

CONTINUUM OF GRADUATED SANCTIONS AND INTERVENTIONS FOR VIOLATIONS OF ADULT SUPERVISION

- AUTHORITY:** Sections 17.5, 1170, 1203.2, 1203.35, 1228, 3000, 3450–3465, and 6027 California Penal Code
Administrative Directive
- RESCINDS:** Procedure Manual Item 2-3-105, dated 09/30/21
- FORMS:** Continuum of Graduated **Interventions & Sanctions Matrix** (Attachment A)
Levels of Violation Severity (Attachment B)
- PURPOSE:** To outline procedures and responses to violations of adult supervision (**general, mandatory and PCS**) that are appropriate, proportional and timely. Further, these guidelines will promote consistency and enhance community safety.

I. GENERAL INFORMATION

- A. As a public safety agency, the Probation Department serves the community by using research supported practices in order to reduce recidivism while promoting the safety of the community.
- B. Deputy Probation Officers (DPOs) will consider a wide range of supervision options with the understanding that detention for technical violations does not always result in improved outcomes or reduced recidivism.
- C. Offenders under the jurisdiction and supervision of the adult court shall, in conformity with the interests of public safety and protection, receive treatment and programming that is consistent with their needs and appropriate for their circumstances. DPOs will bear in mind that programming and treatment options are as important to supervision as enforcement activities with the understanding that jail (custody) manages risk well but does nothing to reduce risk once an offender is released into the community.
- D. A DPO has broad discretion and will determine when to offer programming and treatment options and when to properly implement graduated interventions and sanctions. This includes the effective utilization of secure detention after prior interventions or sanctions have failed and/or when the safety of the individual, others, or the community is at risk.
- E. Promoting swift, certain, and graduated responses to technical violations of supervision is an evidence-based, research-supported strategy that is both consistent and fair. The objectives of interventions and sanctions for both technical violations of supervision and subsequent new law violations are:
 - 1. Make sanctions proportionate to the seriousness of the violation and to hold the offender accountable.
 - 2. Assert sufficient control and properly manage the risk that the offender

presents to the community.

3. Facilitate the offender's continued progress in changing behavior to achieve ongoing compliance, successful completion of supervision, and future law-abiding behavior.
- F. Consistent, repetitive consequences for negative behavior can be as effective as escalating consequences.
- G. If the offender presents an immediate risk to **themselves** or the public and secure detention is **warranted**, then the appropriate use of detention such as "FLASH" incarceration, pursuant to Sections 1203.35 or 3454(c) PC or formal Petition for Violation / Revocation, is recommended.

II. PROCEDURE

- A. When determining an appropriate response to violations of supervision, the assigned DPO will refer to the Continuum of Graduated Interventions & Sanctions **Matrix (Attachment A)** and **Levels of Violation Severity (Attachment B)** when responding to negative behavior in order to promote immediate, certain, consistent and proportional responses when faced with a violation.

1. Supervision Level

The matrix is divided by supervision level as determined by the most recent Risk/Needs Assessment. Start in the column that represents the offender's supervision status (Low, Medium or High). If a risk level has not yet been determined, the appropriate starting point will be determined through consultation with a supervisor.

2. Violation Severity

Determine the severity of the violation (Minor, Moderate or Serious).

a. Minor Violations

Occasional or isolated incidents where there is no victim impact, however, the offender demonstrates a degree of cooperation and response to supervision and DPO expectations.

Examples: FTR, positive drug tests, missed appointment with counselor or treatment/skill development provider, dismissal from treatment or unemployment (varies & dependent upon case dynamics), misdemeanor arrests/citations that are considered minor in nature.

b. Moderate Violations

A preliminary pattern of violation of supervision terms and conditions that is interfering with success at work, home, program or treatment, and the community. Prior interventions and sanctions

have failed. The violation(s) may be related to the underlying commitment offense, drug use, violations of the law such as lesser *drug, alcohol, or property related misdemeanors*. Moderate violations indicate an increased risk that the offender may re-offend.

Examples: multiple minor violations with no apparent response to prior consequences; repeated contact with negative associates; absconding after some period of reporting, and general refusal to cooperate with specific terms and conditions. May include violations of SPECIALIZED conditions of supervision (SO, DV, Street-Prison-OMG-White Supremacist & Gang) and/or violations of GPS. The above may be considered in context of case dynamics and offender progress.

c. Serious Violations

Offender has demonstrated a significant pattern of varied violations of supervision terms and conditions and/or has failed to respond to multiple interventions and sanctions or has made **themselves** unavailable for supervision, lacking any attempt at personal engagement/cooperation. Offender represents a risk to the community and/or has been rearrested for **misdemeanor or felony offenses pertaining to crimes against persons, acts of violence, or weapons-related charges**.

Examples: behavior that demonstrates extreme disregard of terms and conditions of supervision; failure to respond to the authority of the Court; or unauthorized contact with a victim, serious GPS violation(s) or cut, and violation of SPECIALIZED conditions of supervision (SO, DV, Street-Prison-OMG-White Supremacist, & Gang) presenting a risk to the community such as criminal association or violation of a court order.

3. Interventions and Sanctions

Choose the appropriate means of addressing a violation based on risk and severity. The duration and severity of the consequence should be tailored to the case plan, the individual needs of the offender, and the specific behavior.

Flash incarceration may not be available in all cases. In instances where Flash is not authorized, choose the appropriate means of addressing a violation based on risk and severity that is reasonable and consistent with this procedure.

B. Detention

1. The DPO may take action with re-arrest using Flash or Formal Petition/Revocation dependent upon the severity and nature of the offense(s). The DPO shall review overall progress and case dynamics with a supervisor to determine if detention is appropriate. Detention should only be used if prior interventions and/or sanctions have failed or do not

adequately address the current behavior and/or the offender poses a threat to themselves or public safety.

2. There are times (based upon individual case dynamics) such as multiple concurrent grants of supervision, prior criminal history, specialized supervision (gang affiliation, sex offenders, & DV) and risk to the community where secure long-term detention is appropriate earlier in the process to protect the community.

REFERENCES:

Procedures:	2-3-002	Probation Violations – Adult
	2-3-019	Preparing Probation Violation and Warrant Petitions – Adult (Allegations)
	2-3-101	AB109 Postrelease Community Supervision Intake Process
	2-3-102	AB109 Postrelease Community Supervision Flash Incarceration
	2-3-103	AB109 Postrelease Community Supervision Warrants of Arrest
Policies:	A-1	Policy, Procedure and the Law
	A-2	Upholding Departmental Philosophies and Principles
	A-5	Communications within the Probation Department
	B-2	Inter & Intra Agency Confidentiality
	E-3	Disclosure of Court Recommendations
	E-5	Advisement of Rights

Attachments

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APPROVED BY:

**ORANGE COUNTY PROBATION DEPARTMENT
ADULT SUPERVISION (GENERAL, MANDATORY AND PCS)**

CONTINUUM OF GRADUATED INTERVENTIONS & SANCTIONS MATRIX

Examples of Violation & Severity	SUPERVISION LEVEL BASED ON RISK SCORE		
	Low	Medium	High
MINOR VIOLATION(S) <ul style="list-style-type: none"> Fail to report and/or fail to test 1-2 positive drug tests Failed to enroll and/or complete court ordered programming or treatment Possession of prohibited items (drug paraphernalia & non-weapon) Association (negligible risk to community) Travel & residence: w/o prior approval or notification (non-pattern) Illegal conduct: minor arrests/citations 	Problem Solving Verbal Warning(s) Increased Contacts / Testing Program / Treatment DRC or Educational Program Reactivate from Admin or FM <i>DETENTION NOT RECOMMENDED</i>	Problem Solving Verbal Warning(s) Increased Contacts / Testing Program / Treatment DRC or Educational Program Reactivate from Admin or FM <u>Previous Interventions & Sanctions Have Failed</u> FLASH 1-5 days	Problem Solving Verbal Warning(s) Increased Contacts / Testing Program / Treatment DRC or Educational Program <u>Previous Interventions & Sanctions Have Failed</u> FLASH 1-10 days
MODERATE VIOLATION(S) <ul style="list-style-type: none"> On-going or pattern of "minor" violations w/no change in behavior Travel & residence: w/o prior approval or notification (repetitive and/or extended) Several positive drug tests Refusal: submit to S&S, enroll in court ordered program or treatment / formal discharge Association (situational or assignment specific) GPS violation(s): situational NLV: lesser misdemeanors (property, drug, non-weapon & non-person) 	Any of the above response(s) Add Additional T&Cs (seek Court Order or as appropriate for PCS) <u>Previous Interventions & Sanctions Have Failed</u> FLASH 5-10 days	Any of the above response(s) including FLASH Add Additional T&Cs (seek Court Order or as appropriate for PCS) <u>Previous Interventions & Sanctions Have Failed</u> Formal Petition or Revocation 15-45 days	Any of the above response(s) including FLASH Add Additional T&Cs (seek Court Order or as appropriate for PCS) <u>Previous Interventions & Sanctions Have Failed</u> Formal Petition or Revocation 45-60 days
SERIOUS VIOLATION(S) <ul style="list-style-type: none"> Pervasive non-compliance: demonstrates lack of engagement / cooperation Proliferation of violational behavior Rejection of or avoids supervision (never reports, absconds, repeated arrests and/or warrants). GPS violation(s): serious / cut Fail to register 290 / Gang / Arson Violation of protective order / victim contact Serious association (co-defendant(s), gang members, SO or DV violations) NLV: misdemeanor and felony arrests (violence, person, community safety, weapon) 	<u>Technical Violations ONLY</u> Formal Petition or Revocation 45-60 Days Jail <u>NLV (& Any Technical Violations)</u> Formal Petition or Revocation Case dynamics will determine local commitment or impose sentence / balance.	<u>Technical Violations ONLY</u> Formal Petition or Revocation 45-90 Days Jail <u>NLV (& Technical Violations)</u> Formal Petition or Revocation Case dynamics will determine local commitment or impose sentence / balance.	<u>Technical Violations ONLY</u> Formal Petition or Revocation 45-180 Days Jail <u>NLV (& Technical Violations)</u> Formal Petition or Revocation Case dynamics will determine local commitment or impose sentence / balance.

For those cases with a suspended sentence and/or multiple grants, case dynamics may justify a formal petition-revocation and/or sentence imposed at an earlier point in supervision.
Use of FLASH holds an offender accountable and protects the community while preventing disruption with work and/or the home that typically arises from longer periods of detention.
The Graduated Sanctions model promotes both proportionality and equity in how the criminal justice system responds to the offender and violational behavior

ORANGE COUNTY PROBATION DEPARTMENT
ADULT SUPERVISION (GENERAL, MANDATORY AND PCS)

CONTINUUM OF GRADUATED INTERVENTIONS & SANCTIONS
LEVELS OF VIOLATION SEVERITY

VIOLATION SEVERITY	DEFINITION
MINOR VIOLATIONS	<p>Occasional or isolated incidents where there is no victim impact, however, the offender demonstrates a degree of cooperation and response to supervision and DPO expectations.</p> <p><i>Examples: FTR, positive drug tests, missed appointment with counselor or treatment/skill development provider, dismissal from treatment or unemployment (varies & dependent upon case dynamics), misdemeanor arrests/citations that are considered minor in nature.</i></p>
MODERATE VIOLATIONS	<p>A preliminary pattern of violation of supervision terms and conditions that is interfering with success at work, home, program or treatment, and the community. Prior interventions and sanctions have failed. The violation(s) may be related to the underlying commitment offense, drug use, violations of the law such as lesser drug, alcohol, or property related misdemeanors. Moderate violations indicate an increased risk that the offender may re-offend.</p> <p><i>Examples: multiple minor violations with no apparent response to prior consequences; repeated contact with negative associates; absconding after some period of reporting, and general refusal to cooperate with specific terms and conditions. May include violations of SPECIALIZED conditions of supervision (SO, DV, Street-Prison-OMG-White Supremacist & Gang) and/or violations of GPS. The above may be considered in context of case dynamics and offender progress.</i></p>
SERIOUS VIOLATIONS	<p>Offender has demonstrated a significant pattern of varied violations of supervision terms and conditions and/or has failed to respond to multiple interventions and sanctions or has made themselves unavailable for supervision lacking any attempt at personal engagement/cooperation. Offender represents a risk to the community and/or has been rearrested for. misdemeanor or felony offenses pertaining to crimes against persons, acts of violence, or weapons-related charges.</p> <p><i>Examples: behavior that demonstrates extreme disregard of terms and conditions of supervision; failure to respond to the authority of the Court; or unauthorized contact with a victim, serious GPS violation(s) or cut, and violation of SPECIALIZED conditions of supervision (SO, DV, Street-Prison-OMG-White Supremacist, & Gang) presenting a risk to the community such as criminal association or violation of a court order.</i></p>