DEPARTMENT OF CORRECTIONS

Policy Number:	**106.113**
Title:	**Responding to Alleged Violations of Release Conditions by Adult Offenders**
Effective Date:	**7/1/20**

PURPOSE: To provide consistent procedures for responding to alleged violations of conditions of release or parole and for ensuring that offenders' release status is not revoked without due process.

APPLICABILITY: Hearings and Release Unit (HRU), and all agents supervising adult offenders on release.

DEFINITIONS:

Agent – an employee of the department, a Community Corrections Act (CCA) organization, or a county that is assigned to supervise an offender on supervised release, conditional release, or parole. References to an agent include the agent's designee.

Offender's counsel – a licensed attorney who represents an offender who has allegedly violated one or more release conditions.

Officer of the day (OD) – The HRU officer designated to handle reports of release violations on a particular day.

Pre-Hearing Violation Worksheet – a screening tool submitted to HRU by an agent/designee for offenders on supervised release or conditional release, including those offenders on intensive supervised release.

PROCEDURES:

A. Agent's initial response to an alleged release violation

When an agent believes an offender has violated one or more conditions of release, the agent may:

1. Work with the offender and make adjustments to supervision; or

2. Contact the designated officer of the day (OD) to report an alleged violation and provide information that demonstrates the offender has violated one or more conditions of release.

B. Probable cause evaluation of reported violations by the hearings and release unit (HRU)

The OD evaluates the information provided by the agent and questions the agent about relevant factors to determine whether there is probable cause to believe the offender violated the conditions of release.

1. No probable cause

   If the OD determines there is not probable cause to believe the conditions of release were violated, the OD directs the agent to continue supervision with no detention of the offender.

2. Probable cause

   If the OD finds there is probable cause to believe the conditions of release were violated, the OD may:

   a) Authorize a revision of the conditions of release (not-in-custody restructure).

(1) The OD and agent discuss and agree upon a revision of the offender's conditions of release;

(2) After referring to the Conditions Rankings (sample attached), the agent completes a Restructure Report and a Pre-Hearing Violation Worksheet, located in the Court Services Tracking System (CSTS) (samples attached), serves the offender with the Restructure Report, obtains the offender's signature on the Restructure Report, submits both forms for review by the agent's supervisor, and sends the forms to the HRU for signature; and

(3) The OD reviews the Pre-Hearing Violation worksheet and determines whether the restructure is appropriate or if the offender should have a violation hearing.

(a) If a violation hearing is required, a warrant is issued and the violations must be addressed in a violation hearing upon apprehension; or

(b) If a hearing is not necessary, after approval of the Restructure Report and the Pre-Hearing Violation Worksheet, HRU staff distribute the Restructure Report and Pre-Hearing Violation Worksheet and upload them to the offender's electronic file.

b) Authorize issuance of a warrant.
The agent provides the OD with the information necessary to issue a warrant.

C. Actions for offenders taken into custody on warrant
Once an agent is notified that an offender is in custody on a department warrant or detainer, the agent may:

1. Request an in-custody restructure with new conditions of release
The agent contacts the HRU to discuss with the OD the offender's alleged violation(s) and requests approval of revised conditions. If the OD authorizes the agent's proposed revised conditions:

a) The agent serves the offender with the Restructure Report, obtains the offender's signature on it, submits the Restructure Report for review by the agent's supervisor, and sends the Restructure Report and Pre-Hearing Violation Worksheet to the HRU for signature.

b) The OD reviews the Pre-Hearing Violation Worksheet and determines whether the restructure is appropriate or if the offender should have a violation hearing.

c) If a violation hearing is required, the agent must schedule a violation hearing.

d) If the OD approves the Pre-Hearing Violation Worksheet, the OD signs the Restructure Report and the Pre-Hearing Violation Worksheet, and authorizes the offender's release.

(1) HRU staff upload the Restructure Report and Pre-Hearing Violation Worksheet to the offender's electronic file;

(2) The agent contacts the warrants unit to cancel the warrant; and

(3) The agent cancels any hearing that has been scheduled.

2. Request an in-custody restructure to serve until expiration in the local detention facility

If the local authority agrees, the HRU may authorize a restructure that allows the offender to remain in the local detention facility until expiration of the offender's sentence. If an in-custody restructure is authorized:

a) The agent serves the offender with the Restructure Report, obtains the offender's signature on the report, submits the report for review by the agent's supervisor, sends the Restructure Report and the Pre-Hearing Violation Worksheet to the HRU for signature, and cancels any hearing that has been scheduled.

b) HRU staff upload the signed Restructure Report and the Pre-Hearing Violation Worksheet to the offender's electronic file and send approved copies to the agent.

3. Schedule a violation hearing to be held in a local detention facility

a) The agent contacts the HRU to schedule a hearing as soon as the agent learns the offender is in custody at a local detention facility and is not:

(1) Being held for an alleged crime for which the offender has not posted bail;

(2) Serving an active jail sentence; or

(3) Being held on an active warrant (other than the department's warrant) for the offender's apprehension and detention.

b) Unless there are extraordinary circumstances, HRU staff schedule a hearing within 12 business days of the first full business day the offender is available.

c) At least seven days prior to the scheduled hearing, the agent prepares and serves the offender with:

(1) Notice of Violation and Right to Hearing form, located in the Court Services Tracking System (CSTS) (sample attached);

(2) Supervised Release Violation Report (sample attached); and

(3) Copies of any documentary evidence that has been collected, unless possession of the evidence is restricted by the facility (e.g. contraband) or is confidential.

If extraordinary circumstances prevent service seven days prior to the scheduled hearing, the agent must notify the HRU to determine the appropriate course of action.

d) As soon as possible after serving the offender, but no less than seven days prior to the scheduled hearing, the agent:

(1) Submits a copy of the signed Notice of Adult Violation and Right to Hearing form, Supervised Release Violation Report, Pre-Hearing Violation Worksheet, and any other supporting documentation or evidence to be used at the hearing to the HRU and to the offender's counsel; or

(2) If the offender requests to waive the hearing, the agent prepares and reviews the Waiver of Hearing form (sample attached) with the offender and sends the signed Waiver, Notice of Adult Violation and Right to Hearing form, and Supervised Release Violation Report to the HRU.

(a) If the HRU approves the Waiver of Hearing, the agent notifies the HRU scheduler to cancel the hearing.

(b) If the HRU does not approve the Waiver of Hearing, the hearing is conducted as scheduled and the agent must submit a copy of the signed Notice of Adult Violation and Right to Hearing form, Supervised Release Violation Report, the Pre-Hearing Violation Worksheet, and any other supporting documentation or evidence to be used at the hearing to the HRU and to the offender's counsel.

(3) HRU staff upload a copies of the signed Notice of Adult Violation and Right to Hearing form, Supervised Release Violation Report, Pre-Hearing Violation Worksheet, supporting documentation, evidence, and Waiver of Hearing to the offender's electronic file.

e) Before the scheduled hearing, the offender, or the offender's counsel, may submit to the HRU:

(1) A written request for a continuance to allow more time to prepare for the hearing; or

(2) A Waiver of Hearing form.

4. Schedule a violation hearing to be conducted in a department facility

For offenders who have been returned to a facility, the facility HRU liaison:

a) Adds those offenders to the HRU hearing schedule; and

b) If an offender has not yet been served before returning to the department facility, the facility HRU liaison coordinates service of required documents as soon as possible.

INTERNAL CONTROLS:

A. Notice of Adult Violation and Right to Hearing forms, and Pre-Hearing Violation Worksheets are retained in the offender's electronic file.

B. Waiver of Hearing forms are retained in the offender's electronic file.

ACA STANDARDS: 4-APPFS-2B-05 and 4-APPFS-2B-08

REFERENCES: Minn. Stat. §§ 241.01, subd. 3a(b); 243.05; and 244.05, subd. 1b
Minn. Rule 2940

REPLACES: Policy 106.113, "Responding to Alleged Violations of Release Conditions by Adult Offenders," 9/4/18.
All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS: Restructure Report (106.113A)
Notice of Adult Violation and Right to Hearing (106.113B)
Supervised Release Violation Report (205.010D)
Waiver of Hearing (106.113C)

Conditions Rankings (106.113D)
Male Pre-Hearing Violation Worksheet (106.113E, found in CSTS)
Female Pre-Hearing Violation Worksheet (106.113F, found in CSTS)

APPROVALS:
Deputy Commissioner, Facility Services
Deputy Commissioner, Community Services
Assistant Commissioner, Operations Support
Assistant Commissioner, Criminal Justice Policy, Research, and Performance