

<b>SUBJECT:</b> <b>Sanctions for Violations of          Conditions of Supervision</b>	PAGE <u>  1  </u> OF <u>  10  </u>
	NUMBER: <b>100-APA-14</b>
<b>RULE/CODE REFERENCE:</b> AR5120: 1-1-17, 1-1-18, 1-1-41, 1-1-43; ORC 2929 and 2967.26	<b>SUPERCEDES:</b> 100-APA-14 dated 09/01/15
<b>RELATED ACA STANDARDS:</b> 2-1003, 2-1092-1, 2-1106 to 2-1111, 2-1114 to 2-1120, 2-1122, 2-1123; 4-APPFS-2B-02 to 2B-12, 2E-01	<b>EFFECTIVE DATE:</b> December 26, 2016
	<b>APPROVED:</b> 

**I. AUTHORITY**

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

**II. PURPOSE**

The purpose of this policy is to promote fair, consistent, and objective decision making when addressing violation behavior.

**III. APPLICABILITY**

This policy applies to all employees of the Adult Parole Authority (APA) and the Bureau of Community Sanctions (BCS) and all offenders under parole, post-release control, transitional control, and interstate compact supervision.

**IV. DEFINITIONS**

**Bodily Injury** - Physical harm of a type that normally requires professional medical attention (e.g., a laceration requiring stitches). Minor physical harm (e.g., minor bruises, a sprained wrist, a black eye, or a minor cut) is not included in this definition.

**Business Day** - The days of the week, excluding Saturday, Sunday and any legal holiday.

**Community Corrections Information System CCIS** - A computerized information system used to track the criminal history and progress of offenders under the supervision of the APA. Access to CCIS is restricted to essential users only.

**Conditions of Supervision** - Those general and special rules and regulations with which offenders are expected to comply as part of the criminal sentencing sanction of basic supervision or intensive supervision, as requirements of community control or parole supervision under former law, or as requirements of other forms of community supervision.

**Day Reporting** - A sanction requiring an offender to report daily to a center or other approved reporting location at a specified time in order to participate in work, education/training, treatment or other approved programs. These programs may or may not be located at the center. The offender must also leave the approved area at a specific time. Or a non-residential service and/or designed for offenders under APA supervision who are experiencing supervision difficulties due to lack of employment, education and life skill management.

**Departmental Offender Tracking System (DOTS)** - The web-based information platform which serves as the primary information system for information on all offenders under Ohio Department of Rehabilitation and Correction supervision. The system contains information regarding the offender from reception to final release under supervision. This system is updated throughout each day. Access to DOTS Portal is restricted to essential users only.

**Field Officer Tablet (FOT)** - Computerized data maintained by the parole officer assigned to the case that contains the chronological details involving contact with the offender, social services agencies, law enforcement, etc. The tablets also contain all demographic information pertaining to the offender and documentation of staffing decisions.

**Halfway House (HWH)** - A facility licensed by the DRC pursuant to section 2967.14 of the Ohio Revised Code, as a suitable facility for the care and treatment of adult offenders.

**Hold Order** - The order or act of a parole officer, unit supervisor, or other APA official that causes an offender under the jurisdiction of the APA to be detained or held in custody for alleged violations. The order or act may be placed into effect by use of an APA Hold Order, an APA Arrest Order, a teletype, fax, or a verbal order.

**High Severity Violations** - All felony and violent misdemeanor behavior, including operating a motor vehicle while under the influence, being twice declared whereabouts unknown, being a violator at large, violating a protection order, having intentional contact with a victim, failing to appear for an out-of-custody hearing, violating a sanction previously imposed by a hearing officer, being unsuccessfully terminated from a halfway house, being unsuccessfully terminated from any program, and violating a sanction previously imposed at the unit level for any of the aforementioned violations.

**In-Custody** - An offender under the supervision of the APA who is being held in a jail, prison, or similar detention facility.

**Low Severity Violation** - Any violation of a condition of supervision that is not a high severity violation.

**NOTE** - A section in the Community Corrections Information System (CCIS) to record information regarding offender's activity while under supervision.

**Parole** - The release from confinement in any state penal or reformatory institution by the APA that is created by section 5149.02 of the Ohio Revised Code and under any terms and for any period of time that is prescribed by the APA in its published rules and official minutes. A parolee so released shall be supervised by the APA. Legal custody of a parolee shall remain in the DRC until a final release is granted by the APA, pursuant to section 2967.16 of the Ohio Revised Code. The above applies to all persons who have committed felonies prior to July 01, 1996.

**Post Release Control (PRC)** - A period of supervision for an offender by the APA following release from imprisonment that includes one or more post release control sanctions imposed by the Ohio Parole Board pursuant to section 2967.28 of the Revised Code.

**Prison Sanction Time** - The total number of days that an offender under post release control may be returned to prison as a sanction for violation behavior.

**Sanction** - Any penalty imposed on an offender who is found guilty of an offense or violation of conditions of supervision. Sanction includes any sanction imposed pursuant to any provision of sections 2929.14 to 2929.18 of the Revised Code.

**Violator at Large (VAL)** - An offender, as defined by the ORC 2967.15, who absconds the supervision of the Adult Parole Authority.

**Vinelink.com** - The notification system to be utilized by the APA when offenders are confined in local or state facilities.

## V. **POLICY**

It is the policy of the Ohio Department of Rehabilitation and Correction (DRC) to respond to any violation behavior committed by offenders during the period of supervision.

## VI. **PROCEDURES**

### A. **Addressing Violation Behavior**

1. Whenever an offender under the supervision of the APA violates one (1) or more Conditions of Supervision, the APA shall take appropriate steps to respond to the behavior. Those steps range from verbally warning the offender to refrain from future violation behavior to the imposition of a prison term Sanction in the case of an offender on post release control (PRC) or revocation of release in the case of an offender on Parole.
2. When the supervising authority has reason to believe an offender has violated a Condition of Supervision (DRC3019) or has violated a previously imposed violation Sanction, the parole officer shall immediately:
  - a. Investigate information concerning the suspected violation behavior. Every witness interviewed shall complete a Witness Form (DRC3057);
  - b. Document all investigative efforts in the Field Officer Tablet (FOT);
  - c. Determine if the violation is High Severity or Low Severity in nature;
  - d. Staff the violation behavior with the unit supervisor/designee if the violation behavior is such that the potential Sanction could include an increase in supervision level, a summons before a unit supervisor, a Halfway House placement, Electronic Monitoring, Community Service, a Parole Board summons, or an In-Custody or Out-of-Custody violation hearing.

3. The supervising officer or unit supervisor/designee shall determine the appropriate response to violation behavior. In making this determination, a supervising officer or unit supervisor/designee shall utilize the Violation Hearing Grid (DRC3458) as a guide and also shall consider:
  - a. The type of release for which the offender is under APA supervision;
  - b. Case specific information including, but not limited to, overall supervision adjustment, any prior Sanctions, instances of being VAL, programming outcomes, supervision level, risk level, custody status/availability and, if the offender is a PRC case, available (verified) prison sanction time;
  - c. The opinion and impact (physical, emotional and monetary) on the victim;
  - d. The risk of the offender harming himself;
  - e. The risk to others or the community;
  - f. Local considerations including but not limited to, jail space, targeted high crime areas, and special projects;
  - g. The nature, circumstances surrounding the violation behavior, available evidence, and seriousness of present allegations.
4. If the offender cannot be located, the parole officer shall complete a whereabouts unknown report and follow the procedures set forth in DRC policy 102-FUG-02, Violator at Large.
5. If a Parole offender has violation behavior that rises to the level of a unit Sanction or above or violation of an Ohio Parole Board imposed special condition, the violation behavior must be staffed with a designated Parole Board member.

#### **B. Mandatory Arrest/Hearing**

1. If criminal proceedings have not been initiated against the offender, the offender shall be arrested, a Hold Order issued as provided in section VI.G of this policy, and a violation hearing scheduled if one (1) or more of the following conditions is satisfied:
  - a. Possession, use or control of a firearm or brandishing of a weapon;
  - b. Causing, threatening or attempting to cause, or conspiring to cause a sex offense, bodily injury or psychological trauma to a person;
  - c. An offender declared a VAL or Parole Violator In-Custody who has been arrested, detained, or otherwise located outside the State of Ohio and who has been extradited back to Ohio.

#### **C. Applying and Overriding the Violation Hearing Grid**

1. Except as provided in section VI.B and VI.H.7 of this policy, the unit supervisor has discretion to override the Violation Hearing Grid and to schedule an out-of-custody hearing. The regional administrator/designee has discretion to override the Violation Hearing Grid and to schedule an in-custody hearing. The unit supervisor/designee shall document all overrides of the Violation Hearing Grid in NOTEC.

2. The unit supervisor shall override the Violation Hearing Grid and schedule an In-Custody or Out-of-Custody hearing regardless of availability for violation behavior committed by offenders being supervised following successful completion of an intensive program prison sentence. If the violation behavior is of the type described in section VI.B.1 of this policy, an In-Custody hearing shall be scheduled.

#### **D. Interstate Compact**

1. Incoming Interstate Compact offenders who are supervised by the APA: Regardless of an offender's availability under section VI.H of this policy, a violation hearing shall be held on an offender being supervised by the APA under the Interstate Compact on Adult Offender Supervision if a probable cause hearing is requested by the sending state. If a probable cause hearing is not requested, the violation behavior shall be addressed in accordance with this policy as if the offender were being supervised under PRC supervision or being supervised as an offender paroled by the State of Ohio.
2. Ohio offenders supervised through compact being returned for violations: If an Ohio offender who is supervised through Interstate Compact violates and retaking is required per the rules of Interstate Compact, prior to retaking, the compact analyst shall staff the case with the deputy compact administrator/designee if a violation hearing is being pursued. If the violation behavior is determined not to warrant a violation hearing, the offender shall be continued on supervision with appropriate Sanction and assigned to an Ohio APA unit for supervision.

#### **E. Transitional Control**

1. If an offender under Transitional Control for an offense committed on or after July 1, 1996 violates any condition of Transitional Control, it shall be the responsibility of the Halfway House (HWH) or the Bureau of Community Sanctions (BSC) to respond to that behavior pursuant to DRC policy 108-ABC-01, Transitional Control Supervision.
2. Notwithstanding section VI.E.1 of this policy, the APA shall arrest Transitional Control offenders, transport them, issue Hold Orders, and replace those Hold Orders with the Acknowledgment of Requirement to Retain Inmate in Custody until Expiration of Sentence or Return to Prison (DRC2560).

#### **F. Responsibilities Relative to Victims**

1. The unit supervisors/designee shall contact the Office of Victim Services (OVS) whenever the violation behavior involves corroborated violence or a corroborated threat of violence. The APA may contact OVS on any other case, as the APA deems necessary. OVS may be contacted by email at [drc.victim.services@odrc.state.oh.us](mailto:drc.victim.services@odrc.state.oh.us) or by telephone at 614-728-1551 or toll free at 1-888-842-8464.
2. Immediately upon an offender's incarceration, the supervising officer shall register with VINELink.com to ensure notification of the offender's subsequent release from custody. The supervising officer shall register the officer's email address, the senior officer's email address, and the email address of the officer's supervisor.

3. If an offender has violation behavior for an offense of violence that is a 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> degree felony (as defined in ORC 2901.01 A9) where prison time is imposed, a copy of the arrest report shall be labeled with the offender's name and inmate number and sent to the [DRC.CoVictimNotices@odrc.state.oh.us](mailto:DRC.CoVictimNotices@odrc.state.oh.us) email account.

#### **G. Active and Inactive Hold Orders**

1. An Order of Hold (DRC3064) may be either inactive or active. A Hold Order is considered active if it is the sole reason for an offender's detention. All other Hold Orders shall be considered inactive. An offender held on an inactive Hold Order shall be considered unavailable and time limitations for sanctioning the offender's violation behavior shall be tolled for the duration of time that the Hold Order is inactive. An inactive Hold Order becomes an active Hold Order on the date that the Hold Order becomes the sole reason for an offender's detention. Once an inactive Hold Order has become active, time limitations for sanctioning the offender's violation behavior commence.
2. The unit supervisor/designee may issue an inactive Hold Order if the supervising unit intends to address the offender's violation behavior through an In-Custody or Out-of-Custody violation hearing. In all other instances, the unit supervisor/designee may issue only active Hold Orders for up to five (5) business days on offenders who are available. That active Hold Order may be extended for up to ten (10) business days upon the written approval of the regional administrator/designee. In issuing active Hold Orders, consideration shall be given to local jail space.
3. No Hold Order of any kind shall be lodged against an offender who is being supervised under PRC if the offender has exhausted all available prison sanction time.

#### **H. Availability of Offenders**

1. An offender shall be considered available and time limitations for imposing Sanctions shall be in effect in the following circumstances:
  - a. The offender is under APA supervision and is being held in custody with an active APA Hold Order;
  - b. The offender is being held in a DRC institution;
  - c. The offender is under Transitional Control;
  - d. The offender has posted bond;
  - e. The offender has pending charges and has been released to Electronic Monitoring status;
  - f. The offender had a previously pending criminal charge or charges; was sentenced to a period of incarceration in the local jail, community-based correctional facility, or other locked facility on that charge or those charges; and has fully served that period of local incarceration.
2. When an offender is available and an active Hold Order is in place, any days held in custody in Ohio on that active Hold Order up to and including the date of the originally

scheduled violation sanction hearing, shall be credited as prison sanction time in JLS screen by the unit supervisor/designee.

3. Prison sanction time shall be credited in JLS for any days an offender is in custody as a result of being arrested on a violator at large warrant unless the offender is arrested with new charges.
4. If an offender is being held on an un-posted bond for new criminal charges, the offender is considered unavailable except as noted above and no Hold Order shall be lodged unless the parole services supervisor/designee intends to address the offender's violation behavior through an In-Custody or Out-of-Custody violation hearing, in which case an inactive Hold Order shall be lodged. If the offender is arrested on an APA Violator at Large warrant in conjunction with new criminal charges or the offender's status changes from available to unavailable prior to service, the unit shall have five (5) business days from being notified to issue an Order of Release (DRC3063), unless the parole services supervisor/designee intends to address the offender's violation behavior through an In-Custody or Out-of-Custody violation hearing, in which case the offender shall be held on an inactive Hold Order.
5. When an offender is held In-Custody without a Hold Order and violation proceedings are being considered, the supervising officer shall register with vinelink.com. The vinelink.com registration shall be documented in the FOT. Once the offender becomes available, the supervising officer shall staff with the unit supervisor/designee to determine appropriateness of proceeding with lodging a Hold Order and/or initiating the violation process. The supervising officer shall notify the prosecutor's office in the county where the new criminal charges are pending of the APA's position with regard to revocation proceedings utilizing the Prosecutor Courtesy Notify (DRC3539) unless there is documentation from the court that the notice is not required.
6. If an offender is found to be incompetent by court, the offender shall be considered unavailable and timeframes stop. The timeframes shall resume once the offender is deemed competent, medically stable or is released from the hospital due to a serious medical issue. The unit shall determine if a unit sanction or a violation process shall be pursued.
7. Offenders who are medically or mentally unstable shall be served with violation paperwork. The hearing may be continued once assessed by medical or mental health staff in consultation with the hearing officer.
8. Permission shall be obtained from the chief hearing officer when a unit is requesting to proceed with a violation hearing for an offender who is unavailable. E-mails approving an unavailable offender to move forward with a hearing shall be included in the violation packet.
9. If the unit supervisor/designee determines an offender will be scheduled for a violation hearing, the procedures in DRC policy 105-PBD-09, Violation Hearing Process, shall be followed.

**I. Utilization of a Unit Level Sanction**

1. A unit level violation Sanction shall be imposed no later than ten (10) business days after the supervising officer has knowledge of the violation behavior or if the offender is incarcerated in a local jail, ten (10) business days after the offender becomes available. A written violation sanction shall be documented by completing a Sanction Receipt (DRC3361). One (1) copy of the sanction receipt shall be provided to the offender. Another copy shall be retained in the unit file. All Sanctions, including but not limited to verbal reprimands, shall be documented in FOT.
2. Parole officers, unit supervisors, and Transitional Control facility staff shall make every effort to ensure that local Sanctions are identified and used appropriately. The following Sanctions may be imposed at the unit level:
  - a. Day Reporting;
  - b. Upgrades in supervision levels (must be staffed with supervisor/designee);
  - c. Mandatory employment;
  - d. Structured supervision activities;
  - e. Summons before a unit supervisor (must be staffed with supervisor/designee);
  - f. Substance abuse testing;
  - g. Residential curfew;
  - h. Formal written reprimand;
  - i. Modified reporting instructions;
  - j. Halfway House (must be staffed with supervisor/designee) or non-residential program placement;
  - k. Electronic Monitoring (must be staffed with supervisor/designee);
  - l. Community Service (must be staffed with supervisor/designee);
  - m. Summons to parole board hearing officer (must be staffed with supervisor/designee).
3. The supervising officer and/or the unit supervisor/designee shall note the date and their initials on the appropriate sanction grid box on the Violation Hearing Grid (DRC3458) as each violation behavior occurs. If there are multiple violations in one incident, the offender shall be sanctioned for that violation behavior as one (1) sanction incident.

**J. Sentencing Enhancement**

1. When an offender under PRC is convicted of a new felony offense that occurred while under supervision, the court, in addition to any sentence imposed as a result of the new felony conviction, may impose the greater of twelve (12) months or the remainder of the offender's period of PRC. This time shall be reduced by the amount of time the offender has been incarcerated by and available to the APA for the same violation.
2. When an offender under PRC is indicted for a new felony, which occurred while under supervision, the unit supervisor/designee shall notify the prosecutor's office in the county of the new charge utilizing the PRC Violator Notification (DRC3463). A copy of the PRC reporting order shall also be sent to the prosecutor's office within ten (10) business days of indictment.

3. The accuracy of the remaining PRC supervision time available shall be verified prior to the PRC Violator Notification (DRC3463) being completed and forwarded to the prosecutor's office.

## **K. Exceptions**

### 1. Waiver (Violation Report)

- a. If the violation report is not completed either due to the violation standard process or at the request of county officials, the parole officer shall complete the violation report within ten (10) business days of conviction unless a PSI is ordered on the new charge.
  - i. The regional administrator and/or designee shall meet with local prosecutors in each of the counties in their region to determine the local practice for the county.
  - ii. The specifics of the agreement worked out with the local prosecutor and court shall be included in the county agreement.
  - iii. Waivers shall be reviewed on a bi-annual basis to ensure the needs of the local prosecutor continue to be met in areas where there is no county agreement.
- b. Waiver PRC Violator Notification (DRC3463)

The requirement to forward the PRC Violator Notification (DRC3463) and a copy of the Post Release Control Reporting Order to the prosecutor's office and/or the court within ten (10) business days of indictment may be waived in those counties where the local prosecutor and court have agreed in writing that they do not require a notice be sent on all felonies.

- i. The regional administrator and/or designee shall meet with local prosecutors and court in each of the counties in their region to determine the local practice for the county and/or establish select felonies for which notification is required.
- ii. The specifics of the agreement worked out with the local prosecutor and court shall be included in the county agreement.
- iii. For those counties where there is no county agreement, the waiver shall be reviewed on a bi-annual basis with the local prosecutor and court to ensure local needs are being met.

**Related Department Forms:**

Acknowledgement of Requirement to Retain Inmate in Custody until Expiration of Sentence or Return to Prison	DRC2560
Conditions of Supervision	DRC3019
Witness Form	DRC3057
Order of Release	DRC3063
Order of Hold	DRC3064
Sanction Receipt/Parole Officer	DRC3361
Violation Hearing Grid	DRC3458
PRC Violator Notification	DRC3463
Prosecutor Courtesy Notify	DRC3539
Offender Notify	DRC3540