and L2) See [§ H.0403\(c\), 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.

Note: 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 (i.e., one month). 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 (i.e., three months). This time cannot be extended, but may be reduced, if appropriate. The Chief Probation/Parole Officer may approve any away times on all supervision levels 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\(c\), Satellite Based Monitoring](#). The CPPO will contact the Special Operations Office for consultation prior to proceeding with the SBM recommendation via delegated authority.

If the officer imposes any of these conditions, he or she may also reduce or remove them. When exercising delegated authority, the officer must give to the offender a written copy of the conditions and a notice of the right to seek court review of the conditions imposed by the officer.

- (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;

Note: 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**

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 AND G.S. 90-96 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 court as in any other case, and to the district attorney in the district in which the agreement was entered. [G.S. 15A-1342\(a1\)](#).
Note: [Advisory Letter from Attorney General's Office](#) – November 1, 2010

- (b) **G.S. 90-96 cases.** Violations by offenders on probation under [G.S. 90-96](#) will be reported to the court as in any other case. The hearing for violations can be held in the county of supervision; however sentencing must occur in the county of origin where the 90-96 agreement was accepted.

.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:

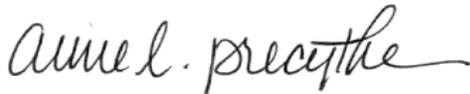
- (a) Report the offender's noncompliance to the district attorney; be prepared to provide information about the crime for which the offender is already serving an active sentence;
- (b) If the district attorney elects to have the offender returned for a violation hearing, prepare a violation report 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 DOC facility, follow the procedure set out in [DOP 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 the law enforcement agency investigating a crime of murder, rape, kidnapping, offenses against a minor under 18 years of age, or any other crime resulting in serious injury to a victim, 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.

APPROVED.



Director of Community Supervision

12/01/2013

Date