

NH DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE DIRECTIVE	CHAPTER <u>Enforcement Operations</u> STATEMENT NUMBER <u>5.51</u>
SUBJECT: ADULT PROBATION/PAROLE VIOLATIONS PROPONENT: <u>Michael McAlister, Director</u> <i>Name/Title</i> <u>Field Services</u> <u>271-5652</u> <i>Office</i> <i>Phone #</i>	EFFECTIVE DATE <u>06/01/09</u> REVIEW DATE <u>06/01/10</u> SUPERSEDES PPD# <u>5.51;5.54;</u> <u>5.53; 5.74&</u> <u>5.19</u> DATED <u>08/01/07;</u> <u>05/01/01;</u> <u>09/15/02;</u> <u>09/01/01 &</u> <u>10/01/02</u>
ISSUING OFFICER: <hr/> <i>William Wrenn, Commissioner</i>	DIRECTOR'S INITIALS _____ DATE _____ APPENDIX ATTACHED: YES _____ NO _____
REFERENCE NO: See reference section on last page of PPD.	

- I. **PURPOSE:**
 To establish a policy and procedure for the utilization of alternative community sanctions for probationers/parolees and for filing probation/parole violations
- II. **APPLICABILITY:**
 To all Probation/Parole staff within the Division of Field Services
- III. **POLICY:**
- A. It is the policy of the Division of Field Services to provide supervision that incorporates the use of case management and offender accountability. A graduated sanction schedule that corresponds to the offender's level of risk will be used at appropriate intervals to address technical violations. Multiple or severe violations will be reported to the Court or Parole Board. Community-based interventions should be the response to technical violations of supervision conditions except where a community-based intervention is not permitted by Court/Parole Board or the behavior:
1. Is part of an established pattern that is reflected in the history of the offender and is associated with a significant and imminent threat to public safety.
 2. Represents repeated noncompliance with supervision conditions and community-based intervention.
- B. Intervening early and effectively in response to noncompliant behavior enhances the likelihood of success during the period of supervision and beyond. Not responding to violations leads to further noncompliance. Covert detection activities alone do not achieve the level of success we seek and is not considered to be effective supervision.

- C. Officers are to respond to noncompliant behavior with an approach that includes a combination of risk control and risk reduction strategies designed to provide a proportionate consequence for noncompliant behavior.
- D. Risk control strategies are directed at deterring future noncompliant behavior by holding offenders accountable through reprimands, warnings or the imposition of more intrusive/restrictive requirements to serve as negative consequences for their behavior.
- E. Risk reduction strategies are directed at promoting future compliance by assisting the offender through the provision of information, education, training, counseling or treatment designed to bring about positive changes in the circumstances that lead to the noncompliant behavior.
- F. Positive interventions distinguish proper supervision from mere monitoring and reporting of offender activities. Some violations of parole must be reported pursuant to RSA 651-A:16 (attachment 1).
- G. Noncompliant behavior consists of new criminal activity or failure to meet the requirements of other conditions (commonly known as technical violations). Noncompliant behavior can take many forms and may include public safety concerns. Probation/Parole Officers (PPOs) shall be particularly attentive to the thoroughness and objectivity of their assessment, the judicious exercise of their authority and their professional demeanor when addressing noncompliant behavior with offenders. All responses must be proportionate and contemporaneous to the violation to bring the individual offender into compliance, maintain community safety and promote his or her successful reintegration into the community.
- H. Violations of probation/parole conditions must be reported to the proper authority by the PPO or when required by law or court order. The PPO shall consider all possible alternative sanctions prior to returning the offender to Court or the Parole Board. The PPO shall only enforce financial obligations ordered by the Court, Parole Board or State Law.

IV. PROCEDURES:

A. PAROLE VIOLATIONS

1. Filing Procedures:

- a. Filing procedures for parole violations are governed by RSA 651-A:16.
- b. All parole violations must be documented in CORIS notes and in the violation screen and reported in accordance with RSA 651-A:16.
- c. The PPO shall make a recommendation for disposition in accordance with the continuum of sanctions within this policy and in accordance with RSA 651-A:18 (attachment 2).

B. RESPONSE TO VIOLATIONS

- 1. PPOs are expected to fashion their response to noncompliant behavior in the following way:
 - a. Select an appropriate risk controlling strategy to hold the offender accountable for his or her actions.
 - b. Select an appropriate risk reduction strategy to assist the offender in an effort to bring about positive changes in the circumstances that lead to the noncompliant behavior
 - c. Assess the need for any additional monitoring strategies to maintain the proper level of awareness of the offender's condition and level of compliance.
 - d. When appropriate, report to or request action by the Court or Parole Board in a timely manner.
 - e. Document the non-compliant behavior and the response in the chronological record in CORIS.

C. ALTERNATIVE SANCTIONS CONTINUM

The following list of sanctions, while not all-inclusive, should be utilized when appropriate. Sanctions consist of actions available to the PPO. However, sanctions do not always occur in a linear fashion and each violation should be considered on a case by case basis consistent with the offender’s risk and needs in coordination with Court or Parole Board orders.

	Event I	Event II	Event III
Intensive/Maximum D/A testing Non D/A only Sanction	Verbal Warning Written Warning Increased Contact Community Service Electronic Monitoring Review Hearing # Pos. Sanction/Action 1 st Written Warning Increased Self Help	ONE OR MORE SANCTIONS Written Warning Increased Supervision Level Request for Added Conditions Request for Curfew Community Service Electronic Monitoring Review Hearing Program Referral # Pos. Sanction/Action 2 nd Increased UT’s 3 rd Review hearing Treatment Referral 4 th Review Hearing Treatment Referral Increased UT’s Electronic Monitoring	ONE OR MORE SANCTIONS Court/Parole Board Hearing Electronic Monitoring Program Referral Increased Supervision, if applicable # Pos. Sanction/Action 5 th Court/Parole Board Hearing Treatment Referral Electronic Monitoring
Medium D/A testing Non D/A only Sanction	Verbal Warning Written Warning Increased Contact # Pos. Sanction/Action 1 st PPO reprimand Increased UT’s Increased Self Help	Written Warning and Increased Supervision Level Request for Added Conditions Request for Curfew Community Service # Pos. Sanction/Action 2 nd Increased Supervision Level 3 rd Treatment Referral	ONE OR MORE SANCTIONS Review Hearing Program Referral # Pos. Sanction/Action 4 th Increased Supervision Level PLUS ONE OR MORE SANCTIONS BELOW Treatment Referral Increased Self Help
Minimum D/A testing Non D/A only Sanction	Verbal Warning # Pos. Sanction/Action 1 st PPO Reprimand Increased Self Help	Written Warning Community Service # Pos. 2 nd Increase UT’s Counseling Referral	Increased supervision Level # Pos. 3 rd Increased Supervision Level

D. WARRANT PROCEDURES

1. When a PPO makes the decision to obtain a parole warrant, the officer shall discuss and review the proposed violation, prior sanctions utilized and recommendations for disposition with his/her supervisor. The Chief Probation/Parole Officer (CPPO) is responsible to review and approve all requests for warrants.
 - a. If the CPPO concurs with the need for a warrant, an Affidavit and Warrant (attachment 3) will be completed and signed by the PPO in the presence of a

Justice of the Peace prior to obtaining a Parole Board member's signature. The warrant must contain adequate detail of the rule violations, including the time, date and place of the alleged violations of conditions. The CPPO shall review the warrant and sign the Violation Summary.

2. A complete Violation Summary shall include the following information:
 - a. The original offense
 - b. Sentence and termination date
 - c. Conduct while on parole
 - d. A detailed account of the reasons for the violation, dates of the violation and rules violated.
 - e. A checklist of alternative sanctions utilized will be attached to the report (attachment 4).
3. The warrant and supporting summary shall be presented to a member of the Parole Board. Once a Parole Board member has signed the Affidavit and Warrant, an original Affidavit and Warrant and the Violation Summary will be submitted to the Parole Board
4. Faxed or e mailed warrants: When circumstances require expediency, the following procedure is to be utilized:
 - a. After completing steps 1 – 3, the PPO shall contact an available Parole Board member by telephone to explain the situation and set up the fax transfer/e mail .
 - b. The PPO will fax/e mail a confidential cover sheet, the warrant and supporting summary to the Parole Board member.
 - c. The PPO will arrange for the original warrant and supporting material to be forwarded to the Parole Board member for signature.
 - d. The original warrant shall contain the same signature dates as that of the faxed/e mailed warrant.
 - e. Only original parole warrants cannot be entered into NCIC.
 - f. Upon return of the original signed warrants, originals shall be distributed as follows:
 - 1) Central Office if NCIC entry is requested
 - 2) Parole Board with remaining copies to be kept in the file
 - 3) In cases where the officer will be seeking an NCIC entry, the officer shall note this on the Violations Screen in CORIS
5. In cases where the parolee is incarcerated, a copy of the Affidavit and Warrant will be filed at the place of incarceration. If the parolee is still at large, a copy of the Warrant will be forwarded to the arresting authority once the parolee is apprehended, if requested.
6. The PPO may address other non-compliance issues by requesting letters of warning, review hearings and documentation of prior intervention, etc.
7. The PPO shall send active parole warrants to other agencies only in exigent circumstances. This action must be noted in the CORIS notes and the PPO must retrieve the warrant upon apprehension.
8. Arrest of Parole Violators:
 - a. In those cases where a warrant is in effect for a parolee, a police officer, or a PPO may serve the warrant and make the arrest, taking the parolee to the nearest house of correction or prison. The parole warrant will be filed at the facility.
 - b. In cases where a warrantless arrest is deemed necessary, please refer to PPD 5.03.
 - c. The parolee must receive a copy of the warrant. The parolee must be given written notice of a preliminary hearing at or as soon as possible after the arrest. The preliminary hearing, if requested, must be held within 72 hours, excluding weekends or holidays. Continuances for the purpose of

obtaining counsel, assembling witnesses, etc. will generally be granted by the hearings officer. Continuances must be requested in writing.

- d. The parolee is advised of their rights by reviewing and having them sign the Notice of Preliminary Hearing (attachment 5). If the parolee waives the right to a preliminary hearing, they must sign the waiver portion of the Preliminary Hearing Notice Form. A copy is provided to the parolee. For information on preliminary hearings, please refer to PPD 5.03.
- e. Upon the arrest of a parole violator who was entered in NCIC, the supervising officer shall enter the arrest date on the Violations Screen in CORIS

9. Revocation Hearing Procedures:

- a. Upon notification of the parole revocation hearing by the Executive Assistant to the Parole Board, the PPO is responsible for notifying any witnesses essential to the State's case of the date, time and location of the hearing to ensure their presence.
- b. The PPO shall present the necessary witnesses, reports and other evidence to prove the allegations listed on the warrant. The standard of proof at a hearing is preponderance of the evidence.
- c. Witnesses' names are to be provided to the Parole Board's Executive Assistant. Those witnesses who need to be compelled to appear can be subpoenaed by contacting the Parole Board's Executive Assistant.
- d. PPOs should be prepared to respond to questions or inquiries raised by the Parole Board, the parolee or legal counsel.
- e. PPOs should be aware that parole revocation hearings tend to be more informal than most courtroom proceedings, nevertheless, they should be prepared to present their case in a well-organized and professional manner.
- f. In the event parole is revoked, the case file is to be returned in its entirety to the Parole Board's Executive Assistant.

10. References:

In addition to this policy and procedure established by the Department of Corrections, Division of Field Services, each PPO should have a good working knowledge of the Administrative Rules of the Adult Parole Board, RSA 651-A:4, III (attachment 6) and RSA 651-A:16 .

E. PROBATION VIOLATIONS

1. Filing Procedures:

- a. Reporting probation violations is governed by RSA 504-A:12, III. The PPO should discuss and review the violation with the CPPO.
- b. The alternative sanction matrix should be utilized to address noncompliant behavior consistent with the offender's risk and needs and the Court Order.
- c. The PPO shall complete a violation report (attachment 7) and file it with the court.
- d. If a request for an arrest warrant is made, the PPO shall also submit a violation summary explaining the need (i.e. absconding, offender detained in another state or new criminal charges). For a complete list of probation rules and regulations, please refer to PPD 5.06.
- e. When a capias/warrant is issued, information pertaining to the offender's status may be provided to law enforcement officials.

2. Violation Report Format:

- a. When the decision has been made to file a violation with the court, four copies of the violation should be completed. The original goes to the court, one copy to the prosecutor, the defendant and the file.
- b. The following violation format contained in CORIS will be used:
 - 1) The court docket number of the original order placing the on under probation supervision.

- 2) The defendant's full name; current or last known address and date of birth.
 - 3) The name of the district or superior court in which the final disposition was made, the date of the final disposition and the presiding Judge's name.
 - 4) A list of offense(s) for which the defendant was convicted.
 - 5) A copy of the original disposition order.
 - 6) Specifically list the way(s) in which the defendant has failed to comply with the conditions of probation or court order identifying the applicable rule(s) by number along with the date of each occurrence.
 - 7) Date of the violation report.
 - 8) The PPO may provide some pre-hearing recommendations to the court to include:
 - a) A hearing date set by the court as soon as possible
 - b) The court to issue a warrant/capias or detention order for the arrest and detention of the offender with bail, if applicable in the amount of \$_____.
 - c) Other (certain circumstances such as a warrantless arrest would require a recommendation to the court under this category).
 - 9) This section may be filled out by the judge after the disposition of the violation.
 - 10) In addition to completing the violation report, the PPO shall complete a violation summary. This should be a narrative of the defendant's conduct that led to the violation of probation report for use by the prosecutor.
3. Arrest of Violators:
- a. If the probationer is arrested by a PPO, a probation violation must be forwarded to the court no later than the next business day. The PPO must follow the procedures as outlined in PPD 5.03.
 - b. For information on preliminary hearings, please refer to PPD 5.03.
4. Courtroom Procedures:
- a. Prior to the violation hearing the PPO should communicate with the prosecutor to review the case.
 - b. The PPO should be prepared to supply the prosecutor with the necessary names and documents, i.e. victims', witnesses' names, etc. to support the violation. In areas where no prosecutors are available, the PPO should be prepared to present their own case. In the event that a PPO must prosecute, but is unable to do so, s/he shall seek assistance from the CPPO. A prosecutor may be able to assist.
 - c. The PPO must be thoroughly familiar with the rules of the court, criminal codes and general courtroom decorum.
 - d. PPOs prosecuting their own violations should be prepared to examine and cross examine witnesses and be confronted by the defendant and the defendant's counsel.
 - e. The PPO shall have a sentencing recommendation prepared for the court that includes but is not limited to the following:
 - 1) Disposition of monies owed through the Department of Corrections (i.e. fines, attorney fees, restitution).
 - 2) Revocation of probation
 - 3) Continuation of probation consistent with statute (with recommended length of time)
 - 4) Whether the sentence does or should result in additional

court-ordered sanctions or enhanced/modified rules of probation.
The PPO should be prepared to justify these recommendations to the court if necessary.

- f. When a probationer is committed to a DOC facility for a probation violation, copies of the violation report will be forwarded to offender records.

REFERENCES:

Standards for the Administration of Correctional Agencies
Second Edition Standards

Standards for Adult Correctional Institutions
Fourth Edition Standards

Standards for Adult Community Residential Services
Fourth Edition Standards

Standards for Adult Probation and Parole Field Services
Third Edition Standards

3-3142; 3-3156 thru 3-3160; 3-3162; 3-3172; 3-3219

Other:

PPD 5.03

PPD 5.06

McALISTER/pf

Attachments

**CHAPTER 651-A
PAROLE OF PRISONERS**

Section 651-A:16

651-A:16 Report Required. –

I. The department may report any parolee who violates the conditions of his parole to the parole board. However, the department shall, within 30 days of official knowledge of such an occurrence, submit a report on any parolee who:

- (a) Is arrested for any felony or misdemeanor offense;
- (b) Is convicted of any felony, misdemeanor or other offense; provided, however, that the department need only report traffic offenses deemed to be serious traffic offenses under RSA 265;
- (c) Absconds from supervision for a period of 30 days or more; or
- (d) Commits 3 or more parole violations of any type within a 12 month period.

II. This report shall include information on the circumstances of the alleged violation as well as a recommendation as to whether parole should be revoked.

Source. 1983, 461:16, eff. July 1, 1983.

Section 651-A:18

651-A:18 Revocation Required. -

I. The board may revoke the parole of any parolee who:

- (a) Violates the conditions of his parole;
- (b) Violates the law; or
- (c) Associates with criminal companions.

II. The board shall revoke the parole of any parolee who:

- (a) Is convicted of a felony; or
- (b) Absconds from parole supervision for a period of 60 days or more.

III-V. [Repealed.]

Source. 1983, 461:16. 1986, 156:14, III. 1991, 342:2. 1993, 26:1, eff. April 8, 1993.

THE STATE OF NEW HAMPSHIRE

PAROLE VIOLATION

TO THE WARDEN OF THE NEW HAMPSHIRE STATE PRISON

THIS IS TO CERTIFY THAT THE ADULT PAROLE BOARD BY AUTHORITY OF THE REVISED STATUTES ANNOTATED CHAPTES 651 A:17 HAS REVOKED THE PAROLE OF

AND YOU ARE DIRECTED TO RECEIVE AND HOLD SAID
AS PROVIDED BY REVISED STATUTES ANNOTATED, CHAPTER 651 A:18.

DATED THE _____ DAY OF _____ 20

PAROLE
MEMBER , NEW HAMPSHIRE ADULT BOARD OF

ALTERNATIVE SANCTIONS CHECKLIST

Supporting Summary Addendum	Date Used
<input type="checkbox"/> Verbal warning	_____
<input type="checkbox"/> Written warning	_____
<input type="checkbox"/> Attend or increase self help	_____
<input type="checkbox"/> Increase supervision level	_____
<input type="checkbox"/> Request for Curfew	_____
<input type="checkbox"/> Increase office contacts	_____
<input type="checkbox"/> Increase field contacts	_____
<input type="checkbox"/> Outpatient treatment referral	_____
<input type="checkbox"/> Increase urine testing	_____
<input type="checkbox"/> Inpatient treatment referral	_____
<input type="checkbox"/> Request for added conditions	_____
<input type="checkbox"/> Referral long term inpatient treatment	_____
<input type="checkbox"/> Community service	_____
<input type="checkbox"/> Review hearing	_____
<input type="checkbox"/> Home confinement/electronic monitoring	_____
<input type="checkbox"/> Other Programs	_____

STATE OF NEW HAMPSHIRE
DEPARTMENT OF CORRECTIONS
DIVISION OF FIELD SERVICES

PRELIMINARY HEARING/WAIVER NOTICE
VIOLATION OF _____

NHSP# _____

DOCKET# _____

TO:

DATE _____

FROM:

You are hereby notified that you stand charged with the following violation(s) of the conditions of your _____:

You are entitled to a preliminary hearing under the terms of Morrissey v. Brewer/Gagnon v. Scarpelli (delete one) for the purpose of determining whether there is reason to believe the above allegations are factual. You have the following rights at said hearing:

1. To appear and speak on your own behalf.
2. To present witnesses, testimony and documentary evidence.
3. To request presence of adverse witnesses, subject to evaluation by the Hearings Officer (you will be advised in advance if the request is denied).
4. To ask questions of adverse witnesses relative to allegations of the violation.
5. To be represented by Counsel should you elect to retain one.

_____ I desire a Preliminary hearing. It will be held at _____ on _____ 20 _____ at _____ am/pm to determine if there is reasonable ground to believe that I violated the conditions of my _____ and that I am entitled to be personally present to speak in my behalf at said hearing; present witnesses and may request the presence of adverse witnesses for the purpose of confrontative and cross examination.

_____ Having been informed of my rights to a Preliminary Hearing as outlined above, I hereby waive these rights. If I am a parolee, I understand I will be transported to NH State Prison pending my appearance at a Revocation Hearing at the next regular/special meeting of the Parole Board. If I am a probationer, I understand I will be held at _____ pending an appearance before the _____ Court.

By my signature below, I acknowledge receipt of a copy of the violation stating forth the allegations against me.

Offender

Date

Witness

Date

Witness

Date

FS 25 PRELIM.

Section 651-A:4

651-A:4 Duties; Adult Parole Board. – The board shall:

- I. Be responsible for paroling prisoners from the state prison, subject to the applicable provisions of this chapter;
- II. Have legal custody of all persons released on parole until they receive their discharge or are recommitted to the prison;
- III. Adopt rules, pursuant to RSA 541-A, relative to:
 - (a) The parole process, including the conduct of parole hearings;
 - (b) Criteria used to evaluate prospective parolees;
 - (c) Conditions for the conduct of parolees; and
 - (d) Procedures for revocation of parole.

Source. 1983, 461:16, eff. July 1, 1983.

State of New Hampshire

Sullivan

SULLIVAN SUPERIOR COURT

State V. Defendant

VIOLATION OF PROBATION

The Undersigned, an approved Probation/Parole Officer in and for the State of New Hampshire, states that Defendant, whose date of birth is mm/dd/yyyy, of _____ was sentenced or disposed of at the SULLIVAN SUPERIOR COURT on 11/12/2003 for the offense(s) of Theft Of Services(637:8), where the Honorable Judge _____ made the following order:

SEE ATTACHED

And that the said Defendant is alleged by the Probation/Parole Officer to be in violation of the specific rules of probation as contained in the Rules of Court of the District and Superior Courts of the State of New Hampshire, and any special rules of the Court, as follows:

Violation details.

DATED: 12/13/2006

Respectfully submitted by:

Department of Corrections

Approved By

Chief Probation/Parole Officer

It is recommended to the Court that:

- a. _____ A hearing date be set by the Court as soon as possible.
- b. _____ The Court issue a warrant/capias or detention order for the arrest and detention of the above with bail, if applicable set in the amount of \$_____.

