

## JUVENILE PROBATION VIOLATIONS

<b>AUTHORITY:</b>	Sections 625-628, 653, 777, and 778 Welfare and Institutions Code	
<b>RESCINDS:</b>	Procedure Manual Item 2-6-101, dated 07/07/16	
<b>FORMS:</b>	Application for Petition/Intake and Transmittal Sheet	(F057-4024AF) (ICMS Generated)
	Probable Cause Declaration	(F057-4206AF) (ICMS Generated)
	Notice of Hearing on Probation Violation	(ICMS Generated)
	Probation Violation Memo	(ICMS Generated)
	Informal Intervention Agreement	(ICMS Generated)
	Terms and Conditions of Probation	(F057-5030)
	Gang Terms and Conditions of Probation	(F057-5083)
	Ward Card	(ICMS Generated)
<b>PURPOSE:</b>	To outline how to process automated juvenile probation violations committed by wards of the Court.	

### I. GENERAL INFORMATION

- A. The philosophy and procedure for consistently responding to juvenile probation violations appropriately, proportionately, and timely is documented in the Continuum of Interventions for Probation Violations- Juvenile PMI 2-1-202. DPOs shall refer to the Continuum of Interventions for Probation Violations Matrix which lists a variety of intervention and sanction options that may be used when a youth violates a condition of probation. Further, when determining a disposition, the officer shall prefer the least restrictive option that garners the youth's compliance while considering the best interests of the youth and the community. Consequences should be logically linked to the case plan objectives and the negative behavior.**
- B. Types of Violations**
- 1. Technical Violation of Probation – Violation of the terms and conditions of probation. Technical violations of probation not involving new law violations should not regularly result in removal from the community.**
  - 2. Violation of Court Order (VCO) – Violation of specific court order – Violation of a specific court order. Violations of a specific court order not involving new law violations should not regularly result in removal from the community.**
  - 3. New Law Violations – When a youth is arrested by a law enforcement agency, the assigned DPO may request via separate Application for Petition that the District Attorney file a supplemental petition alleging probation violations or violation of court order.**

**C. Types of Interventions**

1. **Informal Intervention – A DPO’s response to non-compliance that does not involve the court. An informal intervention may not be offered if the court has ordered, “No Informal Sanctions”.**
2. **Formal Sanction – A DPO’s response to non-compliance that involves the submission of a probation violation and youth being returned to court.**

**II. PROCEDURE**

- A. The juvenile probation violation and related tasks are an automated function in ICMS.**

**Refer to the Automated Juvenile Probation Violation User Manual in ICMS.**



**The automated PV process occurs in the below steps.**

1. **Possible violations are inputted with the creation of an ECR transaction. When the DPO submits the ECR transaction the DPO will be prompted to be taken to the Intervention Page.**
2. **The intervention record is created in the Intervention Wizard when the DPO defines the type of intervention, intervention date, severity, and due date. In the top right-hand corner, there is a link to display the Juvenile Continuum of Interventions grid and many of the sections include a “thumbs up” or “thumbs down” icon. The icon displayed is based on existing probationer data in ICMS, the severity level indicated on the Intervention, the Risk Needs ranking, and a combination of the Continuum of Interventions guidelines and recommendations from our Research department. The intent is to guide the user to the recommended sanctions and recommended time where applicable.**
3. **The DPO then creates the supporting PV documents in ICMS and submits them to the supervisor for approval.**

- B. Probation Violation/Violation of Court Order Only**

**When a probation violation has occurred, the DPO will be responsible for staffing the case with the unit supervisor, referring to the Continuum of Interventions Matrix, completing the Risk Assessment Instrument (RAI) pre-screen, generating the automated probation violation in ICMS, and the procedures outlined below. Officers shall report all violations to the court, regardless of how they were addressed.**

1. **Informal Intervention**
  - a. **Review Minute Orders to ensure the youth does not have a, “no informal sanctions” court order in place.**

- b. **If the youth agrees to have their violations addressed informally, have youth initial and sign the Informal Intervention Agreement. Provide the youth with a copy. A youth has the right to decline an informal sanction and instead have their violations addressed in court with a formal hearing.**
- c. **If the youth completes the informal sanction successfully, update the intervention record with the completion date. These violations cannot be used in future proceedings.**
- d. **If the informal sanction is not completed successfully the violations can be used for a formal probation violation by updating the intervention screen.**
- e. **A “no informal sanctions” court order does not mean the youth is automatically arrested for non-compliance. DPOs should complete a RAI pre-screen and staff case with unit supervisor to determine if an arrest is warranted or an out of custody probation violation is appropriate.**
- f. **If the court orders “no informal sanctions and youth to be arrested for any violation” then an arrest and in custody probation violation is appropriate.**

## **2. Formal Probation Violation**

- a. **Custody Cases**
  - (1) **Arrests for technical violations and violation of court orders should only occur after administration of the RAI. If the youth does not meet the booking criteria, the DPO can request a SPO override. A SPO override can be made if the youth presents a substantial and immediate risk to themselves or the public or informal sanctions have been exhausted or inappropriate. A Pre-Detention and Pre-Disposition (PPP) field release is also an option if the youth’s RAI score indicates release on electronic monitoring is appropriate. For violations not associated with a new law violation the maximum time to be recommended is 30 days.**
  - (2) **At time of arrest/booking, complete the top half of an Application for Petition/Intake and Transmittal Form and submit via ICMS. The document is automatically routed to Custody Intake.**
  - (3) **The bottom section of the Application for Petition/Intake and Transmittal Sheet is completed by Custody Intake.**
  - (4) **At time of arrest/booking, complete a Probable Cause Declaration Form and submit via ICMS. The document is automatically routed to Custody Intake. Must include reason and support for detention (informal sanctions exhausted or inappropriate, informal**

sanctions denied by the court, public safety risk, risk of self harm/need for protection, or the youth being in custody on a new law violation).

- (5) **Within twenty-four (24) hours of arrest (weekends and holidays excluded), complete a Probation Violation Notice of Hearing and submit to SPO for approval via ICMS. The SPO will review the document in ICMS. If corrections are needed the SPO will reject the document, note corrections needed and return the document to the DPO via ICMS.**
- (6) **Within twenty-four (24) hours of arrest (weekends and holidays excluded), complete a Probation Violation Memo and submit to SPO for approval via ICMS. The SPO will review the document in ICMS. If corrections are needed the SPO will reject the document, note corrections needed and return the document to the DPO via ICMS.**

b. Non-Custody Cases

- (1) Fill out Application for Petition/Intake and Transmittal Form **and submit via ICMS. The document is automatically routed to Contested Court Clerks.**
- (2) Complete a Probation Violation **Notice of Hearing and submit to SPO for approval via ICMS. The SPO will review the document in ICMS. If corrections are needed the SPO will reject the document, note corrections needed and return the document to DPO via ICMS.**
- (3) Complete a Probation Violation **Memo and submit to SPO for approval via ICMS. The SPO will review the document in ICMS. If corrections are needed the SPO will reject the document, note corrections needed and return the document to DPO via ICMS.**

3. Probation Violation **Memo Format**

Complete the Probation Violation **Memo** to document and clearly address the violational behavior.

a. Circumstances of the Offense

Information regarding the circumstances of the probation violation may be obtained from an arresting officer's report, ECR notes, school progress reports, written results of drug testing, and verbal or written parent statements. **Youth who are arrested may not be interviewed regarding their violations without first providing them the opportunity to consult with legal counsel if they are 17 years old or younger.**

Witness Statement: List the names, title, addresses and phone number of any witness who can testify to the allegations and the nature of their testimony, as applicable.

The Circumstances of the Offense may include, but are not limited to:

- (1) The date the **youth** was declared a 602 WIC ward or 725/654 WIC non-ward.
- (2) The court and county of jurisdiction.
- (3) The sustained petition and offense (i.e. petition 001 for violation of Section 10851 CVC, Vehicle Theft, Felony).
- (4) The specific orders of the Court (i.e. school, search and seizure, counseling, testing).
- (5) Any pending court dates.
- (6) Date of and the DPO who completed the indoctrination and any additional parties present (Parent, Attorney).
- (7) Summarize the details of the alleged offense or circumstances, which compelled the filing of the petition.
- (8) Include pertinent dates, times, locations.
- (9) Roles of the participants should be included, but not to the extent in detail given in police reports, unless to reflect special aggravating criminal factors.
- (10) List the date, event, how and where the probationer was apprehended (i.e., result of new law violation, office appointment, court booking).

b. Collateral Information (When Needed)

Include pending offenses not covered in the police report and not part of the Prior Record section, but which have been discovered during the course of the investigation.

c. Victim's Statement (When Needed)

- (1) This section shall include a statement from the victim regarding the offense, impact on the victim, restitution desired (actual or estimated) and a suggested disposition, if given. Any violence that occurred should be noted.
- (2) Permission must be obtained from the parents/guardians before speaking with any victim under the age of 18.

- (3) The Victim Section must not contain any detail regarding names, addresses, phone numbers or any information that would place the victim in jeopardy or retaliation.

If the information is needed, a separate sheet will be marked as CONFIDENTIAL WITNESS and addressed specifically to the court for review and determination of dissemination.

d. Progress on Probation

- (1) The Probation Violation reports should include a statement regarding the **youth's** progress on probation, as it relates to the home environment, school performance, academics, employment, restitution, substance use, psychological concerns, peer influence, gang activities, criminal behavior and compliance with specific court orders. **The statement should be balanced and include any accomplishments as well as violations.**

- (2) The Progress on Probation may include, but is not limited to:

- (a) Home

Submit an objective statement reflecting the parents' comments concerning the pending allegation(s). The ability and willingness of the parents/guardian to provide a safe and supervised environment for the **youth** to be successful in maintaining acceptable behavior. This section may be used to provide the parents' evaluation of **youth** response to parental authority and any parental plans for preventing difficulty in the future, but is not limited to:

- (i) Written or verbal statement from parents on any needs to resolve behavior problems or family issues through professional counseling, psychiatric hospitalization, out-of-home placement, etc.
- (ii) Note what degree of cooperation may be expected from the parents in the future.
- (iii) Provide parents' version of how the problems developed, and what they have done to remedy those problems.
- (iv) Report interrelationships within the family (cohesive, distant, conflict, positive and negative parental involvement, stability, etc.).
- (v) Include any problematic behavior with parents or siblings; include wardship, parole and dependency issues.

(b) School

A good source of information is a recent report card, which provides grades, citizenship, work habits and often has teacher comments. This School section should include, but is not limited to:

- (i) Grade, name of school and hours of attendance.
- (ii) Academic achievement and course grades.
- (iii) Classification of intelligence (above average, average, below average, etc.). Do not quote numerical I.Q.
- (iv) Citizenship, behavior, attendance, and school's attempts to remedy any issues.
- (v) Relationship with teachers or students.
- (vi) Comment if **youth** will not be readmitted to school.

e. Evaluation

The evaluation should summarize the case facts and through a logical, etiological and social-behavioral approach, provide an in-depth understanding of the case dynamics, which should lead to a relevant dispositional recommendation. **Further, the evaluation should be fair and balanced, and acknowledge any attempts the youth has made to comply with their terms and conditions of probation or attempts made to improve their relationships.**

- (1) Summarize the essential "high points" of the case. However, a mere "rehash" of information should be avoided.
- (2) Avoid "canned" or "rubber stamp" language such as : "the **youth** shows blatant disregard," "the lacks respect for the authority of the court," "the **youth** refuses to comply," "the **youth's** progress on probation thus far as evidenced by the violations before the court is poor," etc.
- (3) Analyze causal factors in terms of the information presented in the report. Incidents handled informally, including grants of informal probation.
- (4) Summarize the probation officer's interventions and problem-solving attempts.
- (5) Factors in mitigation and aggravation should be discussed, although they need not be labeled as such.

- (6) The differential treatment plan, which appears indicated in terms of solutions to the problems. If **detention** is involved, reflect why custody time would be therapeutic or necessary for community protection. Justify your recommendation.

f. Recommendation

The recommendation should follow from the evaluation and delineate the suggested differential treatment plan. **Any recommendation that exceeds 30 days in custody requires division director approval.** Three significant factors should always be kept in mind:

- (1) The promotion of the **youth's** welfare and the safety and protection of the public.
- (2) The rehabilitation potential of the **youth.**
- (3) Whether the **youth** remaining in home setting endangers the welfare and safety of the **youth.**

Follow the order of the word processing printout on Juvenile Court Report Recommendations (PMI 2-5-003).

4. Supporting Documents

**Include in file** any appropriate documentation supporting the violation. Examples:

- a. Copy of appropriate Minute Order(s).
- b. Copy of the signed terms and conditions of probation.
- c. Police report if new violation.
- d. Police field contact documentation.
- e. School records

C. New Law Violation and Probation Violation and/or VCO

When a **youth** is arrested by another agency for a new law violation, the assigned DPO may request via a separate Application for Petition/Intake and Transmittal Sheet that the District Attorney file a supplemental petition alleging probation violations and/or violations of court orders. These can be related to the new offense; e.g., associates, curfew, law violation, driving restriction, alcohol, etc. or included with other PVs.

1. In custody and non-custody cases, the field DPO will prepare the violation **documents** following the above procedure.



2. In custody cases, the assigned DPO must **the Probable Declaration Cause and Application for Petition/Intake and Transmittal Sheet via ICMS at time of arrest/booking.**
3. PV/VCO matters that are not specifically related to the new law violation are processed in accordance with Section **2. B.** above.
4. Every effort should be made to file all violations at the same time; however, PV/VCOs may also be submitted as write-in petitions prior to disposition.

**REFERENCES:**

Procedures:	2-1-202	Continuum of Interventions for Probation Violations- Juvenile
	2-1-205	Warrants of Arrest for Juveniles
	2-4-001	Non-Custody Intake
	2-4-101	Custody Intake Referrals
	2-4-106	Custody Intake Risk Assessment Instrument (RAI)
	2-5-003	Juvenile Court Report Recommendations
	2-6-012	The Pre-Detention and Pre-Disposition Program
Policies:	A-1	Policy, Procedure and the Law
	A-2	Upholding Departmental Philosophy and Principles
	A-5	Communications within the Probation Department
	E-3	Disclosure of Court Recommendations
	E-5	Advisement of Rights
	E-7	Restitution
	F-2	Recommendations to the Court for Dispositions/Sentencing and Commitments for Minors

I.White

**APPROVED BY:**