

# Adult Division Behavior Response System

## 413.1 PURPOSE AND SCOPE

It is the policy of the Department to promote behavioral changes by empowering probation officers to implement swift, certain, fair and consistent responses to violations of supervision and to reward prosocial behaviors so that they are repeated.

The Department's mission is to enhance community safety and reduce criminal activity by holding adults accountable in a fair and just manner, assisting them to develop skills necessary for success, and effectively using public resources. Responding to violations and prosocial behaviors is based on an overall supervision strategy of preparing offenders to be successful in the community. This is done by identifying offenders who are at moderate to high risk to re-offend and focusing supervision and interventions to address risk factors that are most likely to contribute to future criminal behavior. Staff responses to offender behavior during supervision should incorporate practices that have demonstrated effectiveness in influencing offender behavior change, including providing incentives for prosocial behavior. The purpose of this policy is to provide a uniform system of responses that address violations and prosocial behaviors and to provide specific direction for Department employees to follow when considering response options.

This policy is intended to:

Provide specific guidance to staff about the factors to consider in determining the most appropriate responses to behavior.

Adhere to research-based principles by responding to behavior in the manner most likely to result in behavior change and provide evidence based interventions to promote pro-social attitudes, beliefs, and behaviors;

Enhance public safety by holding offenders accountable while encouraging and reinforcing pro-social behavior;

Result in a response to every violation with swiftness, certainty and consistency, while reinforcing that antisocial behavior has negative consequences;

Assist staff in objectively weighing violation behaviors and identifying the appropriate category of response for various combinations of assessed risk, violation severity, and the presence of other factors that are important to consider in formulating an offender-specific response;

Allow for discretionary overrides of response level when the "presumptive response" does not appropriately respond to the level of risk or seriousness of the violation;

Minimize the use of formal court actions by utilizing intermediate options in most circumstances; Target resources effectively and efficiently; and

Create a uniform system that normalizes recognizing and rewarding clients' prosocial behaviors.

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### **413.2 GUIDING PRINCIPLES**

Responses should be based on the following principles:

- (a) Responses to violations of supervision should be swift, certain and proportional.
- (b) Responses should be fair and just.
- (c) Response to violations should be commensurate with the seriousness of the behavior while considering risk to public safety.
- (d) Similarly-situated individuals should receive similar responses.
- (e) Responses should consider evidence based practices: Custodial sanctions alone are not effective in lowering recidivism.
  - (a) Custodial sanctions alone are not effective in lowering recidivism.
  - (b) Shorter custodial sanctions are no less effective than longer sanctions.
  - (c) Custodial sanctions should have a rehabilitative component included.
  - (d) Non-custodial sanctions are often times as effective as custodial sanctions.
  - (e) Treatment and rehabilitative resources combined with surveillance and enforcement are most effective in reducing recidivism.
- (f) Responses should be imposed with consideration given to effective capacity of local correctional facilities and local resource availability.
- (g) Responses should be imposed at the lowest appropriate level of authority.
- (h) Appropriate use of responses will make supervision more effective and will enhance public safety, resulting in fewer offenders being returned for revocation of supervision.
- (i) A range of responses [sanctions/interventions] including but not limited to jail, should be available and should be exhausted before recommending offenders for revocation on non-criminal violations of supervision.
- (j) "Accountability only" responses are appropriate for low level (risk) offenders [such as verbal or written reprimand], and behavior change responses should always be given to medium and high risk offenders according to their assessed criminogenic need(s) even if you are also imposing an accountability response.
- (k) Overall, sanctions should be balanced with positive reinforcement. Both responses are necessary to reinforce positive behavior and reduce problem behavior. Research shows that, to be effective in changing behavior, the ratio of positive reinforcements to sanctions should be at least 4:1. Rewards should be administered with regularity initially and tapered over time, once the behavior becomes habituated.

### **413.3 DEFINITIONS**

**Absconder:** An offender who the Deputy Probation Officer (DPO) is unable to locate, resulting in a request for a warrant. Failure to report and absconding supervision are at opposite ends of the behavior levels and the substantiation requirements for an allegation of absconding supervision

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noted above are higher than those for failure to report. The DPO must have made at least two attempts to contact the client after a failure to report for the violation to be considered absconding.

**Incentive, Reinforcer or Reward:** Positive reinforcement of behaviors and/or the delivery of affirmative rewards for positive behaviors or progress with individual case plan goals.

**New Crime:** New crime violations speak to the behavior of new criminal activity the client is engaged in, not necessarily whether a conviction occurs or an arrest has been made by law enforcement.

**Protective (Stabilizing) Factors:** The characteristics of an offender and his/her life situation that are associated with a reduction in the risk to reoffend.

**Response:** The reaction to a prosocial or violation behavior to maximize the efforts for behavior change. It is important to keep in mind the differences between a sanction and an intervention. Patterns of negative behavior should always be addressed with an intervention when possible. Behavior change is more likely when interventions and sanctions are applied in tandem. Responses also include incentives or rewards for prosocial behavior.

**Revocation:** A response to a violation that is intended to result in termination from supervision as the individual is deemed unamenable to community supervision. See also: Summarily Revoked.

**Risk (Destabilizing) factor:** The characteristics of an offender and his/her life situation that are associated statistically with an increase in the risk to reoffend.

**Risk Level:** The assessed risk level based on the Department's designated risk assessment(s) tools. See also: Supervision Level.

**Summarily Revoked:** A finding by a judge that there is probable cause to support a probation violation. A Summary Revocation allows the judge to retain jurisdiction over the defendant until a formal revocation hearing results in a decision. This also suspends the probationary period, although the terms of probation remain in effect.

**Supervision Level:** The intensity of offender supervision is determined by risk level by default, but changes to the level of supervision can be made based on override criteria. The Risk Level remains the same, but the Supervision Level dictates the intensity of supervision.

**Violation:** An act of non-compliance with the standard conditions of probation or with any supervision condition imposed by the sentencing court or supervising officer.

**Behavior Response Application:** The mechanism used by supervising officers to document and impose responses.

**Tracking Form:** Documentation of supervisor approval needed for overrides and periods of flash incarceration.

**Violation Response Grid:** This grid establishes the type of response that can be imposed under this policy for a violation by cross referencing the seriousness of the violation behavior and the offender's assessed risk level at the time the violation behavior occurred.

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**Incentive Response Grid:** This grid establishes a variety of responses that can be imposed for an identified prosocial behavior commensurate with the level of the behavior being rewarded.

#### **413.4 PROCEDURES**

The Behavior Response System policy should be applied to all violation and prosocial behaviors. In order to respond appropriately, Officers shall have sufficient information and/or documentation to support a reasonable belief that the offender has engaged in conduct that constitutes a violation of a condition of supervision or has demonstrated prosocial behavior. Once an Officer has determined that a violation behavior or prosocial behavior has occurred, they are required to respond within established timelines.

Application to Offenders: These rules should apply to all offenders on probation, Mandatory Supervision, and/or Post Release Community Supervision) and all interstate compact cases supervised by the Department. The supervising officer will notify the sending agency within the normal communication process established in all interstate compact cases of all high level or above behaviors (violation or prosocial) and their responses.

All violations and prosocial behaviors should be responded to by the Officer using the Violation Response Grid or Incentives Response Grid.

All responses should be documented indicating the behavior and the response in the BRS application. This will allow us to collect the necessary data to evaluate the effectiveness of responses.

Personal contact with the probationer should be documented by the supervising probation officer within 72 business hours of the notification of the violation or prosocial behavior; responses should be implemented within 7 business days of discovery of the behavior.

Officers have discretion to select the response most appropriate under the individual's circumstances as long as they are within the "presumptive" response range; multiple responses can be selected if deemed essential to achieve the desired behavior change. However, officers should not "over-respond" to behaviors through the selection of multiple responses in an effort to increase the presumptive level. If the officer believes a response outside the presumptive range is needed, supervisory review and approval are required as specified in the "Overrides" section.

Overrides should be the exception rather than the rule. Overrides of the presumptive response range should not exceed 10% to 15%. These rates will be monitored on an ongoing basis.

Flash incarceration is available for use as a sanction only when the defendant has signed a waiver to a court hearing prior to the imposition of the flash incarceration. A waiver is not required for PRCS clients.

#### **413.5 IMPOSITION OF RESPONSE(S) TO VIOLATIONS**

- Upon identifying violation behavior(s), the officer shall save (refer to attachment) describing the alleged violation behavior, the proposed response, and the criminogenic needs being targeted.

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- All responses to behaviors are to be saved in the BRS application,
- Identify the seriousness of the violation behavior (Behavior Level 1, 2, 3, or 4) using the Violation Response Grid (Refer to Exhibit 1). If an offender has committed a series of violations, select the most severe violation as the primary violation to respond to. Less severe violations should be addressed and considered in the overall response(s). Additional responses can be selected if deemed essential to achieve the desired behavior change.
- Respond to violations as they occur [swift and certain responses] – do not "store" up violations and respond to all at a later time.
- Identify the offender's **assessed** risk level **at the time the violation occurred**. Level of risk is derived from the results of Department's risk assessment tools or by supervision level. Based on these assessments, offenders are assigned a level of risk; "Low," "Moderate," or "High." If multiple assessments are used (for example with sex offenders), the assessment with the higher risk level determines the risk level for the offender.
- Determine the appropriate response(s) to impose. Responses should take into consideration the purpose (or focus) of the intervention as identified in the "Intervention Focus" section of this policy.

GPS and responses are not House Arrest responses. House arrest is a sentence in which clients are ordered by the court to remain confined in their residences, usually allowed to leave only for medical and employment reasons. House arrest is not an available response on the Violation Response Grid. GPS would be imposed for monitoring purposes and curfew would be imposed to have the client home at certain hours at night. GPS should be imposed for a set amount of time (not open-ended) as indicated in the Violation Response grid.

Advise the offender of which violation(s) they committed and the response(s) you are imposing by using the Effective Disapproval behavioral practice. Other behavioral practices should be used as needed depending on how the conversation progresses.

Upon each decision to impose a period of flash incarceration, the Probation Department must notify the court, public defender, district attorney, and sheriff. There is no notification necessary for PRCS clients.

Documentation is important. When an officer makes the decision to return a case to court for a violation, all previous actions taken, including informal responses and incentives, will need to be presented in the universal. A defendant serving time for a period of flash incarceration is not entitled to any conduct credits at the time of imposition. All periods of flash incarceration will result in credit being awarded when mandatory supervision or probation is revoked.

Nothing in these rules shall limit the authority of the officer and Department to direct the offender into appropriate interventions outside of the administrative sanctioning process.

If the offender denies or otherwise contests the alleged violation behavior, or does not accept the response(s) to be imposed by the officer/supervisor, the officer shall report the violation behavior to the court.

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### **413.6 EXECUTION OF SENTENCE SUSPENDED (ESS) AND ANY OTHER SPECIAL CASES IDENTIFIED BY THE COURT**

Officers will file a universal when responding to any violation in cases where the execution of sentence is suspended, or when the court indicates that a specific case is not eligible for informal sanctions. Officers will use the response grid in making a recommendation to the court. Any recommendations that fall outside of the response determined by the grid will follow the override process as described below.

### **413.7 FELONY DUI CASES**

Officers will file a universal when responding to any violation that includes positive, missed or dilute alcohol/drug tests. Officers will use the response grid in making a recommendation to the court. Any recommendations that fall outside of the response level determined by the grid will follow the override process.

### **413.8 OVERRIDES**

Discretionary overrides of response level can be used when the "presumptive response" does not appropriately respond to the level of risk or seriousness of the violation. In these circumstances, stabilizing factors can support a less restrictive response. Conversely, destabilizing factors may be present that support a higher level of response. Both are considered overrides. An override is any response that is outside the response determined by either Response Grid. Selection of response (s) from a higher category or only from a lower category than the presumptive response category requires that an override section in the BRS application be completed.

Officers should strive to find an appropriate response from within the provided ranges to address the behavior. As long as at least one of the response(s) selected is within the range, lower level responses can also be selected to address the behavior without requiring Supervisory review. Selection of any response(s) from a higher level category requires Supervisory review and approval.

Stabilizing (Strengths) and destabilizing factors must support the decision to override based on the definitions in policy as noted below.

**Supervisor Review:** A supervisor must approve the term of flash incarceration prior to its imposition (1203.35PC). Additionally, supervisor review and approval is required on all overrides, and all responses being returned to Court for formal proceedings

The Supervisor shall review the Behavior Response Tracking Form and the associated Response Grid matrix to determine the appropriateness of the decision and whether it is approved or denied. If the Supervisor approves the response(s) selected, he/she will document and sign the tracking form. The review process is then complete. If the Supervisor denies the selected response(s), the Supervisor and Officer will determine the appropriate response level and response(s) and save in the BRS application..

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### **413.9 OVERRIDE DEFINITIONS**

**Protective (Stabilizing) factors** are positive circumstances which may serve as protective factors and actively reduce the chances of antisocial conduct. The risk/needs assessment may identify criminogenic need areas that represent a low risk domain or circumstances or level of functioning that are so positive that they may reduce the influence of other risk factors that are present.

- (a) **Positive Action towards Building Pro-social Relationships:** Demonstrates consistent action towards building pro-social relationship such as seeking out a mentor or sponsor and disassociating with criminal peers. Anti-criminal [prosocial] friend(s) are very influential and present positive role models for the offender. **Example:** Antisocial friends may be scored present, but the degree of influence of antisocial friends is far outweighed by the influence of prosocial associates.
- (b) **Education/Employment:** Gainfully employed or in school. Involvement in educational and employment activities can be a particularly important area of strength because of the large time commitment required and the varied sources of interpersonal rewards. This involvement and commitment to prosocial activities serves to distance the offender from situations that may be criminogenic.
- (c) **Positive Participation in Treatment Program:** Attendance and active participation consistent with the program's policy, which may include completion of assignments, drug screens, unsolicited interaction and input with the facilitator/therapist, responding to questions, et
- (d) **Stable and Structured Living Environment:** A living environment that fosters pro-social behavior, accountability and support. Stability is demonstrated by less than 3 address changes within the last 12 months and may also include paying rent, receiving mail and having a key.
- (e) **Positive Performance on Supervision:** Active participation and progress towards goals identified in the case plan and acceptable completion of assignments. This may also include acceptable attendance of Probation-required meetings/programs and no known violation behavior within the last 6 months.

**Risk (Destabilizing) factors** increase the chances of antisocial conduct. These factors may represent circumstances or level of functioning that negatively influence prosocial behaviors.

- (a) **Violation Related to Original Offense:** Non-compliant behavior where there is a nexus between the original offense and the violation behavior.
- (b) **Escalating Drug/Alcohol Use:** Escalating drug/alcohol use may be evidenced by one or more indicators that are present over a period of 30 days or more. These include: a series of positive drug screens; admission of increased and escalating use by the offender and/or verifiable reports from third parties (e.g., significant others, employers) of ongoing, escalating use and/or drug seeking behavior; repeated indications of drug/alcohol use as evidenced by contraband identified by an officer during successive field visits; and/or medical problems that result from substance abuse.
- (c) **Pattern of Violations:** 2 or more violations during the period of supervision with at least 1 occurring within the past 3 months. More than 3 sanctions have been imposed over the past 12 months and there is no reduction in criminogenic needs. Consider

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the extent to which the offender interacts with and is influenced by others with a pro-criminal lifestyle, gang membership, and interactions with others characterized by predation.

- (d) **New Crime of Serious Nature:** A new crime of serious nature has been committed (Crimes Against Person under PC 187-247, Sex Crimes under PC 261-269, Child Abuse, Domestic Violence, Arson, Kidnapping, and Felony Weapons Crimes for example).
- (e) **Victim Considerations:** Repeated contacts with victim(s) (2 or more in 12-month period).
- (f) **History of Violence/Violent Crime(s):** Two or more prior convictions for the following crimes in past ten years: Crimes Against Person under PC 187-247, Sex Crimes under PC 261-269, Child Abuse, Domestic Violence, Arson, Kidnapping, and Felony Weapons Crimes.

### **413.10 INTERVENTION FOCUS ON CRIMINOGENIC NEEDS**

**Family:** Programming in this area should focus on reducing conflict, building positive relationships with family members, improving communication, teaching related skills, and reinforcing offender responsibility.

**Friends/Acquaintances (Antisocial Associates):** Programming in this area should focus on an understanding of the consequences of anti-social associates and their influence on behavior, understanding of the offender's role in the social interaction process, and enhancing association with a pro-social support network.

**Leisure/Recreation:** Programming in this area should focus on enhancing involvement and satisfaction in prosocial activities, including engaging in ongoing community support systems.

**Problem Solving/Self-Control (Antisocial Personality):** Programming should focus on addressing cognitive and behavioral needs in the areas of problem-solving, coping with stress, management of anger, cognitive restructuring, and impulsive decision-makings or risk- taking behavior.

**Thinking (Criminal thinking):** Programming in this area should focus on recognizing criminalthinking, emphasizing empathy, developing alternative thoughts and feelings, and adopting less risky behaviors.

**Work/Education:** Programming in this area should focus on achievement in academic or vocational education programs, completion of an apprenticeship, career training in a field suitable for post- release employment, and other programs designed to assist offenders in looking for, applying for, and/or retaining a job.

**Staying clean and sober (Substance Abuse):** Programming in this area should focus on actual treatment services designed to educate offenders about alcohol and other drug abuse, to help offenders abstain from the abuse of these substances, and to provide offenders with tools to recognize and stop the relapse into substance abusing behavior.



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### **413.11 RESPONSES TO PROSOCIAL BEHAVIORS**

When an officer becomes aware of a desirable behavior exhibited by a client, they shall:

Identify and administer positive reinforcements based on the Incentive Response Grid to increase the likelihood the behavior will be repeated. Also consider case plan goals/action steps and current interventions when deciding on a response.

- (a) The client will be involved in their own plan to address behavior. Officers will identify client strengths, include their input in planning, and leverage interpersonal connections (family, community involvement, friends, and employment, etc.) to foster accountability and motivation for behavior change.
- (b) Responses will be proportional to the success.
- (c) Responses will be swift and clearly explained to the client so that the behaviors are linked to the incentive by using the Effective Reinforcement behavioral practice. If responding to a series of prosocial behaviors, select the highest level behavior as the primary behavior to respond to. Lesser prosocial behaviors should be addressed and considered in the overall response(s). Additional responses can be selected if deemed essential to achieve the desired behavior change.
- (d) Identify the interests of the client and allow the client to select from a variety of incentives or use universal reinforcers, such as verbal praise.
- (e) Reinforcement must be contingent on performing the desired behavior and should be administered consistently, then intermittently.
  - (e) Reinforcement is most effective when the positive behavior is linked to case plan objectives and/or is addressing a criminogenic need.

### **413.12 OVERRIDE DEFINITIONS FOR PROSOCIAL BEHAVIORS**

Individual Challenge (high): The achieved behavior was a significant challenge for the individual to overcome. This would substantiate a higher level incentive.

Behavior already habituated: The achieved behavior was already established and mastered by the individual. For example, if the individual was previously demonstrating remorse for the victim and continued to demonstrate that over time, this would substantiate a lower level incentive.