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Evidence-Based Response to Violations

.01 GENERAL STATEMENT

Responding to violations in an effective manner is crucial to the overall success of an individual on supervision and can have a significant impact on reducing the risk of re-offense. The ultimate purpose of responding to violations is to increase public safety by appropriately equipping offenders to be successful in the community.

All violations of supervision need to have some type of response as determined by the Evidence-Based Response to Violations policy.

Elements of an Evidence-Based Response to Violations

The following points should be taken into consideration when following best practice in responding to violations.

- Utilize a violation decision making guideline (violation response matrix) that takes into account the risk of the offender and the severity of the violation behavior.
- Utilize accountability responses and intervention services when responding to violations.
- Sanctions should be swift, certain, and proportionate for all violations.
- For offenders assessed at low risk, violation responses need to be minimally intrusive, so as not to disrupt the protective factors they already possess that make them low risk.
- Research suggests programs that are able to incorporate sanctions combined with the use of rewards to reinforce conforming behavior will be more effective than those that rely on sanctions alone.

Utilize incentives and rewards for compliance and positive behavior (at least 4 rewards for every sanction).

Principles of an Evidence-Based Response to Violations

- **Celerity** – Reduce the time delay between behavior and response, and respond to violations as quickly as possible.
- **Certainty** – Increase the certainty of response. Respond in some way to every violation.
- **Consistency** – Use similar decisions in similar circumstances. Use decision making instruments that produce consistent results.

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- **Neutrality** – Apply processes that are impartial, logical and fair. Inform offenders how responses are determined.
- **Parsimony** – Punishment should not be more intrusive or restrictive than necessary. Use severity of the violation as a factor in determining the appropriate level of response.
- **Proportionality** – Level of punishment should be commensurate with the severity of the behavior. Match the severity of the sanction to the severity of the violation.
- **Risk and Need** – The higher the risk to re-offend, the more intensive the intervention. Use risk level as a key factor in determining the appropriate level of response and tailor responses to address the individual's unique criminogenic needs that are the underlying influence on the offender's violation behavior.

Definitions

Violation = Action in which an offender does not follow conditions or case plan goals imposed by the sentencing court or their supervising agent, or commits a new crime while on supervision.

Response to Violation = An action taken to address an incident of non-compliance.

Revocation = A response to a violation that results in termination from supervision.

Severity Levels of Violations and Response Levels:

- Low
- Medium
- High
- Very High

Accountability Response → Risk Control (External) = Aims to reduce crime by limiting the offender's capacity to carry out new criminal acts or violations. **Limitation:** Risk to re-offend increases after control is removed.

Intervention/Treatment → Risk Reduction (Internal) = Seeks to diminish the likelihood that an offender will choose to commit another crime or violation. **Limitation:** Risk to re-offend remains until skills and desires are internalized. This may require control until interventions take hold.

Criminogenic Needs – Criminogenic Needs are attributes of offenders that are directly linked to their criminal behavior. Drivers are those specific criminogenic needs that are the primary underlying

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influence to their criminal and anti-social behavior. Effective correctional interventions and treatment target the offender's criminogenic needs/drivers in the development of a comprehensive case plan. Any treatment or intervention not targeting criminogenic needs/drivers is counter-productive to efficiency and effectiveness.

Responsivity Factors – Offender characteristics that affect how they will respond to an Agent, Therapist or Treatment Provider. Characteristics such as age, gender, culture, learning style, intelligence, mental health, etc., influence how offenders respond to efforts to change their behavior, thoughts and attitudes. Therefore, it is important to match the characteristics of the treatment program and treatment provider to the individual characteristics of the individual offender.

Investigative Procedures

When an agent discovers evidence of possible violations of supervision by an offender, the agent must investigate the facts underlying the alleged violations. If evidence supports that a violation of supervision has occurred, the agent must consider the offender's overall risk to reoffend (based upon the most recent COMPAS Risk Assessment score), the severity level of the most significant violation, and any other relevant factors (prior violations, stability factors, positive behaviors, aggravating/mitigating factors, etc.), in order to determine an appropriate response.

Appropriate responses to violations will accomplish two goals; hold offenders accountable and reduce the likelihood of future violations or criminal behavior, but will not always result in the offender being placed in custody. It is important to resolve issues at the lowest possible level, and to address the risk factor that is driving the violation behavior.

If the alleged violation is assaultive or threatening in nature, the offender must be placed in custody, unless an exception is granted by the Regional Chief or designee.

If an offender has already been placed in custody (i.e. after-hours hold, new criminal arrest, apprehension request, etc.) the agent must meet with the offender in a timely manner to get the offender's statement regarding the allegation(s). If the evidenced-based response to the violation does not support a custody response, the agent does have the ability to release the offender from custody and investigate the violation and determine the appropriate response. Releasing an offender prior to completing a full investigation may be staffed with a supervisor in making this determination.

Circumstances around the violation and relevant factors regarding the offender (i.e. risk to community) must be considered when determining if an offender needs to remain in custody pending the investigation of the violation. The agent should determine if the accountability response and

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intervention response to the violation can be safely and effectively addressed while the offender is in the community. If so, then it may be appropriate to release the offender pending the final investigation of the violation.

An agent's investigation should be thorough, objective, and well documented. It is particularly important that an agent seek to uncover all aspects of the alleged violation(s). If an offender gives a statement denying the allegations, the agent should thoroughly investigate its validity. An agent should also investigate any extenuating circumstances surrounding the alleged violation. A comprehensive investigation is necessary to ensure that an offender is not unjustifiably deprived of their rights or their freedom.

An agent must interview the offender and secure a written statement using a [DOC- 1305](#). The agent must advise the offender of the Thompson warning in advance indicating that they must provide a true and accurate statement and that any statements they give in regards to the violation(s) may not be used against them in criminal proceedings.

If the offender refuses to give a statement regarding a violation, he/she shall be advised that he/she is obligated by the rules to do so. The offender shall also be advised that the refusal itself is a violation of supervision and will be considered along with other violations.

The agent shall obtain available police reports and may, if appropriate, interview the arresting officers. They shall obtain any other available documentary evidence.

Witnesses and other collateral sources may be interviewed and written statements obtained.

The investigation should include an interview with the victim and any witnesses, the offender, the police, and the District Attorney's office. It should also include any physical evidence of the violation, including:

- victim, witness, and offender written statements
- police reports
- prior violation reports
- court orders
- relevant public records
- any other physical evidence obtained or seized by the agent

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In gathering physical evidence, any search and seizure by the agent must comply with established Department policies and procedures.

An alleged violation is sufficient cause to stop time. The agent should staff the case with the supervisor regarding the stopping of time.

The agent will contact the District Attorney's Office, Clerk of Circuit Court, or detaining facility to determine:

- any pending State or federal charges
- offender's plea to those charges
- bond amount and status
- any conviction or bind-over for the conduct being investigated

If the alleged violation occurred outside the supervising agent's area, the agent should contact the DCC office in the area where the violation occurred. The agent from that area should assist in the investigation. For out-of-state violations, the agent should follow established Department policies and procedures.

Interviewing Victims

Victims should be interviewed as soon as possible regarding the circumstances surrounding the alleged violation. It is advisable to get all victim and witness statements in writing.

It is advisable, prior to interviewing victims of sexual assaults or juvenile victims, to first contact:

- Local Victim/Witness Services
- District Attorney's office
- Social Services
- Minor victim's parents or other appropriate family member
- Other interested agencies that may have been involved with the victim

Victims shall be informed of their rights under Marsy's Law. The Wisconsin Department of Justice Office of Crime Victim Services "Victims of Crime Constitutional Amendment Rights" shall be provided to victims of criminal behavior related violations and provided information concerning local Victim/Witness Services in the county. The brochure is available on MyDOC.

The Department of Corrections Victim Services Office may be able to also provide additional guidance.

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