§ 110 Purpose

Part E: Supervision of Federal Offenders (Monograph 109) is designed to provide United States probation officers with guidance in supervising offenders conditionally released to the community by the United States district courts or paroling authorities on probation, parole, or supervised release.
§ 120 Applicability

The guidance set forth in this part applies to United States district court employees — specifically, employees of the United States probation and pretrial services system — in the performance of their duties.

§ 130 Scope

This part addresses the following areas:

(a) Conditions of Supervision (Ch 2);

(b) The Supervision Assessment and Planning Process (Ch 3);

(c) Selecting and Implementing Strategies (Ch 4);

(d) Supervision of Offenders With Treatment Services Needs (Ch 5); and

(e) Managing Noncompliant Behavior (Ch 6).

§ 140 Philosophy

(a) As a component of the federal judiciary’s responsibility for community corrections, the federal probation and pretrial services system is fundamentally committed to protecting the public and assisting in the fair administration of justice.

(b) United States probation officers are community corrections professionals who serve as officers of the court and as agents of the United States Parole Commission. They are responsible for the supervision of persons conditionally released to the community by the courts, the Parole Commission, the Federal Bureau of Prisons, and military authorities. Officers recommend and implement conditions of release and monitor offenders’ compliance with those conditions. Officers also work with offenders to facilitate their reintegration into the community as law-abiding and productive members of society.

(c) Supervision is a dynamic process throughout which officers are to keep informed and — consistent with the conditions of release and individual circumstances — intervene with strategies designed to manage risk and provide offenders with the tools and social services they may require to improve their conduct and condition. It is through such intervention in
higher risk cases that officers further the goal of public safety during the period of supervision and beyond.

(d) Officers carry out these responsibilities by assessing the risks, needs, and strengths of each offender to determine the appropriate level of supervision. They use skills from various disciplines to simultaneously monitor and, as necessary, control and correct offender behavior. These include the investigative skills of law enforcement and the treatment and service-delivery skills of social workers. Investigative skills are used for the primary purpose of planning for success rather than documenting failure. The primary focus of treatment and service-delivery skills is to improve circumstances that are linked to criminal behavior (e.g., substance abuse; mental health; employment; education; family and community support).

(e) The community is best served when positive behavioral changes are integrated into an offender’s daily living. Research indicates that offender success, and consequently the reduction of risk to the community, is contingent upon improvement in key areas of an offender’s life. These key areas, also known as criminogenic needs (see: § 140 (g) (The "Big Six Criminogenic Needs)) are dynamic risk factors that, when addressed, affect the offender’s likelihood to engage in future criminal activity. Criminogenic needs include low self-control, anti-social personality, antisocial values and beliefs, criminal peers, substance abuse, and dysfunctional family. For example, sobriety is one factor that can positively affect supervision outcomes, when addressed as part of a broader, integrated supervision plan. Although improving an offender’s mental health status does not directly impact recidivism, and hence is not a criminogenic need, there is an ethical responsibility to assist in the improvement of an individual’s stability and ability to function in a deinstitutionalized setting. (Note: Taxman, F., Federal Probation, volume 70, no. 2, 2006.)

(f) Officers maintain awareness of the behavior of those they supervise and, depending on the circumstances and conditions of the case, implement restrictive and correctional strategies to encourage pro-social behavior and facilitate positive change. This multidimensional role does not mean that each officer is expected to be an expert in all areas. Rather, officers are to serve as participating case managers, aware of the strengths and limitations of their role and knowledgeable of the range of expertise available in their offices and communities.
§ 140 (g) The "Big Six" Criminogenic Needs

<table>
<thead>
<tr>
<th>(1) Low Self-Control</th>
<th>The inability to control one's own behavior has been directly linked to crime. Offenders are more likely to commit illegal acts when they lack the ability to control impulses.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(2) Anti-Social Personality</td>
<td>Certain personality traits are another factor that has been directly linked to criminality. Offenders who display anti-social personality traits often will not care how their actions affect others and therefore they may not feel any remorse for what they have done.</td>
</tr>
<tr>
<td>(3) Anti-Social Values</td>
<td>Anti-social values allow offenders to disassociate themselves not only from the community but from the values and norms of the community. These types of attitudes help offenders retreat from their surroundings to be alone with their thoughts and ideas while having minimal interaction with others within the community who are not engaged in criminal conduct.</td>
</tr>
<tr>
<td>(4) Criminal Peers</td>
<td>Associating with other criminals increases the likelihood of an offender's recidivating.</td>
</tr>
<tr>
<td>(5) Substance Abuse</td>
<td>Research has shown that there is a relationship between substance abuse and criminal behavior. Continued substance abuse is an illegal act itself for offenders on supervision.</td>
</tr>
<tr>
<td>(6) Dysfunctional Family</td>
<td>If an offender comes from a dysfunctional family, the offender is more likely to be in a setting where he or she can learn criminal or substance abuse behaviors.</td>
</tr>
</tbody>
</table>

§ 150 Desired Outcomes and Goals of Supervision

(a) The desired outcomes of supervision are the execution of the sentence and the protection of the community by reducing the risk and recurrence of crime and maximizing offender success during the period of supervision and beyond. The goal in all cases is the successful completion of the term of supervision, during which the offender commits no new crimes; is held accountable for victim, family, community, and other court-imposed responsibilities; and prepares for continued success through improvements in his or her conduct and condition.
(b) “Continued success” within the context of the criminal justice mission is refraining from further crime. Offenders “prepare for continued success” during the term of supervision by actively dealing with those circumstances that relate to future criminality.

(c) The federal supervision model (see: § 150(h) (Desired Outcomes)) is founded on the conditions of release (see: Guide, Vol 8E, Ch 2) and comprised of both controlling and correctional strategies consistent with those conditions that are sufficient, but no greater than necessary, to facilitate achievement of the desired outcomes.

(d) The officer’s responsibility within this model is to assess and manage risk by engaging in an ongoing process of investigation, assessment, planning, implementation, and evaluation that will start at or — for offenders coming from prison — before the beginning of the term of supervision and continue throughout the course of supervision. See: Guide, Vol 8E, Ch 3.

(e) The purpose of this ongoing planning and evaluation process is to:

(1) assess the offender’s current level of risk to community safety or of otherwise not complying with the conditions of release;

(2) use this information to develop a blend of controlling and correctional risk-management strategies appropriate to the level and type of any risk identified (see: Guide, Vol 8E, Ch 4); and

(3) revise the plan as necessary based on an evaluation of the offender’s conduct and progress towards desired outcomes.

(f) Controlling strategies serve the dual purpose of:

(1) maintaining awareness of an offender’s activities, and

(2) encouraging compliance.

(g) Correctional strategies are designed to provide the offender with additional information, skills, resources, and treatment for the purpose of facilitating positive behavioral change during the period of supervision and beyond. This two-pronged approach is also used to respond to any noncompliance with the conditions of supervision, simultaneously providing a negative consequence designed to deter further noncompliance and intervening to change the circumstances that led to the behavior. See: Guide, Vol 8E, Ch 6.
The desired outcomes and goals of federal supervision are derived from the purposes to be served by the sentence imposed. See: § 160.10 (Statutory Purposes for Terms of Supervision) and § 160.20 (Statutory Duties of Probation Officers). The last two sections of this first chapter present principles of good supervision (see: § 170) and an overview of the roles of specialists, supervisors, and managers in supporting supervision goals (see: § 180).

§ 160 Authority

§ 160.10 Statutory Purposes for Terms of Supervision

§ 160.10.10 Probation (18 U.S.C. § 3561; U.S.S.G. Chapter 5, Part B)

The Sentencing Reform Act, applicable to offenders who committed their offenses on or after November 1, 1987, made probation a sentence in its own right rather than the means by which the imposition or execution of a sentence to imprisonment is suspended. (Note: For a summary of legislative landmarks affecting supervision responsibilities, see: Appx 1A.) Probation is one of several options that a court, subject to sentencing guidelines, may impose to meet the following sentencing purposes set forth at 18 U.S.C. § 3553(a)(2):

(a) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
(b) to afford adequate deterrence to criminal conduct;

(c) to protect the public from further crimes of the defendant; and

(d) to provide the defendant with needed education or vocational training, medical care, or other correctional treatment in the most effective manner.


(a) Supervised release is a sentence to a term of community supervision to follow a period of imprisonment. It is available for all offenders who committed their crimes on or after November 1, 1987, the effective date of the Sentencing Reform Act. (Note: In addition, under the Anti-Drug Abuse Act of 1986, certain drug offenses committed on or after October 27, 1986, were subject to the mandatory imposition of terms of supervised release. See Gozlon-Peretz v. United States (89-7370), 498 U.S. 395 (1991).) Unlike regular parole, supervised release is not a form of early release from prison, but rather a separate sentence imposed in addition to the sentence to imprisonment.

(b) The court must impose a term of supervised release for first-time domestic violence offenders (18 U.S.C. § 3583(a)), for sex offenders as described in 18 U.S.C. § 3583(k), and for certain drug offenders (see: Appx 1B). The court may, subject to sentencing guidelines, impose supervised release in other cases, giving consideration to the need for the sentence to meet the following purposes as set forth at 18 U.S.C. § 3583(c):

(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

(2) the need for the sentence imposed to:

   (A) afford adequate deterrence to criminal conduct;

   (B) protect the public from further crimes of the defendant; and

   (C) provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

(3) the kinds of sentence and the sentencing range established for —
(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines —

(i) issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, subject to any amendments made to such guidelines by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and

(ii) that, except as provided in section 3742(g), are in effect on the date the defendant is sentenced; or

(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code, taking into account any amendments made to such guidelines or policy statements by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28);

(4) any pertinent policy statement —

(A) issued by the sentencing commission pursuant to section 994(a)(2) of title 28, United States Code, subject to any amendments made to such policy statement by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and

(B) that, except as provided in section 3742(g), is in effect on the date the defendant is sentenced.

(5) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(6) the need to provide restitution to any victims of the offense.
(c) Consistent with the determinate sentencing system ushered in by the Sentencing Reform Act, punishment is not a purpose to be considered in the imposition of a discretionary term or of the conditions of any term of supervised release: This objective is to have been addressed in full by the imprisonment portion of the sentence.

§ 160.10.30 Parole and Mandatory Release (18 U.S.C. § 4205 et seq (repealed))

Note: The terms "parole" or "parolee" are used throughout Guide, Vol 8E to refer to all offenders under the jurisdiction of the Parole Commission, regardless of the specific form of release.

(a) Federal Offenders

(1) Regular parole and mandatory release are forms of early release from prison through the exercise of discretion by the United States Parole Commission and the operation of the good-time laws that were in effect before the Sentencing Reform Act.

(Note: In addition, certain pre-Sentencing Reform Act drug offenders were subject to mandatory add-on "special parole terms" to follow the term of imprisonment. These were replaced by mandatory terms of supervised release. See: Appx 1B.)

(2) These terms are distinguished from either probation or supervised release in that parolees and mandatory releasees remain in the legal custody of the Attorney General, serving a portion of their sentence of imprisonment in the community. The purposes to be served are thus identical to those for the original sentence.

(b) Military Offenders

(1) Since 1946, at the request of the now-defunct War Department, the federal probation system has supervised all military prisoners released on parole from United States disciplinary barracks and military prisoners who are confined to Federal Bureau of Prisons facilities. Parolees released from military prisons are under the general jurisdiction of the Department of Defense and the specific jurisdiction of each Clemency and Parole Board of the Departments of the Army, Air Force, and Navy. Military prisoners released from Federal Bureau of Prisons facilities are under the jurisdiction of the United States Parole Commission.
(2) On July 17, 2001, the Department of Defense amended its regulations to authorize mandatory supervised release for all prisoners who otherwise would be released from custody at their minimum release date without the benefit of supervision except where it is determined by the Service Clemency and Parole Boards to be inappropriate. The Department of Defense concluded that supervised release supervision of prisoners not granted parole prior to their minimum release date is a highly effective technique to provide an orderly transition to civilian life for released prisoners and to protect better the communities into which such prisoners are released.

(3) The Department of Defense policy also authorizes the United States Parole Commission to place Federal Bureau of Prisons military prisoners who are given early release through good time credits under mandatory supervision "as if on parole." The United States Parole Commission revised its regulation to authorize supervision for military mandatory releasees under its jurisdiction. The policies of the Department of Defense and United States Parole Commission are not retroactive and therefore only affect military prisoners who have approved findings of guilt for offenses that occurred on or after August 16, 2001. See: Memorandum of Understanding between the Department of Defense and the Administrative Office of the United States Courts (AO).

(c) D.C. Offenders

(1) On August 5, 2000, the Parole Commission assumed responsibility for D.C. Code offenders who are on parole or who are serving a term of supervised release imposed by the Superior Court of the District of Columbia. (Note: These responsibilities were transferred under the National Capital Revitalization and Self-Government Improvement Act of 1997 and the Sentencing Reform Emergency Amendment Act of 2000 (D.C. Code 24-133(c)(2).)

(2) United States probation officers have responsibility for supervising D.C. Code offenders under the jurisdiction of the Parole Commission who are released to districts outside of the D.C. metropolitan area or who are serving mixed U.S. and D.C. Code sentences (18 U.S.C. §§ 3655 and 4203(b)(4)).
§ 160.10.40 Conditional Release (18 U.S.C. §§ 4243 and 4246)

(a) The Federal Courts Administration Act of 1992 authorized probation officers to supervise persons conditionally released under the provisions of 18 U.S.C. §§ 4243 (Hospitalization of a Person Not Found Guilty By Reason of Insanity) and 4246 (Hospitalization of a Person Found Guilty and Due for Release but Suffering from a Mental Disease or Defect). Unlike probation, supervised release, or parole, conditional release is a civil rather than criminal form of supervision.

(b) The Federal Bureau of Prisons may petition the court for the release of an individual under a prescribed regimen of medical, psychiatric, or psychological care. Under 18 U.S.C. §§ 4243(f)(2) and 4246(e)(2), the court may order a conditional release upon finding that, under the prescribed regimen of care, the person no longer creates a substantial risk of bodily injury to another person or serious damage to the property of another. (For additional information on conditional release, see: Guide, Vol 8E, Ch 2 and Appx 2C.)

§ 160.10.50 Juvenile Supervision (18 U.S.C. § 5035)

(a) Following an adjudication of delinquency, the court may place a juvenile delinquent on probation or impose a term of juvenile delinquent supervision to follow official detention. (Note: Juvenile delinquent supervision was added as a dispositional option by Section 12301 of the 21st Century Department of Justice Appropriations Authorization Act (Pub. Law No. 107-273 (Nov. 2, 2002)). For a summary of available juvenile dispositional options, see: Appx 1C.)

(b) All juvenile dispositions are limited by the lesser of ceilings established at 18 U.S.C. § 5035 or the maximum punishment that could be imposed on a similarly situated adult.

(c) Under the ceilings, no term of supervision may extend beyond the 21st birthday of juveniles under the age of 18. For those between the ages of 18 and 21, the maximum term of probation is three years and the maximum combined time of official detention and juvenile delinquent supervision is:

(1) five years for those whose delinquent behavior would have been classified as a Class A, B, or C felony, or
three years in other cases. (Note: 18 U.S.C. § 3563, which governs the imposition of conditions for adult probation, applies to both juvenile probation and juvenile delinquent supervision.)

§ 160.20 Statutory Duties of Probation Officers

(a) The statutory duties of probation officers are set forth at 18 U.S.C. § 3603.

They require officers to instruct, monitor, assist, and report on probationers and supervised releasees; to provide supervision of any probationer or supervised releasee known to be in the district and of persons on conditional release; and to assist in the supervision of offenders in the community under the custody of the Federal Bureau of Prisons. Specifically, this statute states that a probation officer shall:

(1) instruct a probationer or a person on supervised release, who is under his supervision, as to the conditions specified by the sentencing court, and provide him with a written statement clearly setting forth all such conditions;

(2) keep informed, to the degree required by the conditions specified by the sentencing court, as to the conduct and condition of a probationer or a person on supervised release, who is under his supervision, and report his conduct and condition to the sentencing court (Note: In practice, the report is made to the court with jurisdiction over the offender, which may be different from the sentencing court if jurisdiction has been transferred.);

(3) use all suitable methods, not inconsistent with the conditions specified by the court, to aid a probationer or a person on supervised release who is under his supervision, and to bring about improvements in his conduct and condition;

(4) be responsible for the supervision of any probationer or a person on supervised release who is known to be within the judicial district;

(5) keep a record of his work, and make such reports to the Director of the AO as the Director may require;

(6) upon request of the Attorney General or his designee, assist in the supervision of and furnish information about, a person within the custody of the Attorney General while on work release, furlough, or other authorized release from his regular place of confinement, or while in prerelease custody under the provisions of section 3624(c);
(7) keep informed concerning the conduct, condition, and compliance with any condition of probation, including the payment of a fine or restitution of each probationer under his supervision and report thereon to the court placing such person on probation and report to the court any failure of a probationer under his supervision to pay a fine in default within thirty days after notification that it is in default so that the court may determine whether probation should be revoked;

(8) when directed by the court, and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of 18 U.S.C. §§ 4243 or 4246, and report such person's conduct and condition to the court ordering release and to the Attorney General or his designee; and immediately report any violation of the conditions of release to the court and the Attorney General or his designee.

(b) This statute also provides that officers shall perform any other duty that the court may designate and, if approved by the district court, authorizes officers to carry firearms under such rules and regulations as are promulgated by the Director of the AO.

(c) A probation officer’s duties are expanded to the parole population by 18 U.S.C. § 4203 (which provides the Parole Commission with the power to request probation officers to provide services deemed necessary for maintaining proper supervision of and assistance to parolees); and § 3655 (which requires that probation officers perform their instructing, monitoring, assisting, and reporting duties with respect to persons on parole as requested by the Parole Commission).

§ 170 Principles of Good Supervision

The principles of good supervision are designed to ensure that supervision comports with the requirements and limitations inherent in statutory directives and is purposefully directed towards achieving desired outcomes. Their application in every case will also ensure that the majority of supervision resources are dedicated to those offenders who need them most in order to successfully complete their community sentences.

(a) Individualized

Good supervision is tailored to the risks, needs, and strengths presented by the individual offender as determined by careful assessment of each case.
(b) **Proportional**

Supervision monitoring and intervention strategies are to involve no greater deprivations of liberty or property than are reasonably necessary to address relevant sentencing purposes. *(Note: This principle is consistent with [18 U.S.C. §§ 3563(b) and 3583(d)](https://www.lawsphere.com/18-usc-section-3563/) which set forth standards for imposing discretionary conditions of probation or supervised release. See also: Guide, Vol 8E, Ch 2.)* Supervision programs and tools are to be used when, but only when, they are the least intrusive means necessary to facilitate supervision goals.

(c) **Purposeful**

Initial and subsequent supervision planning should develop specific goal-directed objectives to be accomplished by this offender during the term of supervision and the strategies that the officer will undertake to monitor compliance and facilitate the accomplishment of those objectives. Every supervision contact should be integral to implementing the overall supervision strategies and have a purpose that is directly related to case objectives and the offender's level and type of risk.

(d) **Multidimensional**

Good supervision of higher risk cases requires the concurrent implementation of multiple intervention strategies that apply the skills from a variety of disciplines to address the level and type of risk presented by the individual offender, build on an offender's strengths, and provide offenders with incentives to change.

(e) **Proactive in Implementation**

Officers must be aware of changes in offenders' circumstances throughout the period of supervision and actively engage in assessing the impact of any changes on the appropriate level and type of supervision. This cannot usually be done solely from the office or with information provided by the offender alone. Officers should independently assess an offender's circumstances through field and collateral contacts at a level appropriate to the issues in the individual case.

(f) **Responsive to Changes**

Officers are to adjust supervision as required on an ongoing basis to intervene with controlling and correctional strategies to address indications of heightened risk or to respond to behaviors that do not comply with the
conditions of release. Response to noncompliance should be purposeful and proportionate, certain and timely, realistic and escalating; and should include elements designed to both provide a negative consequence for the behavior and to change the circumstances that led to the noncompliance. On the other hand, there is a rebuttable presumption that the intrusiveness and frequency of supervision activities will be reduced over time for stable, compliant offenders who are meeting their supervision objectives.

§ 180 Supporting the Supervision Process

(a) The supervision of offenders is the most resource-intensive and publicly visible service provided by the federal probation system. Probation officers are the system's most visible representatives and are charged with directly implementing supervision policies. Guide, Vol 8E, Ch 3, Ch 4, and Ch 5 set forth those policies and are specifically aimed at providing officers with guidance to carry out their supervision responsibilities.

(b) Officers, however, do not operate in a vacuum and need a strong supervision infrastructure to support these expectations. Management at the district and national levels must be committed in word and action to excellence in supervision and to the principles set forth in this monograph. Everyone in the system has a significant role to play, and these roles need to be clearly defined and understood.

§ 180.10 Senior Officers and Specialists

(a) Senior officers and specialists must be skilled officers, as they are often called upon to supervise the most challenging cases within their area(s) of expertise. When serving in this role, specialists use their special training along with the multidimensional skills expected of all officers to improve the assessment and delivery of the appropriate level and type of supervision required in each case.

(b) Specialists are also to support officers by serving as consultants in their areas of expertise, which include:

(1) Maintaining up-to-date knowledge of research, techniques, and technologies in their area(s) of specialization;

(2) Partnering in the case assessment and planning process;

(3) Staffing responses to noncompliance;

(4) Developing and assessing the quality of community resources;
(5) Serving as liaison to other agencies;

(6) Training and mentoring;

(7) Formulating and updating local policies and procedures;

(8) Maintaining and monitoring supplies and equipment; and

(9) Purchasing and contracting.

§ 180.20 Substance Abuse and Mental Health Treatment Specialists

A detailed description of the role of the treatment specialist can be found in Vol 8E, § 530.20.

§ 180.30 Supervisors

(a) Supervisors play a critical role in the supervision process and are to stay focused — and help their officers stay focused — on the desired outcomes of supervision and the broader principles of long-term public safety, the fair administration of justice, and the judicious use of officers’ authority.

(b) The supervisor’s specific roles in the supervision process are to:

(1) Oversee the application of principles established by law and policy in each case and work in partnership with officers to translate these principles into action;

(2) Develop the professional skills of their officers; and

(3) Facilitate the supervision function in their districts.

(Note: For guidance on the supervisor’s responsibility for evaluating the work of officers and documenting and responding to sub-par performance, see: Quality Performance Management. The guidance in Part E emphasizes other aspects of the supervisor's multidimensional role.)

(c) Supervisors and officers engage in a collaborative process of case planning and evaluation for the purpose of devising principled and effective plans for the individual offender. The supervisor’s role in this process is to serve as mentor and professional colleague to the officer as they work together to assess the current supervision needs of the case.
(d) The case planning and evaluation process also provides an opportunity for supervisors to carry out their officer development responsibility by modeling excellence in supervision and coaching or reinforcing officer skills in such areas as:

1. Ongoing individualized assessment;
2. Clear communication of responsibilities and expectations;
3. Familiarity with common warning signs of potentially risky behavior;
4. Crisis management;
5. Familiarity with programs and supervision tools;
6. Establishment of networks of collateral sources of information and service providers to assist in implementing the supervision plan; and
7. Good time management and organizational skills necessary for implementing the principle of "working smart" (i.e., devoting the majority of time and office resources to the cases that need them most).

(e) Supervisors have additional opportunities to model, coach, and reinforce good supervision by assisting with difficult, non-responsive, or noncompliant offenders and by routinely accompanying officers in the field.

(f) To facilitate the supervision process in their districts, supervisors should also:

1. Help to identify the need for and develop community resources;
2. Advocate on behalf of supervision with others in office management; and
3. Consult with other supervisors and managers both formally and informally on an ongoing basis to ensure the equitable application of supervision practices across the district.

§ 180.40 Deputy Chief and Chief Probation Officer
(a) The deputy chief and the chief are directly responsible for the quality of offender supervision in the district. Managers must affirmatively support supervision goals in a manner that is highly visible to the staff. Diverse managerial responsibilities may divert attention from supervision. To ensure adequate attention to supervision, managers should:

1. Properly allocate resources to the supervision function, including senior management oversight for assurance of quality and consistency of practices across the district;

2. Communicate with judicial officers to advocate on behalf of supervision and ensure that the court is aware of how the special conditions it imposes affect supervision processes and outcomes;

3. Develop strong relationships with other court units;

4. Develop strong relationships with other law enforcement, service, and community organizations; and

5. Promote field-based supervision.

(b) In addition, it is the joint responsibility of administrators at the district and national level to further facilitate excellence in supervision by keeping abreast of the latest research and its implications for effective supervision and by providing:

1. Clear expectations and reinforcement of roles and performance;

2. Consistent, informed, up-to-date, written supervision policies and procedures that are easily accessible to all staff;

3. Effective case planning and evaluation tools;

4. A variety of quality correctional programs and supervision tools from which officers may select;

5. Effective training in investigation, assessment, planning, and supervision implementation skills;

6. Effective safety training and tools for implementing field supervision; and

7. Recognition and reward of innovative supervision programs.
**Guide to Judiciary Policy**

Vol 8: Probation and Pretrial Services  
Part E: Supervision of Federal Offenders (Monograph 109)

**Ch 2: Conditions of Supervision**

§ 210 Overview

§ 220 Mandatory Conditions of Probation, Supervised Release, and Parole  
§ 220.10 Mandatory Conditions: Applicability for Probation, Parole, and Supervised Release

§ 230 Standard Conditions of Probation, Supervised Release, and Parole  
§ 230.10 Standard Conditions: Applicability for Probation, Parole, and Supervised Release

§ 240 Special Conditions of Probation, Supervised Release, and Parole

§ 250 Conditions of Conditional Release

Appendices

Appx 2A DNA Analysis Qualifying Offenses  
Appx 2B Standard Conditions of Supervision  
Appx 2C Conditional Release

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**§ 210 Overview**

(a) The conditions of supervision set the parameters of supervision. They define the sentence to be executed, establish behavioral expectations for offenders, and provide the officer with tools to keep informed and bring about improvements in an offender’s conduct and condition.

(b) Statutorily, conditions are divided into mandatory conditions — those that are required for certain types of offenders or for all offenders under a particular type of supervision — and discretionary conditions that may be imposed when (but only when) necessary to meet relevant statutory purposes. See: Guide Vol 8E, § 160.10 (Statutory Purposes for Terms of Supervision).

Last revised (Transmittal 08-003) December 10, 2010
(c) Statutorily discretionary conditions are further differentiated into “Standard” and “Special” conditions of release. Standard conditions are those that have been established by policy of the Judicial Conference, as informed by Sentencing Commission policy statements, or by the Parole Commission as applicable to all offenders under their jurisdiction.

(d) Special conditions are discretionary by both statute and policy and provide for additional sanctions (in the case of probation or parole), restrictions, correctional interventions, or monitoring tools as necessary to achieve the purposes of sentencing in the individual case.

(e) Probation officers recommend special conditions for sentences of probation and supervised release prior to the imposition of sentence and special conditions of parole during prerelease planning. Throughout the ongoing supervision assessment and implementation process, they also recommend the addition, modification, deletion, amelioration, or suspension of conditions. Officers are also to:

(1) instruct the offender as to the conditions (18 U.S.C. § 3603(1));

(2) provide the offender with a written statement of the conditions that is sufficiently clear and specific to serve as a guide for the defendant's conduct and for such supervision as is required (18 U.S.C. §§ 3563(d) and 3583(f));

(3) monitor and facilitate offender compliance with the conditions using a blend of strategies that are sufficient, but not greater than necessary, to meet sentencing purposes and the objectives in each individual case; and

(4) address each instance of noncompliance with an appropriate combination of controlling and correctional strategies.

(f) The next sections of this chapter set forth the mandatory (see: § 220) and standard (see: § 230) conditions of supervision and describe the general principles for recommending special conditions (see: § 240). The last section discusses the conditions of conditional release (see: § 250). A more detailed discussion of the purposes of individual special conditions, as well as the selection and implementation of supervision activities to execute all conditions, is presented in Guide, Vol 8E, Ch 5. Guide, Vol 8E, Ch 6 addresses response to noncompliance.
§ 220 Mandatory Conditions of Probation, Supervised Release, and Parole

(a) The mandatory conditions for probation, supervised release, and parole are set forth at 18 U.S.C. §§ 3563(a), 3583(d) and 4209, respectively. They are presented verbatim in the table below.

(b) There are considerably more mandatory conditions of probation than of supervised release or parole, reflecting its status as the only one of the three for which the term of supervision is by itself to serve punishment purposes. See: Guide Vol 8E, § 160.10 (Statutory Purposes for Terms of Supervision). For example, the mandatory conditions for supervised release and parole, unlike those for probation cases, do not require the imposition of a fine, restitution, or community service to serve as a "publicly discernible penalty" (see: note in § 220.10(j)); and do not include any of the conditions related to payment of restitution or, in the case of supervised release, fines. (Obligations to pay financial penalties are, however, included among the standard conditions of release for all types of supervision.) See: § 230 (Standard Conditions of Probation, Supervised Release, and Parole).

(c) The mandatory parole conditions differ from those for probation or supervised release in that they do not address domestic violence, presumably because the federal domestic violence statutes that would trigger the condition were not in effect at the time that offenders eligible for parole committed their offenses. (Note: The only federal prisoners eligible for parole are those who committed their crimes before November 1, 1987. The domestic violence statutes were not enacted until 1994.)

Further, the parole drug testing condition requires that the parolee pass the first drug test prior to (rather than after) release; and the DNA condition for parolees includes additional references to District of Columbia and military offenses that are not relevant for offenders sentenced to probation or supervised release by the courts.

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<tr>
<th>Focus</th>
<th>Mandatory Condition</th>
<th>Applicable Population(s)</th>
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</table>
| (a) New Crime  | For a felony, a misdemeanor, or an infraction, that the defendant/parolee not commit another federal, state, or local crime during the term of probation. | - Probation
                                                             - Supervised Release
                                                             - Parole

§ 220.10 Mandatory Conditions: Applicability for Probation, Parole, and Supervised Release
## § 220.10 Mandatory Conditions: Applicability for Probation, Parole, and Supervised Release

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<tr>
<th>Focus</th>
<th>Mandatory Condition</th>
<th>Applicable Population(s)</th>
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<tbody>
<tr>
<td>(b) Drug Possession</td>
<td>For a felony, a misdemeanor, or an infraction, that the defendant/parolee not unlawfully possess a controlled substance.</td>
<td>• Probation</td>
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<td>• Supervised Release</td>
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<td>• Parole</td>
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<tr>
<td>(c) Sex Offender</td>
<td>For a person required to register under the Sex Offender Registration and Notification Act, that the person comply with the requirements of that Act. (Note: The Sex Offender Registration and Notification Act is Title I of the Adam Walsh Child Protection and Safety Act of 2006 (“Adam Walsh Act”), Pub.L.No. 109-248, 120 Stat. 587 (July 27, 2006). The legislation sets forth expanded requirements for sex offender registration and notification.)</td>
<td>• Probation</td>
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<td>• Supervised Release</td>
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<td>• Parole</td>
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<tr>
<td>(d) DNA</td>
<td>(1) That the defendant cooperate in the collection of a DNA sample from the defendant if the collection of such a sample is authorized under section 3 of the DNA Analysis Backlog Elimination Act of 2000 (see: Appx 2A).</td>
<td>• Probation</td>
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<td>(2) That the parolee cooperate in the collection of a DNA sample from the parolee, if the collection of such a sample is authorized under section 3 or section 4 of the DNA Analysis Backlog Elimination Act of 2000 or section 1565 of title 10 (see: Appx 2A).</td>
<td>• Parole</td>
</tr>
<tr>
<td>(e) Drug Use/Testing</td>
<td>(1) For a felony, a misdemeanor, or an infraction, that the defendant refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of release on probation or supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The condition stated in this paragraph may be ameliorated or suspended by the court for any individual defendant if the defendant’s presentence report or other reliable sentencing information indicates a low risk of future substance abuse by the defendant.</td>
<td>• Probation</td>
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<td>• Supervised Release</td>
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<td>(2) That the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the U.S. Parole Commission) for use of a controlled substance. The condition stated in the preceding sentence may be ameliorated or suspended by the Commission for any individual parolee if it determines that there is good cause for doing so.</td>
<td>• Parole</td>
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<td>Focus</td>
<td>Mandatory Condition</td>
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<td>(f) Domestic Violence</td>
<td>For a domestic violence crime as defined in 18 U.S.C. § 3561(b) by a defendant convicted of such an offense for the first time, that the defendant attend a public, private, or private nonprofit offender rehabilitation program that has been approved by the court, in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if an approved program is readily available within a 50-mile radius of the legal residence of the defendant.</td>
<td>• Probation</td>
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<td>• Supervised Release</td>
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<tr>
<td>(g) Fine</td>
<td>(1) If the court has imposed and ordered execution of a fine, that the defendant pay the fine or adhere to the court-established installment schedule.</td>
<td>• Probation</td>
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<td>(2) If a fine was imposed, that the parolee makes a diligent effort to pay the fine in accordance with the judgment.</td>
<td>• Parole</td>
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<tr>
<td>(h) Publicly Discernible Penalty</td>
<td>For a felony, that the defendant also abide by at least one condition set forth in 18 U.S.C. § 3563(b)(2) or 3563(b)(12) unless the court has imposed a fine under this chapter, or unless the court finds on the record that extraordinary circumstances exist that would make such a condition plainly unreasonable, in which event the court shall impose one or more of the other conditions set forth under 18 U.S.C. § 3563(b).</td>
<td>• Probation</td>
</tr>
<tr>
<td>(i) Restitution and Special Assessment</td>
<td>That the defendant make restitution in accordance with 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663, 3663A, and 3664; and pay the assessment imposed in accordance with 18 U.S.C. § 3013.</td>
<td>• Probation</td>
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(Note: This mandatory condition covers most orders of restitution, but making “restitution to a victim of the offense under section 3556 (but not subject to the limitation of section 3663(a) or 3663A(c)(1)(A))” is listed as a discretionary rather than mandatory condition. However, the Judicial Conference-approved Judgment in a Criminal Case (Form AO 245B) makes the payment of all outstanding orders of restitution a standard condition of probation and of supervised release for the purpose of administrative convenience (see: § 230.10 (Standard Conditions: Applicability for Probation, Parole, and Supervised Release), and Appx 2B.).)
§ 220.10 Mandatory Conditions: Applicability for Probation, Parole, and Supervised Release

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<tr>
<td>(j) Notification of Change in Ability to Pay</td>
<td>That the defendant will notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments.</td>
<td>• Probation</td>
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§ 230 Standard Conditions of Probation, Supervised Release, and Parole

(a) Standard conditions, though discretionary by statute, are those established by policy of the Judicial Conference, as informed by Sentencing Commission policy statements or by the Parole Commission as basic behavioral expectations for the offender and minimum tools required by officers to adequately monitor the conduct and condition of all offenders under supervision. These are set forth verbatim in Appx 2B and summarized in the table below.

(b) The basic behavioral expectations set by the standard conditions coincide with avoidance of risk-related factors such as substance abuse and criminal associations; and the strengthening of prosocial factors such as employment and meeting victim and family obligations. The tools they provide include such basic things as reporting to the probation officer, providing notification of changes in residence or employment, and seeking permission to travel.

(c) The standard court-imposed conditions, as adopted by the Judicial Conference, are those set forth in the Judgment in a Criminal Case (Form AO 245B). They are identical for probationers and supervised releasees, with the exception that supervised releasees are to report within 72 hours of their release from Federal Bureau of Prisons' custody.

(d) Since courts may, by local rule, modify, delete, or add to the standard conditions, do not assume that the standard conditions in one district are the same as those in another district. Avoiding such assumptions is particularly important since it is the conditions imposed on the judgment in the individual case—not the standard conditions set forth in Sentencing Commission policy statements or adopted by the Conference or any particular district—that set both requirements for and limitations on the activities that officers may undertake in the individual case.
(e) The standard conditions of parole are included on each release order. These differ in detail, but not in general substance, from the standard conditions of probation and mandatory release, except that they include requirements that parolees submit to drug tests and provide financial disclosure as directed by the probation officer.

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<th>§ 230.10 Standard Conditions: Applicability for Probation, Parole, and Supervised Release</th>
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<tr>
<td>Focus</td>
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<tr>
<td>(a) Reporting</td>
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<td>(A)</td>
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<td>(B)</td>
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<td>(C)</td>
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<tr>
<td>(b) Change of Residence</td>
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<tr>
<td>(c) Change of Employment</td>
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<td>(d) Arrest or Questioning by Law Enforcement</td>
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<td>(e) Travel</td>
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§ 230.10 Standard Conditions: Applicability for Probation, Parole, and Supervised Release

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<tr>
<th>Focus</th>
<th>(1) Standard Conditions for Probationers and Supervised Releasees</th>
<th>(2) Standard Conditions for Parolees</th>
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<tbody>
<tr>
<td>(f) Family Obligations</td>
<td>Support dependents and meet other family responsibilities.</td>
<td>(A) Support legal dependents, if any, to the best of his ability.</td>
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<td>(B) Make a diligent effort to satisfy any court-ordered child support or alimony payment.</td>
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<td>(g) Employment</td>
<td>Work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons.</td>
<td>Work regularly unless excused by the probation officer.</td>
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<tr>
<td>(h) Firearms or Weapons</td>
<td><strong>For felony cases only</strong>: not possess a firearm, destructive device, or any other dangerous weapon. (Note: All parole cases are felonies.)</td>
<td>Not possess a firearm, ammunition, or other dangerous weapon. (Note: All parole cases are felonies.)</td>
</tr>
<tr>
<td>(i) Home Contacts/Plain View Seizure</td>
<td>(A) Permit a probation officer to visit at any time at home or elsewhere.</td>
<td>Permit confiscation by his probation officer of any materials which the officer believes may constitute contraband in the parolee's possession and which he observes in plain view in the parolee's residence, place of business or occupation, vehicle(s), or on his person.</td>
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<td>(B) Permit confiscation of any contraband observed in plain view of the probation officer.</td>
<td>(Note: This condition also provides that the Commission may, when a reasonable basis for so doing is presented, modify the conditions of parole to require the parolee to permit the probation officer to conduct searches and seizures of concealed contraband on the parolee's person and in any building, vehicle, or other area under the parolee's control, at such times as the probation officer shall decide.)</td>
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§ 230.10 Standard Conditions: Applicability for Probation, Parole, and Supervised Release

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<tr>
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<tr>
<td>(j) Substance Abuse</td>
<td>(A) Refrain from excessive use of alcohol.</td>
<td>(A) Shall not drink alcoholic beverages to excess.</td>
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<td></td>
<td>(B) Not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician.</td>
<td>(B) Not purchase, possess, use, or administer marihuana or narcotic or other habit-forming drugs, unless prescribed or advised by a physician.</td>
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<td>(C) Not frequent places where controlled substances are illegally sold, used, distributed, or administered.</td>
<td>(C) Not frequent places where such drugs are illegally sold, dispensed, used, or given away.</td>
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<td>(D) Submit to a drug test whenever ordered by his probation officer.</td>
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<tr>
<td>(k) Associations</td>
<td>(A) Not associate with any persons engaged in criminal activity.</td>
<td>(A) Not associate with persons engaged in criminal activity.</td>
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<td>(B) Not associate with any person convicted of a felony, unless granted permission to do so by the probation officer.</td>
<td>(B) Not associate with persons who have a criminal record unless he has permission of his probation officer.</td>
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<td>(C) Not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.</td>
<td>(C) Not enter into any agreement to act as an informer or special agent for any law enforcement agency.</td>
</tr>
</tbody>
</table>
§ 230.10 Standard Conditions: Applicability for Probation, Parole, and Supervised Release

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| (l) Monetary Penalties | Pay any fine or restitution that remains unpaid.  
(\textbf{Note}: This condition is considered "standard" because it is broader than the mandatory statutory requirements (which do not require payment of all types of restitution as a condition of probation or of any monetary sanctions as a condition of supervised release).) | (A) Make a diligent effort to satisfy any fine, restitution order, court costs, or assessment.  
(B) Provide such financial information as may be requested, by his probation officer, relevant to the payment of the obligation. If unable to pay the obligation in one sum, cooperate with his probation officer in establishing an installment payment schedule. |
| (m) Third-Party Risk | (A) Notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics as directed.  
(B) Permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement. | (\textbf{Note}: Though not included in the standard conditions, the Parole Commission authorizes disclosure of third-party risk if deemed reasonably necessary to give notice that danger exists; and, unless otherwise instructed by the Parole Commission, it delegates authority to make this determination to chief probation officers under standards established by the Administrative Office.) |

§ 240 Special Conditions of Probation, Supervised Release, and Parole

(a) Under 18 U.S.C. §§ 3563(b) and 3583(d), the court is authorized to impose discretionary conditions of probation or supervised release to the extent that such conditions:

1. are reasonably related to the nature and circumstances of the offense and the history and characteristics of the defendant; and

2. are reasonably related to the purposes the sentence is to serve; and
(3) involve only such deprivations of liberty or property as are reasonably necessary for the relevant sentencing purposes; and

(4) are consistent with any pertinent policy statements issued by the Sentencing Commission (see: U.S.S.G. §§ 5B1.3 and 5D1.3). *(Note: The reference to the Sentencing Commission's policy statements for conditions of probation is found at 18 U.S.C. § 3562(a).* )

(b) Under 18 U.S.C. § 4209, the Parole Commission has similar authority.

(c) Officers recommend special conditions of probation and supervised release in the presentence report prepared at the time of sentencing and of parole during prerelease planning. They are to re-evaluate the adequacy and applicability of these conditions throughout the term of supervision as part of the ongoing assessment and planning process. It is particularly important to re-assess conditions of supervised release upon release as, by definition, these offenders have served a term in prison during which personal, family, and community circumstances may have changed considerably since they were sentenced.

(d) When considering special condition recommendations, officers should avoid presumptions or the use of set packages of conditions for groups of offenders and keep in mind that the purposes vary depending on the type of supervision. Ask first whether the circumstances in this case require such a deprivation of liberty or property to accomplish the relevant sentencing purposes at this time.

(e) The most common special conditions impose additional sanctions for probation or parole cases (e.g., community service), restrictions on location, movement, and/or associations (e.g., community confinement, home confinement), correctional interventions (e.g., substance abuse or mental health treatment, financial counseling); or provide additional monitoring tools (e.g., substance abuse testing, financial disclosure).

(f) Other specifically crafted conditions may be imposed to address particular types of risks or needs presented in the individual case. In recommending a unique special condition to the court or Parole Commission, officers should consult with a supervisor or specialist to ensure that the recommended wording is clear, legally sound, and meets the intended purpose.
§ 250 Conditions of Conditional Release

The conditions of conditionally released persons are recommended to the court by the Federal Bureau of Prisons, with input from the probation office. As a civil, rather than criminal, form of supervision, conditions that are routine for probation, parole, and supervised release cases do not apply and should not be enforced in conditional release cases unless they are specifically imposed by the court as part of the regimen of treatment and care authorized by 18 U.S.C. §§ 4243 or 4246. Enforcement of a regimen of care or treatment that is not medically or psychologically justified has been held to be a denial of due process. United States v. Woods, 995 F.2d 894, (9th Cir 1993). (For more detailed information on the conditional release process, including examples of typical conditions of release ordered by the court, see: Appx 2C.)
Guide to Judiciary Policy

Vol 8: Probation and Pretrial Services
Part E: Supervision of Federal Offenders (Monograph 109)

Ch 3: Supervision Assessment and Planning Process

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§ 370 Supervision Plan Implementation and Evaluation
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Last substantive revision (Transmittal GR-14) December 22, 2009
Last revised (minor technical changes) December 16, 2010
§ 370.20 Evaluation

§ 380 The Transition Off Supervision
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Appendices

Appx 3A Procedures for Infractions and Class B or C Misdemeanors, Offenders Received as Inactive, and Courtesy Supervision Cases
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§ 310 Overview

§ 310.10 Principles

(a) The purpose of supervision planning is to create an evolving, individualized outcome-based plan of action to monitor compliance with the conditions of release and intervene as necessary to address any identified risks. The goal in all cases is the successful completion of the term of supervision, during which the offender commits no new crimes; is held accountable for victim, family, community, and other court-ordered responsibilities; and prepares for continued success through improvements in his or her conduct and condition.

(b) Not all offenders require the same level of supervision to reach this goal. It is the officer’s job to distinguish among them and to implement supervision strategies that are appropriately matched with the offender’s risks, needs, and strengths and neither more nor less intrusive than necessary to facilitate supervision goals. This is key to providing effective supervision that is individualized, proportional, and purposeful. It is also the essence of “working smart,” by devoting the majority of officer time and system resources to the higher risk cases that need them most.

(c) The supervision process is an ongoing cycle of investigation, assessment, planning, implementation, and evaluation during which the officer is to:

(1) engage as early as possible in planning for the transition onto supervision for offenders coming from prison;

(2) investigate and assess the supervision issues in the individual case;
(3) set specific objectives to be accomplished;

(4) develop and implement appropriate supervision strategies;

(5) evaluate the plan on an ongoing basis;

(6) adjust swiftly and appropriately to any change in circumstances; and

(7) prepare for the transition off supervision.

(d) Supervision is dynamic in implementation. Officers are to respond to any emerging risk indicators or instances of non-compliance with graduated increases in the level of supervision; and with graduated reductions in the level of supervision — up to and including early termination of supervision — as risk issues are addressed and offenders meet their objectives. Throughout, officers are to keep informed and to provide offenders with the tools and social services they may require to function under decreasing levels of control. It is through targeting their intervention to higher-risk cases that officers carry out their commitment to public safety during the period of supervision and beyond.

§ 310.20 Process

(a) The planning process begins with an initial investigation during which officers review documentation, meet with offenders, conduct on-site examinations, and develop collateral sources. This information is used to assess the offender’s risks, needs, and strengths for the purpose of preparing the initial supervision plan.

(b) The initial investigation of offenders coming from prison starts as soon as the office is advised of the offender’s upcoming release. The initial plan is to be submitted within 30 days of the start of the supervision term unless notice of the offender’s pending arrival was not received in time to start supervision planning at least 30 days before the projected release date. For probationers, or others who arrive for supervision without adequate advance notice, the initial plan is to be submitted within 60 days of the start of the supervision term. The supervisor reviews the officer’s plan and, if in agreement, signs and dates it. Otherwise, the supervisor is to schedule a staffing with the officer to discuss and complete the plan. By either method, the initial plan is to be finalized within 15 days of its submission.
(c) The supervision plan is formally evaluated and modified jointly by the officer and supervisor at a case staffing session during the sixth month from the start of the supervision term. It is updated annually thereafter at a joint officer-supervisor staffing session unless the case is to be reviewed earlier to assess eligibility for early termination or the supervisor requires or officer requests more frequent evaluation. Formal planning for the transition off supervision takes place during the final six months of the term.

(d) Between formal updates, officers will informally evaluate the continuing viability of the plan based on the information they gather during the course of supervision. When significant changes occur, officers are expected to initiate issue-driven staffings with their supervisors and/or office specialists to discuss appropriate modifications that respond to emerging and fading supervision issues as they occur. Such modifications are to be documented in the chronological record or an updated case plan.

(e) The development of all case plans and interim responses to significant changes throughout the period of supervision is the joint responsibility of officers and supervisors, in consultation with office specialists as appropriate.

(f) The next section of this chapter addresses the initial investigation and assessment process and the development of the initial case plan. This is followed by a description of plan implementation and evaluation. The last section discusses the transition off supervision. More detailed guidance on the selection and implementation of supervision strategies is provided in Guide, Vol 8E, Ch 4.

(g) The investigation and planning requirements in this chapter apply to all felony and Class A misdemeanor cases that are being received for active supervision. For the expedited handling of infractions and Class B or C misdemeanors, offenders received as inactive, and courtesy supervision cases, see: Appx 3A.

§ 320 Initial Assessment

(a) The initial assessment is a time of heightened activity during which the officer will investigate the circumstances of the offender and offense; assist in the planning and implementation of re-entry activities prior to release; assess the risks, needs, and strengths of the offender; and prepare the initial case plan. All activities are to be documented in the chronological record. The results (i.e., issues identified, offender
objectives, and planned supervision strategies) are to be documented in the supervision plan.

(b) Throughout the initial assessment, officers are also to undertake activities to respond to needs as soon as they are evident and to prepare the case for supervision. (Note: Officers may not, however, require offenders to do anything until after the term of supervision begins.) These include such things as:

1. arranging to deal with any emergency situations, e.g., lack of housing;
2. implementing any special conditions when possible, e.g., make arrangements for treatment or community service placement or arrange for lump sum payment of financial penalties;
3. establishing liaison with local law enforcement and with other authorities that have the offender under supervision, if appropriate;
4. addressing any third-party risk that is identified;
5. instructing on and verifying compliance with any applicable sex offender or other registration requirements;
6. supplying necessary information to computerized criminal data bases;
7. if necessary, requesting additional conditions of supervision from the court or the Parole Commission;
8. if necessary, requesting that the court or Parole Commission modify unnecessary or unenforceable conditions of supervision or, alternatively, informing the court or Parole Commission of the intention to suspend implementation unless there is an objection.

(c) Requests for additional conditions, or for modification or suspension of existing conditions, are particularly important because it is the conditions that establish the sentence to be executed, set the “walls” of supervisory control, and provide officers with the authority to monitor activities and to intervene when behavior falls outside of those walls. For example, if third-party risk is identified, officers may need to recommend any special conditions restricting travel, employment, prohibited contact, or associations that may be deemed necessary to manage that risk. If financial or employment issues are identified in a case in which monetary
penalties have been imposed, officers should seek the financial disclosure
and investigative tools they may require to appropriately monitor these
issues.

(d) On the other hand, officers should recommend that unnecessary or
unenforceable conditions be formally removed or, in the alternative, notify
the court or Parole Commission of the circumstances and the intention to
suspend implementation of the condition absent an objection. Examples
might include a GED condition for an offender who obtained a GED while
serving the prison sentence; an employment condition for an offender who
has since become disabled; or a treatment condition for an offender with
no current treatment need.

§ 320.10 Timing and Duration

(a) The initial assessment investigation commences as soon as the office is
advised of a prisoner’s pending release to supervised release or parole or
when a probationer is received for supervision. It ends with the officer’s
submission of the initial supervision plan for supervisory review.

(b) For offenders coming from prison, preliminary investigation for re-entry
planning will have taken place throughout the prerelease period.
Additional investigation for supervision planning is to commence no later
than 30 days before the start of the term of supervision. The officer’s plan
for these offenders is due within 30 days after the start of the supervision
term. Exception: When the office is not made aware of the pending arrival
in time to commence supervision planning at least 30 days in advance of
the projected release date, the plan is due within 60 days after the start of
the supervision term.

(c) For probationers and others who arrive for supervision without at least 45
days advance notification, the plan is due no later than 60 days after the
term of supervision begins.

§ 320.20 Investigation Activities

(a) Officers are to review available written materials, orient and interview the
offender, and conduct home inspections and collateral contacts. Some of
these activities may be unnecessary for probationers when they would
unnecessarily duplicate activities recently undertaken during the pretrial
period or as part of the presentence investigation and most are not to be
undertaken in petty cases. See: Appx 3A.
(b) The investigation is to be a targeted inquiry to:

(1) determine the applicability of factors that go into assessing the viability of the release plan for incarcerated offenders (see: § 330.20); and

(2) identify those offender risk, need, and strength factors that are to guide the intensity and direction of supervision strategies (see: § 350).

§ 320.30 Gather and Review Written Background Information

(a) The purposes of this review are to gain an understanding of the offender's background, gather information about potential safety issues, assist in framing questions for interviews with the offender and other collateral sources, and identify the issues that need to be addressed immediately. The materials to be reviewed include:

(1) the Judgment in a Criminal Case or parole certificate;

(2) the presentence investigation report;

(3) presentence reports of codefendants and offenders in related cases (if feasible);

(4) the results and underlying documentation of financial investigations;

(5) institutional prerelease plans and institutional reports (if applicable);

(6) pretrial services investigation reports;

(7) records of previous terms of supervision, including pretrial services supervision in the instant case (if applicable);

(8) physical and mental health evaluations; and

(9) records of employment, education, and vocational training.

(b) Officers are also to conduct criminal record checks for the existence and status of detainers, pending charges, or other sentences.
§ 320.40 Interview the Offender

(a) Officers are to conduct interviews and planning sessions with the offender throughout the initial investigation and assessment period as appropriate to the planning phase and the circumstances of the case. Although the specific purposes of these sessions will vary, all are aimed at establishing rapport, clarifying expectations, and engaging the offender in the planning process. These are important elements in encouraging compliance and effecting positive change. Offenders are more likely to take responsibility for fulfilling conditions that they understand and to move forward on objectives that they have a voice in setting.

(b) These interviews set the tone for the entire period of supervision and may even be an important key to producing behavior change. How the offender perceives the relationship between the officer and himself or herself during these initial interviews may well cast the die for the ultimate outcome of supervision. Officers must treat offenders with dignity and respect and engage them productively in the supervision process by asking them what they see as their own strengths and what they would like to accomplish during the supervision term. To facilitate understanding and cooperation, officers should utilize open-ended questions, be perceived as a partner in the behavior change process, offer assistance, and maintain an empathetic, approachable, and non-judgmental demeanor.

§ 320.50 Inspect Residence, Visit Work Sites, and Interview Collateral Sources

Officers will be examining and inspecting proposed and actual residences and, as appropriate, places of employment. Throughout the investigation, officers should also strive to create on-the-scene partners in the supervision process by developing collateral sources of information and positive support for offenders. These early contacts provide the first opportunity to establish rapport with family members and significant others. When scheduling and conducting these inspections and interviews, officers should take time to explain their purpose, encourage questions, and offer assistance where appropriate.

§ 330 Re-Entry Planning Activities for Incarcerated Offenders

(a) Research indicates that many of the offenders who violate their conditions do so during the first six months of supervision. It further shows that it is those offenders received for supervision after serving a period of incarceration who are most likely to violate. It is therefore important that
officers become involved as early as possible in planning the transition from prison to supervision.

(b) The officer’s role at the prerelease stage is to:

(1) maximize opportunities for safe release;

(2) implement a well-constructed supervision plan at the earliest possible time; and

(3) promote continuity of services.

(c) The objective is to have as much of the supervision structure as possible in place prior to the offender’s release to supervision. For example, as necessary, officers should develop collateral contacts, initiate requests for modification of conditions, begin to update the financial investigation, and make arrangements for basic needs (e.g., housing) and appropriate referrals so that any required restrictive and correctional placements will coincide as closely as possible with release. All release planning activities are to be documented in the chronological record.

(d) Release planning for prisoners coming to supervision after a period of imprisonment is the joint responsibility of the Federal Bureau of Prisons (BOP), the offender, and the probation office. (Note: For the specific release planning responsibilities of the BOP and the probation office, see: Memorandum of Understanding between the AO and the BOP.)

(1) The BOP offers release planning programs throughout the period of imprisonment, and BOP staff provides the probation office with information pertinent to the safe and effective re-entry and supervision of the offender. A release form signed by the offender is not needed for the BOP to share this information with the probation office.

(2) The offender develops a proposed plan of release and submits it to BOP or Residential Re-entry Center (RRC) staff who in turn will submit the plan to the probation office for approval. (Note: The term “Regional Re-entry Center” and “RRC” abbreviation is used throughout to apply to the variety of community facilities with which the BOP contracts for half-way house services.)

(3) The probation officer investigates the offender’s release plan and either approves, modifies, or disapproves the proposed plan; and
the officer discusses this with appropriate BOP and/or RRC staff and, if possible, with the offender.

(e) The officer’s role in this process begins when he or she is notified of the prisoner’s upcoming release. BOP staff will send the following materials:

(1) the Supervision Release Plan;

(2) the final progress report;

(3) the BOP sentencing computation sheet;

(4) the material relevant to transitional treatment needs for substance abuse and mental health; and

(5) the Judgment in a Criminal Case and the Presentence Report, if the receiving district is not the sentencing district.

(f) Once these documents are received, officers should confer with BOP staff, as needed, to obtain additional background or clarifying information. For example, officers should determine why any offender not being released through an RRC was denied placement. In some instances this is because BOP staff has determined that the offender is not in need of any re-entry services. Other offenders, however, are denied placement because they present too high a risk of recidivism and danger to the community. The result is that some of those offenders most in need of re-entry services are the least likely to have the benefit of graduated release. In these cases, early and ongoing communication between the probation office and BOP prison staff is critical to adequately prepare the supervision structure, e.g., providing for continuity of treatment and medication regimens; arranging for appropriate housing.

(g) In any case, officers are to commence their prerelease planning activities after all relevant information has been reviewed.

§ 330.10 Investigate the Release Plan

(a) Officers are to investigate the proposed release plan by interviewing the proposed employer, family members, and other relevant collateral sources; and conducting an on-site examination of the proposed living situation and, as appropriate, the proposed place of employment.

(b) The information obtained during the investigation is used to assess the suitability of the proposed release plan and identify potential re-entry
service needs that may affect that assessment. The need for re-entry services will range from virtually none (for lower-risk offenders who served relatively short terms of incarceration and have stable homes and jobs to which they can return) to intensive (for higher-risk offenders who have been incarcerated for long periods of time and have few resources or community ties). Some of the most common risk-related problems that will require intensive re-entry services are:

1. Substance abuse problems that require treatment and monitoring upon return to use-triggering environments;
2. Mental health problems that require treatment and medication;
3. Third-party risk issues with former or potential victims;
4. Inadequate skills or education to enter the workforce;
5. Unstable marriages or relationships, including family members who may have suffered emotionally and/or financially from the offender’s offense and incarceration; and
6. Disputed or unstable custody arrangements for children or other dependents.

§ 330.20 Approve, Modify, or Disapprove the Release Plan

Generally within 30 days of receipt of the prerelease plan, the officer should notify BOP whether the plan is approved, requires modification, or is disapproved. In supervised release and mandatory release cases, disapproval of the plan will not affect the date of the offender’s release to the community. Officers should therefore strive, whenever possible, to work towards release plan modifications — including, when appropriate, a requested modification to the conditions of release — aimed at addressing identified transition issues and reducing risk. If the plan is disapproved, officers are to provide the BOP with justification for their decision and to share the results of their investigation with the probation office and, if applicable, RRC staff in those communities to which the offender will return.

§ 330.30 Assist with Re-Entry Services for Prisoners in Prerelease Custody

(a) When the offender is being released through an RRC, the officer assigned to the case and/or those in the office assigned responsibility for providing re-entry services for the office have the opportunity to work in partnership with both the offender and RRC staff to minimize risk and maximize continuity of services. Of particular importance is the continuity of
interventions to address high-risk issues such as substance abuse, mental health problems, and psychotropic medication needs.

(b) Joint Planning

When feasible, the officer should attend a joint planning session with the RRC staff and the offender within 10 days after the arrival of an offender placed in the RRC for four months or less, or approximately 120 days prior to release to supervision for those offenders placed for longer periods of time. The purposes of this meeting are to:

(1) acquaint the offender with his or her conditions of release;

(2) discuss available options in view of the offender’s resources and community ties; and

(3) agree to a release planning agenda comprised of the specific actions that the offender is to take to prepare for release.

The objective is to engage offenders in the planning process by ensuring that they understand their specific obligations and what they will be held accountable for, both in the RRC and under supervision. This is particularly important for offenders being released to a term of supervised release who may have been sentenced many years before and who are unlikely to have paid close attention at the time to the conditions of release that would eventually follow their imprisonment.

(c) Supervision Assistance

Upon request, officers are to assist in the supervision of and furnish information about prisoners in prerelease custody—which may include the supervision of those in the BOP Home Confinement Program—and, to the extent practicable, offer assistance to such prisoners (see: 18 U.S.C. §§ 3603(6), 3624(c)). This supervision and assistance should supplement but not duplicate the services provided by RRC staff.

(d) Assistance with Responses to Violation

RRC and BOP staff have the responsibility for determining appropriate action prior to the commencement of the term of supervision. However, supervised releasees and mandatory releasees will be arriving on the probation office doorstep on or close to the date of their scheduled release regardless of their risk or institutional behavior. Whenever possible, officers should work with RRC staff to develop appropriately
graduated community-based responses to less serious violations and to offer assistance with additional controlling and correctional interventions whenever feasible (see: Guide, Vol 8E, Ch 5).

(e) Additional ways in which the probation office and RRC may collaborate—e.g., by establishing permanent liaisons, providing training in supervision techniques, co-developing or sharing community resources, using the facility as an alternate reporting site—will be determined by local policy.

§ 340 Supervision Planning Activities

Supervision planning activities are geared specifically to formulating the initial supervision plan. They are to commence no later than 30 days before the start of the supervision term for offenders coming from prison with appropriate advance notification; and at the start of the supervision term in other cases.

§ 340.10 Conduct an Orientation Interview with the Offender

(a) Although the officer may have met previously with a prisoner in prerelease community status, this interview is specifically focused on orienting offenders to the supervision process and obtaining additional information and consent forms to assist in further investigation. It is also used to further develop or—if this is the first meeting—establish rapport with the offender, explore the offender’s goals, establish initial expectations regarding the offender’s conduct and responsibilities, and begin developing supervision objectives. Officers should plan for the meeting by reviewing documentation (see: § 320.30) and scheduling sufficient uninterrupted time to fulfill the meeting’s purposes.

(b) During this orientation interview, the officer is to thoroughly review with the offender the conditions of supervision as set forth on the Judgment in a Criminal Case or the certificate of parole or mandatory release.

(Note: Form PROB 7A is no longer the controlling vehicle for documenting that the offender has agreed to the conditions of probation or supervised release. Probation offices are to add the acknowledgment language to the appropriate pages on a copy of the Judgment, either electronically or by using a stamp. (For language, see: Appx 2B (Standard Conditions of Supervision)). Form PROB 7A, however, is used as a stop-gap for probation cases or any others for which the formal Judgment is not available at the time of the interview. In these circumstances, the offender is asked to sign Form PROB 7A at the interview, but then required to sign
the actual controlling legal documents as soon as practicable after they are available.)

Officers should discuss the specific purposes of each condition, what each means in practical terms, and the consequences of noncompliance. Specifically, officers should:

1. Explain and, if there is a question, discuss the applicability of mandatory conditions regarding sex offender registration requirements, DNA testing, and/or domestic violence treatment.

2. Explain travel restrictions during the initial assessment period and discuss the travel permit process.

3. Be specific about other behavioral expectations (e.g., alcohol use; criminal associations) in the context of the offender's situation.

4. Have the offender sign all copies of the conditions and provide him or her a copy;

   (Note: Under 18 U.S.C. §§ 3563(d) and 3583(f), the officer must provide the offender with a clear, written statement of all the conditions of release.)

5. Ascertain the offender's current employment, financial, and family situation;

6. Explore in more detail any potential supervision issues identified from the written materials;

7. Discuss preliminary objectives and obstacles;

8. Identify collateral information sources;

9. Conduct the first mandatory drug test, if appropriate; and

10. Have the offender sign any necessary release forms for further verification and/or planned financial investigation. The forms needed will depend on the specific issues in the case and the completeness and recency of documentation already in the file. Among the most commonly used forms are the Form PROB 11G, which authorizes the release of employment, education, medical, and psychological or psychiatric information; and Form PROB 11B, which authorizes communication between the officer and treatment
provider. The specific forms for use in financial investigations are summarized in Guide, Vol 8E, § 460.15.10 and discussed in full in Guide, Vol 8G (Criminal Monetary Penalties (Monograph 114)). These and other potentially applicable disclosure forms are available on the J-Net.

(c) Depending on the result of the initial document review and offender interview, officers may need to schedule an additional supervision planning meeting with offenders to discuss the results of further investigation and set specific supervision objectives and expectations. See: Guide, Vol 8E, § 350.30 (Follow-Up Interview With the Offender).

§ 340.20 Conduct a Home Inspection

A home inspection is required during the assessment period. For the elements of a home inspection, see: Guide, Vol 8E, § 430.10 (Home Contacts). It is more thorough than a home contact and serves multiple purposes: to gather information regarding the residence and its occupants; to encourage and answer questions regarding the supervision process; to enlist on-the-scene supervision partners; and to observe for weapons or other potential safety hazards. The home inspection is not a search, but it is necessarily intrusive for the occupants of the residence. It is therefore particularly important that officers take care to treat occupants with respect during this process.

§ 340.30 Continue to Develop Collateral Sources

The review of documentation and the orientation interview with the offender will help the officer identify collateral contacts who should be interviewed and, as appropriate, enlisted as partners in the supervision process. Family members, friends, and other people who are important to the offender can be ongoing sources of information for officers on emerging risk issues and can support offenders in accomplishing supervision objectives.

§ 350 Assessing Risks, Risk-Related Needs, and Strengths

§ 350.10 Risks and Risk-Related Needs

Most standard and many special conditions of supervision are designed to address offender risks and needs. Other risks and needs may be indicated by information that was gathered during the assessment investigation. There are three areas of risk to be assessed: Statistical Likelihood of Success, Targeted Risks and Needs, and Third-Party Risk.
§ 350.10.10 Statistical Likelihood of Success

(a) The Risk Prediction Index (RPI) is the tool used by officers to estimate the likelihood that an offender will be arrested or have supervision revoked during his or her term of supervision. See: Probation Officers Manual: Post-Conviction Supervision Case Planning Module. It is a statistical model developed by the Federal Judicial Center at the request of the Judicial Conference Committee on Criminal Law and approved by the Judicial Conference in March 1997. The model has been extensively tested and has been shown to be a strong predictor of the risk of recidivism for all federal offenders. (Note: “Recidivism” is defined as any revocation of supervised release, probation, or parole; arrest; under federal or state jurisdiction; or absconding from supervision. See also: RPI Application Guide, Federal Judicial Center, April 1997; RPI Profiles, Federal Judicial Center, April 1997; and RPI FAQs Bulletin, Federal Judicial Center.)

(b) RPI scores range from 0 to 9, with 9 indicating a higher likelihood of violation. Scores of 0 or 1 indicate that the offender has a very high likelihood of success—i.e., over 90 percent of offenders in these categories do not recidivate. The RPI takes into account the following factors:

(1) The number of arrests (up to 15);

(2) Use of a weapon in the commission of the instant offense;

(3) Whether the offender was employed at the start of supervision;

(4) Whether the offender has a history of illegal drug use or alcohol abuse;

(5) Whether the offender ever absconded from a previous period of supervision;

(6) Whether the offender has a college degree; and

(7) Whether the offender was living with a spouse and/or children at the start of supervision.

§ 350.10.20 Targeted Risks and Needs

While the RPI predicts the general level of risk, it does not identify areas of risk or provide guidance for reducing the risk posed by the offender. Therefore, an analysis of the specific issues presented by the individual offender is required. Additional
information and analysis is needed in at least three areas: criminal patterns or violence, basic needs, and criminogenic needs.

(a) Criminal Patterns or Violence

(For further information on sex offenders, computer-assisted crime, and domestic violence, see: Guide, Vol 8E, § 460.40, § 460.45, and § 460.50, respectively.) The RPI considers the number of arrests, but not whether they constitute a particular pattern of behavior or associations or involve violence or a particular type of expertise. It also does not distinguish whether or not prior criminal conduct occurred while under supervision. Additional criminal history factors to be assessed include (but are not limited to):

- Violence or domestic violence
- Sexual abuse
- Weapon use (other than instant offense)
- Pattern of similar criminal activity
- Computer-facilitated offense
- Institutional adjustment problems
- Gang involvement
- Pending charges
- Criminal activity while under supervision

(b) Finances, Employment, and Education

(For further information on employment and education and financial conditions and issues, see: Guide, Vol 8E, § 460.10 and § 460.15, respectively) The RPI considers whether the offender was employed at the start of supervision, but does not explore employment history, whether there is an association between employment and criminal activity, or whether the current employment is stable or sufficient to meet basic needs or debt obligations. Issues of financial and employment stability are, in turn, linked to an offender's education and skills. The RPI considers education, but does not address skill levels. Additional factors to be addressed in this area include (but are not limited to):

- History of financial fraud
- Offense related to employment
- Unemployment, underemployment, or unstable employment
- Questionable employment
- Unexplained assets
- Significant debt
- Absence of skills or education
• Illiterate

(c) Substance Abuse

(For further information on substance abuse, see: Guide, Vol 8E, § 460.30): The RPI considers whether the offender has a history of substance abuse, but does not address the types of substances used — which vary considerably in addiction potential — or whether there is evidence of current use. Additional substance abuse risk factors therefore include:

• History of various types of substance abuse
• Evidence of current use

(d) Family, Physical, and Basic Needs

The RPI does not consider whether there are basic food, clothing, shelter, medical, or educational needs that must be dealt with to reach a minimum level of stability necessary to accomplish other supervision objectives. Additional factors in these areas include (but are not limited to):

• Delinquency in support payments
• Inability to support dependents
• Absence of skills or education
• Food, clothing, or housing needs
• Unstable residence
• Medical problems

(e) Criminogenic Needs

The RPI does not take into account dynamic risk factors that, when addressed, reduce the likelihood that the offender will commit a new crime. (For more detail on substance abuse, see: Guide, Vol 8E, Ch 5.) Additional factors in these areas include:

• Low self-control
• Anti-social personality
• Anti-social values
• Criminal peers
• Substance abuse
• Dysfunctional family
§ 350.10.30 Third-Party Risk

(a) If risks have been identified, officers are to assess whether any of these give rise to a "reasonably foreseeable" particular risk of physical or financial harm to a specifically identified third party or parties. In assessing third-party risk, officers are to pay special attention to employment or other circumstances which, in view of the offender’s criminal background, present the offender with an opportunity or temptation to engage in criminal or antisocial behavior against a third party. Among the factors to be considered are: the offender’s employment, offense, and prior criminal history and conduct, giving special attention to patterns of violence and fraud.

(b) If a third-party risk is identified, the supervision plan is to include some action calculated to reduce or eliminate that risk. Such activities include: increasing the intensity of supervision strategies, warning the third party of the risk, and/or precluding the activity (such as a particular type of employment) that creates the risk. It is recommended that court approval be obtained for:

(1) warnings to employers that are objected to by the offender and that might result in loss of employment and

(2) any preclusion of employment.  (Note: In United States v. Doe (79 F.3d 1309, 1319 (2d Cir. 1996)), the second circuit required probation officers to secure court approval prior to making a warning that could result in loss of employment based on 18 U.S.C. § 3563(b)(5) and U.S.S.G. § 5F1.5. While this holding is binding only in the second circuit, officers in other circuits are encouraged to follow it where practical.) The result of the third-party risk assessment is to be recorded on the case plan. See also: Guide, Vol 8E, Ch 4 (Selecting and Implementing Strategies).

§ 350.20 Strengths

Offender strengths may affect the overall assessment of risk and can be built upon to facilitate desired outcomes. Strengths may include such things as:

• Features of the instant offense or prior history that mitigate assessment of future risk (e.g., an offense related to employment that occurred under unusual circumstances unlikely to arise again; arrests for minor crimes with lengthy intervening crime-free periods);
• Talents, skills or interests;
• Strong educational foundation;
• Good work history;
• Reliable source of adequate income;
• Strong motivation to change; and
• Supportive prosocial community network of family and/or friends.

§ 350.30 Follow-Up Interview with the Offender

(a) The purpose of conducting a thorough investigation and assessment is to gain additional knowledge about the level and type of supervision required to facilitate desired outcomes. Often, what officers learn in the process will require them to arrange additional meetings with the offender to review the information, discuss objectives that may differ from those explored at the orientation interview, and/or provide more detail on the specific requirements of certain conditions, such as monetary penalty payment schedules, community service hours or schedules, or criminal association.

(b) Follow-up interviews also provide additional opportunities to discuss obstacles to desired outcomes and ways of addressing them and to provide information about what can be expected (and when) in terms of positive incentives for progress and disincentives for lack of progress. Potential disincentives are to be guided by the noncompliance intervention framework (see: Guide, Vol 8E, § 620.40), while positive incentives — such as reducing restrictions or offender reporting requirements or requesting early termination of supervision — are to be guided by the principles set forth in § 370.20.10 (The Six-Month Plan Evaluation). The usefulness of positive incentives should not be underestimated: Research indicates that rewards are a more potent influence on long-term behavior — and hence long-term public safety — than are punishments.

§ 360 Preparing the Initial Supervision Plan

The officer’s initial supervision plan is to be completed within 30 days from the date that the term of supervision begins for previously incarcerated offenders who arrive for supervised release or parole with appropriate advance notification; and no later than 60 days from the date that the supervision term begins for other cases. The automated case plan form and its paper version are designed both to assist in the planning process and document its results. For specific instructions for completing the form, see: Probation Officers Manual: Post-Conviction Supervision Case Planning Module.

§ 360.10 Record the Results of the Assessment

The case plan should reflect the RPI score calculation; any identified risks, strengths, and special conditions; and the results of the third-party risk assessment. It should also
reflect the applicability of mandatory conditions regarding drug testing, DNA testing, sex offender registration, and domestic violence counseling.

§ 360.20 Prioritize Supervision Issues

(a) Whenever possible, all of the identified issues and conditions are to be addressed simultaneously. When, however, the case presents multiple issues that cannot be addressed simultaneously, the officer must prioritize. Top priority issues to be addressed during the first six months of supervision are those that:

(1) implement applicable mandatory requirements (e.g., referral of domestic violence offenders to treatment) or special restrictive conditions (e.g., home confinement);

(2) otherwise present the greatest risk to the community, given this offender’s pattern of criminality and risk or need issues; or

(3) are prerequisites to enhancing successful fulfillment of other conditions of supervision to achieve long-term supervision objectives (e.g., employment to generate income to meet monetary penalties and family obligations).

(b) In setting priorities, it is important to look not only to the individual factors identified but to patterns of behavior. For example, one offender may have a history of job loss due to alcohol abuse while another offender may have a history of sobriety when employed but a pattern of alcohol-related offenses while unemployed. Although alcohol abuse may be identified as an issue for both offenders, the priorities for addressing the issue should differ.

§ 360.30 Develop Targeted Offender Supervision Objectives

(a) In consultation with office specialists (as appropriate) and with input from the offender, officers are to develop concrete objectives that describe what the offender is to accomplish during the period of supervision covered by the plan. Targeted objectives supplement the basic behavioral requirements that the offender commit no new crimes and comply with all other conditions of release by providing a road map for what this particular offender needs to do to accomplish supervision goals. The objectives are to flow directly from the assessment results and are to reflect anticipated offender outcomes for this period of supervision as well as reflecting any priorities of the plan. All targeted objectives are to be realistically tailored
Some offender objectives will remain as a part of the plan throughout the period of supervision based on historical risk factors—e.g., "Remain drug free" (for offenders with a history of substance abuse). Others will remain a part of the plan as long as the relevant condition has not been satisfied or the risk issue has not been addressed, such as "Pay maximum restitution possible in accordance with the schedule determined by ability to pay" (for offenders with a restitution sentence); “Secure legitimate employment” (for offenders who are unemployed or have questionable employment).

The objectives may also include specific steps that the offender is to take to reach a broader objective such as "Participate in drug treatment program in accordance with the treatment plan"; “Complete job readiness course.” Such steps will generally be necessary in those cases where some remediation is required before the ultimate objective can realistically be attained (e.g., learning a skill to get a job; getting treatment to control addiction) and, depending on the offender’s circumstances, may be appropriate where interim steps are an integral part of reaching the objective, e.g., applying for jobs before obtaining employment (for offenders who have little or no employment history).

§ 360.40 Identify Obstacles to Achieving Objectives

(a) Before selecting strategies, officers are to determine if there are conditions or circumstances which may interfere with efforts to implement an otherwise appropriate supervision plan. These obstacles include, but are not limited to:

• the offender’s lack of motivation to change or resistance to supervision programs;
• the offender’s lack of a prosocial support network of family, friends;
• the offender’s diminished capacity to change—e.g., low intellectual functioning or serious mental illness;
• the geographic location of the offender;
• limited resources and job opportunities in the offender’s community; and
• environmental or cultural factors.

(b) Obstacles to supervision do not relieve the officer of the responsibility for developing and implementing an appropriate supervision plan. In fact, they challenge the officer to formulate more creative and innovative
approaches to the process. For example, if an offender resides in a remote location, officers should consider alternate monitoring strategies that are appropriate to the individual offender’s risk factors and circumstances, such as more frequent contact with collateral sources, requesting assistance of local law enforcement, and pager monitoring.

§ 360.50 Develop Supervision Strategies

For more detail on the elements of supervision activities and selecting supervision strategies to address particular issues, see: Guide, Vol 8E, Ch 4.

(a) Officers are to develop strategies that are sufficient, but no greater than necessary, to achieve desired outcomes and supervision goals. When risk issues have been identified, the strategies are to include both controlling and correctional interventions and, where applicable, should discuss prioritization and the plan for overcoming any obstacles. Strategies may also include “if-then” scenarios, such as “Refer to ABC for job placement and, if a job is obtained, verify employment through contact on the job site and review of pay stubs. If a job is not obtained, discuss possible referral to XYZ job readiness program.”

(b) The overall level of activity in a case should be determined by both the statistical prediction of success using the RPI and the special conditions and risk factors identified during the assessment. This concept is key to assuring that officers “work smart” by devoting the majority of their time and the system’s resources to those offenders who need them most.

(c) Absent targeted risk factors, offenders who have RPI scores of 0 or 1 present little risk to be controlled or corrected. Planned strategies in these cases should ordinarily be limited to monitoring compliance with the conditions of release and responding appropriately to any changes in circumstances. (For a description of low intensity supervision standards, see: Guide, Vol 8E, § 440.) Offenders with RPI scores of 2 or higher, and those with targeted risk or need factors not considered by the RPI, will ordinarily require the implementation of additional strategies to manage risk and increase the chances of meeting desired outcomes.

(d) The strategies planned for the first six months of supervision should take into account that the officer has already completed at least one interview with the offender, made a home inspection and a financial investigation, and interviewed collateral sources as part of the initial assessment.

§ 360.60 Finalize the Plan
(a) Officers are to submit the case plan and the offender’s file to their supervisors. Supervisors are to review the file and plan, consult with office specialists when necessary, and either:

(1) approve the plan as is, or

(2) schedule a case staffing with the officer and, if deemed appropriate, office specialists, to discuss and finalize the plan. Under either method, the initial plan is to be finalized no later than 15 days from its submission by the officer.

(b) This process both provides supervisors with the material and time needed to familiarize themselves with a new case and emphasizes that supervision planning is to be a professional collaboration. For the initial plan only, supervisors may collaborate by signing off on a plan to indicate their full agreement. (For the process for subsequent plan evaluations see: § 370.20.20.) Otherwise, the initial plan is to be completed during a staffing aimed at resolving any questions and/or discussing differences of opinion. (Note: There is a checklist that both officers and supervisors may use to assure the thoroughness of the investigation and assessment process (see: Appx 3B), but there is no separate supervisor’s review form for the initial (or any other) supervision plan. The place for supervisory comments about an officer’s performance is the officer’s — not the offender’s — file. For guidance on the supervisor’s responsibility for evaluating the work of officers, and documenting and responding to sub-par performance, see: Quality Performance Management.)

§ 370 Supervision Plan Implementation and Evaluation

§ 370.10 Implementation

(a) The supervision of offenders is a dynamic issue-driven process. The strategies implemented as part of a comprehensive plan will lead to additional information relevant to assessing the offender’s current circumstances and the continued viability of the plan. Throughout the period of supervision, officers in consultation with supervisors and specialists as appropriate are expected to develop different or additional approaches in response to emerging risk issues or instances of noncompliance and to discontinue planned strategies that no longer have a purpose or are clearly not working. Officers should always verify changes of residence or employment and follow up on any new information indicating a change in relationships or patterns of behavior.
(b) Officers are also to respond immediately to indications of heightened risk by formulating strategies designed to prevent or ameliorate the effects of noncompliant behavior. Among the early warning signs that an offender may be reentering a criminal lifestyle are:

- Offender can seldom be found at residence;
- Offender does not report on time or fails to report;
- Offender is evasive or not truthful;
- Offender loses a job or fails to find work;
- Offender changes jobs frequently for no apparent reason;
- Offender has unexplained assets or lifestyle does not match income; or
- Offender’s demeanor and attitude toward the officer change dramatically.

(c) An officer’s identification of a new supervision issue by these or other behaviors is to trigger the beginning of an investigation, assessment, and planning cycle during which the officer should request an issue-driven case staffing and, in consultation with the supervisor and/or office specialists:

1. reorder the priorities of the plan and implement additional controlling and correctional strategies as appropriate; and
2. document the changes on an interim or updated case plan or in the chronological record.

§ 370.20 Evaluation

The case planning process provides for formal evaluation of the offender’s compliance with conditions and progress towards supervision objectives and the effectiveness of the supervision strategies in facilitating those objectives. The process is designed to utilize the combined professional expertise of officers, supervisors, and office specialists, as appropriate.

§ 370.20.10 The Six-Month Plan Evaluation

(a) The first case evaluation is to take place six months from the start of the supervision term during an officer-supervisor staffing held for the purpose of reviewing all of the officer’s cases that are due for evaluation that month. This timing requires both the officer and supervisor to evaluate the case at least twice during the first six months of supervision, a period critical to eventual success.
(b) The purposes of this and all subsequent evaluations are to:

(1) assess offender compliance and progress towards accomplishing supervision objectives;

(2) evaluate the effectiveness of selected strategies; and

(3) determine what, if any, changes to the plan are warranted.

(c) Officers are to prepare for the review by conducting a criminal record check; assessing whether any changes in statutes or policy affect required activities in the case (e.g., DNA testing); reviewing and, if necessary, updating the chronological record; and evaluating:

(1) the status of imposed conditions,

(2) the status of risk or need issues, and

(3) the offender’s progress in meeting supervision objectives.

(d) The result of the collaborative officer-supervisor evaluation is a plan for the next year of supervision that reflects the offender’s behavior and progress — or lack thereof — in meeting supervision objectives. There are three exceptions to this 12-month scheduling interval:

(1) scheduling an evaluation at the one-year mark in appropriate cases to assess eligibility for early termination (see: § 380.10);

(2) more frequent evaluations required by supervisors for, e.g., newer officers; or

(3) more frequent evaluations required by supervisors or requested by officers for unstable, higher-risk/higher-profile offenders.

(e) If the offender is in compliance and has achieved all supervision objectives, the plan should provide for low intensity supervision (see: Guide, Vol 8E, § 440) and for an evaluation of the case at the one-year mark to assess eligibility for early termination. (Note: In probation misdemeanor cases, the assessment for early termination should be conducted as part of this six-month plan evaluation.)

(f) If the offender is in compliance and has achieved some or all of the first set of prioritized objectives, the plan should specify the next set of objectives and reflect in its supervision strategies both planned
achievement incentives for the offender (e.g., reduced restrictions or less frequent contact) and methods of addressing the next tier of objectives.

(g) If the offender is progressing satisfactorily, but has not yet accomplished supervision objectives, the plan should remain essentially the same, but should reflect any positive compliance incentives, as appropriate.

(h) If progress toward objectives is marginal and/or there have been instances of low-severity noncompliance (see: Guide, Vol 8E, Ch 6), the revised plan should either remain the same or reflect any revision to the objectives and/or the correcting and controlling strategies undertaken to address the noncompliance.

(l) If progress toward objectives has been unsatisfactory and/or there have been instances of moderate- or high-severity noncompliance (see: Guide, Vol 8E, Ch 6), the revised plan is to reflect any revision to the objectives and the correcting and controlling strategies undertaken to address the noncompliance.

§ 370.20.20 Subsequent Evaluations

(a) Subsequent formal case staffing evaluations are to be conducted no later than the 18th month of supervision (one year from the six-month review) and annually thereafter. The officer and supervisor are to reassess the offender; discuss progress, new issues, or concerns; and revise the case plan as necessary. The outcome will be a finalized revised case plan that will be in effect for the next year, unless the case has been earmarked for earlier consideration for early termination or the supervisor requires or the officer requests more frequent evaluations.

(b) The areas of evaluation are the same as those for the six-month case staffing. There is, however a rebuttable presumption that supervision activities are to be gradually reduced in intrusiveness and frequency in all appropriately monitored cases that have remained in compliance with the conditions of supervision throughout the previous year. This presumption is in keeping with the principles of providing offenders with incentives to change and preparing them for eventual transition off supervision.

(c) Accordingly, low intensity supervision standards (see: Guide, Vol 8E, § 440) would ordinarily be appropriate for any offender who does not meet the criteria for early termination (see: § 380.10) but who has met or is progressing satisfactorily on all supervision objectives and who has been:
(1) under continuous supervision for more than 18 months and in full compliance with all conditions throughout the supervision term or

(2) under continuous supervision for more than 30 months and in full compliance with all conditions throughout the last year.

Exceptions to this rule would be career violent and/or drug offenders as described in 28 U.S.C. § 994(h) and offenders convicted of a sex offense or terrorism predicate as described in 18 U.S.C. § 3583 (j) or (k) for which life terms of supervised release are authorized.

§ 380 The Transition Off Supervision

The transition out of the criminal justice system is a process, not an event. It is the culmination of a series of transitions that began when the offender was first arrested for the crime and is one of the most critical for achieving long-term public safety beyond the term of supervision. Transition off supervision is implemented throughout the supervision period by providing offenders with the tools — and connecting them to the social services — they require to function under decreasing levels of control.

§ 380.10 Early Termination

(a) Under 18 U.S.C. §§ 3564(c) and 3583(e)(1), the court may terminate terms of probation in misdemeanor cases at any time and terms of supervised release or probation in felony cases after the expiration of one year of supervision if satisfied that such action is warranted by the conduct of an offender and is in the interest of justice. (Note: Early termination of parole cases is governed by the U.S. Parole Commission Rules and Procedures Manual, Nov. 2007, Section 2.43.)

(b) Officers should consider the suitability of early termination for offenders as soon as they are statutorily eligible. The general criteria for assessing whether a statutorily eligible offender should be recommended to the court as an appropriate candidate for early termination are as follows:

(1) Stable community reintegration (e.g., residence, family, employment);

(2) Progressive strides toward supervision objectives and in compliance with all conditions of supervision;

(3) No aggravated role in the offense of conviction, particularly large drug or fraud offenses;
(4) No history of violence (e.g., sexually assaultive, predatory behavior, or domestic violence);

(5) No recent arrests or convictions (including unresolved pending charges) or ongoing, uninterrupted patterns of criminal conduct;

(6) No recent evidence of alcohol or drug abuse;

(7) No recent psychiatric episodes;

(8) No identifiable risk to the safety of any identifiable victim; and

(9) No identifiable risk to public safety based on the Risk Prediction Index.

(c) The existence of an outstanding financial penalty per se does not adversely affect early termination eligibility as long as the offender has been paying in accordance with the payment plan.

(d) During the first 18 months of supervision, the appropriateness of early termination should be based on the offender’s overall progress in meeting supervision objectives and should include an evaluation of all the circumstances in the individual case. Offenders with identified risks to community safety should not be recommended for early termination. However, the failure to meet other criteria listed should not automatically exclude an offender from further consideration.

(e) At subsequent assessments, there is a presumption in favor of recommending early termination for probationers and supervised releasees:

(1) Who have been under supervision for at least 18 months and

   (a) are not career violent and/or drug offenders (as described in 28 U.S.C. § 994(h)), sex offenders, or terrorists,

   (B) present no identified risk to the public or victims, and

   (C) are free from any moderate (see: Guide, Vol 8E, § 620.40.20) or high (see: § 620.40.30) severity violations; and

(2) Who have been under supervision for at least 42 months and
(a) are not career violent and/or drug offenders (as described in 28 U.S.C. § 994(h)), sex offenders, or terrorists, and

(B) are free from any moderate (see: Guide, Vol 8E, § 620.40.20) or high (see: § 620.40.30) severity violations.

(f) Early termination assessments should be discussed with the supervisor as part of the periodic evaluation process. A request to the court for early termination consideration should include a summary of the offender’s adjustment under supervision, along with justification for a request for early termination supported by the chronological record. The request should also include options for the court to revisit the offender’s early termination at a later time.

(g) Should the court order the termination of an offender’s supervision, the case should be statistically closed immediately. Otherwise, until the next case evaluation, the case should ordinarily be supervised under low intensity supervision standards (see: Guide, Vol 8E, § 440).

§ 380.20 Case Closing Activities

(a) For cases under active supervision, officers are to undertake the following case closing activities during the last six months of the supervision term.

(1) For offenders who continue to present current risks and needs (as documented on the last case plan), interview the offender and his or her family or significant others to discuss future plans, particularly as they relate to the need for ongoing services to address risks and needs; and refer the offender to appropriate service providers in the community for assistance with substance abuse or mental health counseling and support, medication, housing, and other basic needs.

(2) For offenders with outstanding monetary penalties, notify the Financial Litigation Unit of the U.S. attorney’s office of the pending termination of supervision for offenders who will have outstanding fine and restitution balances and provide the unit with all available information on offender resources and ability to pay.

(3) For all offenders,

(a) Assess whether the offender is subject to any newly enacted or expanded statutory requirements and, if so, implement or
make arrangements to implement such requirements prior to expiration of the term; and

(B) Perform a criminal record check 30 days prior to the end of the term and provide appropriate notice to local and national law enforcement agencies and criminal justice tracking systems.
Guide to Judiciary Policy

Vol 8: Probation and Pretrial Services
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§ 410 Overview

(a) The goals of supervision and the duties of probation officers require officers to select and implement strategies designed to monitor, control, and correct an offender’s behavior as appropriate. Overall strategies are comprised of a blend of activities that are planned and conducted in an integrated and balanced manner tailored to meet the assessed risk and needs (see: Guide, Vol 8E, § 350) in the individual case. The desired outcomes in every case are to execute the sentence and to protect the community by reducing the risk and recurrence of crime and maximizing offender success during the period of supervision and beyond. The goal in all cases is the successful completion of the term of supervision during which the offender commits no new crimes; is held accountable for victim, family, community, and other court-ordered responsibilities; and prepares for continued success through improvements in his or her conduct and condition.

(b) This chapter first provides an overview of the principles to guide the selection of supervision activities (see: § 420) and then describes the purposes and elements of core supervision activities (see: § 430) and targeted supervision activities for higher-risk offenders (see: § 450). The next sections discuss the development and implementation of supervision strategies (see: § 460) for cases that involve particular types of issues. The areas addressed are: employment and education, financial, third-party risk, community service, sex offenders, computer-assisted crime, domestic violence, location or movement restrictions, and association restrictions. The last section describes the documentation of supervision activities in the chronological record. Substance abuse and mental health are discussed in great detail in the Guide, Vol 8E, § 550 and § 560, respectively.

§ 420 Selection Principles

(a) Good supervision is individualized; proportional, purposeful, multidimensional, proactive in implementation, and responsive to changes. See: Guide, Vol 8E, § 170. Every supervision activity should be
related to the statutory purposes for which the term of supervision was imposed and the related objectives established for the individual case. Alone and in combination, the selected activities should be those deemed sufficient, but not greater than necessary, to accomplish these purposes. Additional special conditions are to be sought only when the deprivation of liberty or property they entail are tailored specifically to address the issues presented in the individual case. The programs and tools discussed in this chapter are to be used purposefully, only to the degree necessary to meet objectives, and as part of a comprehensive supervision plan. Officers are cautioned not to permit the compelling nature of some tools, particularly those involving new technologies or that have been the subject of media reports, to become the sole focus of supervision.

(b) There are two basic types of supervision strategies to manage risk:

1. Controlling strategies are comprised of activities designed to detect and deter criminal activity and other noncompliance. These include activities undertaken:

   (A) to set the parameters of the restrictions required by the conditions of release and explain the negative consequences of noncompliance,

   (B) to monitor compliance with those restrictions, and

   (C) to respond immediately with appropriate negative consequences to instances of noncompliance (for detailed guidance on responding to noncompliance, see: *Guide, Vol 8E, Ch 6*).

2. Correctional strategies are comprised of activities designed to change offender behavior. These include activities undertaken:

   (A) to bring offenders into compliance with the terms of supervision (for detailed guidance on responding to noncompliance, see: *Guide, Vol 8E, Ch 6*),

   (B) to reduce the risk of future criminal activity,

   (C) to implement conditions requiring correctional interventions, and

   (D) to link offenders with needed information, education, and treatment services.
(c) Officers’ responsibility to maintain awareness requires them to include monitoring activities as part of the supervision strategy in every case, with the frequency and intrusiveness to be determined by the offender’s level and type of risk.

(d) When the assessment indicates risks and needs with the potential to compromise success, officers are to select and simultaneously implement both controlling and correctional interventions designed, respectively, to encourage compliance and to facilitate improvements in conduct and conditions that are associated with risk. The purpose of these interventions is to establish an environment designed to prevent noncompliance before it occurs. Research has demonstrated that this blending of controlling and correctional strategies is far more effective than selecting one strategy over the other. Although the appropriate blend may differ from case to case, it is never appropriate for a supervision plan to be aimed solely at catching the offender doing something wrong (the job of law enforcement) or solely at providing social services to the offender (the job of social workers).

(e) In implementing supervision, officers should be as quick with praise and other incentives for an offender’s accomplishments as they are to respond swiftly with both negative consequences and correctional interventions to noncompliant behavior. They are also encouraged to develop innovative, non-traditional strategies that can help bring about positive change and develop an offender’s ability to function independently. These might include taking advantage of opportunities for offenders to help each other in appropriate cases by, e.g., matching strengths with needs or identifying common problems and arranging voluntary groups or activities that simultaneously address the problem and establish a source of mutual support and encouragement.

(f) The need to implement multidimensional strategies does not mean that each officer is expected to be an expert in all areas. Rather, officers are to serve as participating case managers, both aware of their own strengths and limitations and knowledgeable of the range of expertise available in their offices and communities. Officers should select strategies and activities in each individual case that maximize their own strengths and those of the offender, office specialists, and community resources to facilitate the successful completion of the term of supervision.
§ 430 Core Supervision Activities

(a) Certain core activities are to be undertaken during the course of supervision in every active supervision case to meet the officer’s responsibility to stay informed: home contacts, collateral contacts, offender reporting, and criminal record checks. In addition to keeping the officer informed, these core activities can also be used to implement controlling and correctional interventions.

(b) The frequency of core activities is to be dictated by the relevant issues at each stage in each case. In low risk cases for which low intensity supervision (see: § 440) is appropriate, some of the core activities will be undertaken only during the initial assessment, in preparation for case closing, or in response to changed circumstances. In higher risk cases, the supervision objectives and the purpose(s) of each activity are to guide the establishment of a field-work schedule, which should incorporate non-traditional early morning, evening, and/or weekend hours as necessary to promote compliance and accomplish the objectives in the individual case.

§ 430.10 Home Contacts

(a) One of the most valuable activities available to an officer is the home contact, which is utilized to:

(1) Establish rapport and maintain dialogue with the offender, his or her family, and social network;

(2) Serve as the primary strategy for verifying residence;

(3) Assess lifestyle, including factors suggesting a return to criminal conduct; and

(4) Assess standard of living for ongoing assessment of risk and of the offender’s ability to pay criminal debt or meet family obligations.

(b) As a standard condition of supervision, an offender must submit to a visit, at home or elsewhere, at the request of the supervising probation officer.

(c) The specific activities to be undertaken during other routine home contacts will be determined by the purpose the contact is to serve.

(d) Officers should determine the daily schedule of the offender and other residents for the purpose of planning unscheduled home contacts and note specifically other features of the residence that may assist in
supervision or in the safety of the officer (e.g., the presence of pets and the location of available exits and telephones in case of emergency).

(e) A home visit is not a search, and an officer needs no suspicion to conduct a home visit, with whatever frequency the officer deems warranted, based on all of the circumstances of the offender, the prior record, and the goals of supervision.

(f) A home inspection is an intensive type of home contact that is required during the assessment period and upon each change of residence.

(1) Any home inspection that occurs during the assessment period or upon change of residence shall include the following:

(A) A review of documentation, such as rental agreements, mortgage papers, and utility bills, to verify ownership and monthly living expenses;

(B) A physical walk-through of all the rooms of the residence and of any other areas or structures on the premises that are subject to the offender’s access or control;

(C) Verification of who else is residing at the residence; and

(D) Plain-view observation for evidence of firearms or other contraband (see: § 450.40.20).

(2) Depending on the circumstances of the offender, the offender’s prior record, and the goals of supervision, an officer may deem it prudent at times other than at the assessment period or at a change of residence to walk through the residence, any other structures on the property, or the grounds of the premises.

(A) For example, an officer may wish to conduct more extensive home visits, including a walk-through of all structures on the property, for certain types of offenders, such as those whose prior offense involves rape, other sexual offenses, or kidnapping.

(B) In gauging the appropriate extent of any visit, the officer should avoid intrusions that are not warranted by the particular circumstances of the supervision.
(3) On the occasions described in § 430.10(f)(1)(A-D), an officer should visit only those areas of the premises over which the officer reasonably believes the offender has access or control.

(g) A search is not permitted during a home inspection or any other type of home visit, absent the consent of the offender or, for offenders with a search condition, the existence of reasonable suspicion. Therefore:

(1) Any intrusion into a closed area, such as a closet, refrigerator, or desk drawers, is prohibited during a home visit, absent consent or, for offenders with a search condition, the existence of reasonable suspicion.

(2) During such visits, an officer may seek to observe only those items that are in plain view.

§ 430.20 Collateral Contacts

(a) Officers can effectively perform their multidimensional role only if they establish themselves as part of a larger network of community observation, service, and support. Collateral contacts are the means by which the officer establishes and maintains relationships with on-the-scene supervision partners. They are essential for efficient verification of compliance with conditions and for early warning signs that may require officer intervention.

(b) The officer should develop a collateral network of people in the community who have frequent contact with the offender. Examples of important potential partners are family members, friends, neighbors, employers, co-workers, service providers, clergy, police officers assigned to the offender’s neighborhood, and other local law enforcement and community corrections personnel. Officers, in consultation with their supervisors, may consider involving the offender’s attorney, whose interest in the offender’s success coincides with the purpose of supervision and whose position as an advocate may help reinforce the offender’s understanding of his or her legal obligations.

§ 430.30 Offender Reporting

§ 430.30.10 Written Supervision Reports

(a) Timely submission of a truthful written supervision report is a standard condition of supervision. For forms that districts may use, or modify for use, for individual defendants, see: Form PROB 8, and for organizational
defendants, see: Form PROB 8A. These reports may be sent by mail or hand-delivered if a scheduled personal contact is needed for other purposes.

(b) Written reports are a basic tool for keeping informed. For example, financial information may alert officers to changes in lifestyle signaling a need to reassess the offender’s ability to pay or to investigate income sources. Information in the vehicle section can assist the officer in locating the offender in the field, and information pertaining to other residents can assist in monitoring conditions prohibiting criminal association.

(c) Officers are to review each written report and supporting documentation for completeness and for consistency with previous reports or information from independent investigation and then sign the report to acknowledge the review. Further investigation is warranted whenever inconsistencies are discovered, changes in the offender’s situation or admitted violations are reported, or when the offender has submitted an incomplete report.

(d) Supporting documentation may include, as appropriate, written documents to verify change in residence, employment, expenses, community service hours, or attendance at a community-sponsored drug or alcohol support program; or copies of a driver’s license and automobile registration.

§ 430.30.20 In-Person Office Reporting

While field contacts are usually more informative, there are occasions when it may be more productive to have the offender report to the probation office. These include the following:

(a) During an initial interview to review file documentation and clarify supervision obligations;

(b) When written monthly reports are not received, are incomplete, or are lacking in requested supporting documentation;

(c) When needed to collect and review complex financial documentation;

(d) When the officer needs a safe environment and support to confront noncompliance or other difficult issues;

(e) When repeated attempts to locate the offender in the field have failed; or
(f) When establishing a multi-way conference between the officer, offender, specialist, and/or supervisor.

§ 430.40 Criminal Record Checks

A Federal Bureau of Investigation flash notice highlighting the supervision sentence and requesting notification of new criminal conduct should be filed in all cases. This will serve as notification to law enforcement officers of the offender's status and our interest in the case. But the flash notice alone does not provide for thorough and timely notification of an offender's re-arrest. To stay informed, criminal record checks are to be performed:

(a) during the initial assessment,

(b) prior to every case evaluation, and

(c) 30 days prior to the termination of the offender's term of supervision.

The record check should encompass national and local arrests in any area where the offender resides, works, travels, or otherwise spends time, and may be done using automated flash systems where available.

§ 440 Low-Intensity Supervision Standards

(a) Officers must carefully assess the risks and needs in all non-petty active supervision cases throughout the course of supervision. When the assessment indicates that, under the current circumstances, the offender is likely to remain crime free and to comply with all other conditions without further interventions by the officer, the case should be supervised under the following low-intensity standards. “Working smart” means never supervising offenders more intrusively than required by their assessed risks and needs at any given time. Low-intensity supervision is therefore appropriate at any time after the 60-day initial assessment period if so indicated by the results of the investigation and assessment.

(b) Officers are to undertake the following activities in low-intensity supervision cases:

(1) Review and compare written monthly reports;

(2) Review and compare documents accompanying written reports to verify residence, employment, and payment of outstanding financial penalties;
(3) Obtain criminal record checks at six months and annually thereafter, before recommending early termination, and 30 days before normal expiration of term if not part of an automatic criminal incident notification system;

(4) Perform credit checks and require and review updated net worth and case flow forms every six months for offenders with outstanding financial penalties; and

(5) Follow-up on any changes in circumstances, including third-party risk assessment upon change of address or employment, and adjust any financial penalty payment plan in view of changed financial circumstances.

(c) Likely candidates to be supervised under minimum standards would include:

(1) All petty offenders (i.e., those convicted of infractions or Class B or C misdemeanors);

(2) Any offender for whom an initial assessment investigation has been completed who is not in an excluded group and has a Risk Prediction Index (RPI) score of 0 or 1, has no targeted risk factors identified, is in full compliance with all conditions, and is not currently in treatment, home confinement, or community confinement;

(3) Any offender under continuous supervision for more than one year who meets all of the early termination criteria, but has not been terminated;

(4) Any offender under continuous supervision for more than 18 months who is not in an excluded group, has been in full compliance with all conditions throughout the supervision term, and has met or is progressing satisfactorily on all supervision objectives; and

(5) Any offender under continuous supervision for more than 30 months who is not in an excluded group, has been in full compliance with all conditions over the last year, and has either met or is progressing satisfactorily on all supervision objectives.

(d) Excluded from low intensity supervision are violent and/or drug offenders as described in 28 U.S.C. § 994(h) and offenders convicted of a sex
offense, kidnaping of a minor victim, or terrorism offense as described in 18 U.S.C. § 3583 (j) or (k).

§ 450 Targeted Supervision Activities for Higher-Risk Offenders

The activities described in this section should usually be undertaken only when required by the conditions of release or when they are both permitted by the conditions and deemed the least intrusive way of intervening in defined areas of risk.

§ 450.10 Maintaining Law Enforcement Liaison

(a) Other than record checks and notifications mandated by statute, the nature and frequency of contacts with law enforcement will vary, depending upon the offender's level and type of risk. When the Risk Prediction Index score indicates a higher general risk and/or the offender's criminal history includes violence or a pattern of criminal activity or criminal associations, the officer should make frequent contact with law enforcement agencies that may have information about the activities of the offender. The original arresting agency, federal task forces, local intelligence, or community policing meetings are good sources of information about an offender's pattern of criminal activities and associates and can provide valuable assistance to the officer in monitoring the offender's activities while under supervision.

(b) In dealing with other agencies, officers must always be aware of their limited authority to communicate information about the offender. Officers should assess how much disclosure is necessary and proper in order to obtain the necessary cooperation from the other agency and be sensitive to the court's confidentiality policies. Any doubts should be resolved by securing court permission for the disclosure.

§ 450.20 Referring for Treatment, Counseling, and Services

For specific guidance, see: Guide, Vol 8E, § 550 (substance abuse treatment referral process), § 560 (mental health treatment referral process), and § 460.40 (sex offender monitoring and intervention).

§ 450.30 Community Observation

(a) Community observation is fieldwork that does not involve a direct contact with the offender or collateral sources. It may be the preferred way to unobtrusively monitor compliance with specific conditions in a way that does not intrude on the activity itself. For example, an officer might drive
by an Alcoholics Anonymous meeting to see if the offender's car is parked there or use a drive-by electronic monitoring unit to determine if an offender subject to a home confinement condition is at the grocery store, employment, or place of worship in compliance with an approved schedule.

(b) Community observation may also be appropriate to document or dispel suspicions that an offender is not being truthful. For example, observation of an offender’s work site or residence during the start or end time of his or her reported work schedule may be appropriate if the offender is suspected of falsely reporting employment. While occasional observations of this nature may be productive, prolonged surveillance is rarely worth the officer time required and is generally not appropriate. Officers should consult local policies and receive supervisory approval prior to implementing prolonged surveillance.

§ 450.40 Search and Seizure

The Judicial Conference Committee on Criminal Law set forth guidance for search and seizure in Search and Seizure Guidelines for Probation Officers in the Supervision of Offenders on Supervised Release, which was approved by the Judicial Conference at its September 2010 session (JCUS-SEP 2010). See: Appx 4A.

§ 450.40.10 Search

(a) Searches should be conducted only where other alternatives to protect the public and to assist the offender in complying with the conditions of supervision have been exhausted.

(b) Searches should be conducted according to the Judicial Conference’s approved Search and Seizure Guidelines for Probation Officers in the Supervision of Offenders on Supervised Release (Search Guidelines). See: Appx 4A. To conduct any search,

(1) a special condition permitting a search must be imposed by the court, or

(2) the offender must consent in writing to the search.

(c) Search conditions may be appropriate for offenders whose individual circumstances indicate a high risk of re-offending and who have been convicted of such crimes as sex offenses or child pornography or those involving contraband, stolen property, smuggling, and/or weapons violations. In high-risk cases of this type, the search condition itself may
provide an element of deterrence and it authorizes the officer to intervene quickly when he or she reasonably suspects the offender has violated the conditions of release.

(d) The wording suggested in the Search Guidelines for the search condition was carefully selected to allow for a search to be conducted in a reasonable manner, at a reasonable time, and based upon a reasonable suspicion that the search would be productive. It is also essential that others who may be affected by the condition (spouse, roommate, and employer) be notified of its existence. The Criminal Law Committee believes that case law and policy dictate these elements of the condition and strongly recommends that they be incorporated into the search condition.

(e) The safety of officers and other persons present should be the primary concern during the execution of any search. In accordance with the Search Guidelines, officers may not restrain third parties during a search. Officers should strongly consider requesting assistance from law enforcement officers for protection, instruction, and taking possession of contraband during a search. A report on all searches must be filed with the AO Office of Probation and Pretrial Services using the Safety and Information Reporting System (SIRS).

(f) Officers should familiarize themselves with local policies on search and seizure and the case law within their circuit. The use of this activity requires advanced training, preparation, and planning.

§ 450.40.20 Plain View Seizure

(a) The nature of supervision may place officers in situations where evidence of criminal activity is within their sight. If permitted by the adopted local district policy, officers may, in accordance with the “plain view doctrine,” seize contraband in plain view without a special condition. The plain view doctrine permits the seizure of contraband if the following criteria are met:

1. The officer is legally on the premises where the item is seen, e.g., conducting a home contact;
2. The contraband is within the plain sight of the officer; and
3. It is immediately apparent that the item is illegal in and of itself (e.g., illegal drugs) or with respect to the offender (e.g., a firearm in the home of a felon).
(b) Officers are encouraged to exercise caution and sound judgment in applying the plain view doctrine. Situations may arise where it is lawful, but not prudent or safe, to seize evidence. Leaving the area and contacting a supervisor for guidance or another law enforcement agency may be the safer and more productive course of action. If contraband is observed in plain view and the officer determines that, for safety reasons, it could not be seized, the officer may report the information to a law enforcement agency for the purpose of supporting a request for a search warrant by law enforcement agents.

(c) If evidence of new criminal conduct or a violation is seized pursuant to either a search or plain view seizure, officers must take appropriate steps, consistent with their office policy, to ensure that proper chain of custody procedures are maintained and that the evidence is either transferred to the appropriate law enforcement agency or safely and appropriately secured.

§ 450.40.30 Additional Resources


(b) Search and Seizure Training Reference Guide (Federal Judicial Center 1995).

(c) Office of the General Counsel Decisions: Search and Seizure.

§ 460 Strategies for Addressing Common Conditions of Release

§ 460.10 Employment and Education

(a) Research has consistently established employment and education as factors that relate to offender success. Securing and maintaining employment is a standard condition of supervision, and officers are to assist all offenders, as necessary, in seeking and maintaining employment commensurate with their earning ability.

(b) Employment or the offender’s efforts at securing employment are to be verified in every case. Employment may be verified through a careful review of paper documentation (including, where appropriate, tax returns), contacts with employers, or observation of the offender at work. The choice of verification strategies is to be determined by the nature of employment, the potential for loss of employment, the financial
responsibilities of the offender, and the risk factors presented by the employment. Officers should be as discreet as possible in making employment inquiries and have case-specific reasons, documented in the chronological record, before undertaking verification strategies that have the potential to jeopardize employment.

(c) When employment has been identified as a risk issue, pay stubs, standing alone, are insufficient as verification of employment. Activities such as phone calls to the offender at the workplace, checks with the Social Security Administration, and/or observation of the offender coming or going from the workplace provide additional unobtrusive verification strategies.

(d) If offenders are uncooperative in providing employment information, officers should seek the addition of a special condition requiring disclosure of confirming documents such as business records or other financial records.

§ 460.10.10 Addressing Employment-Related Risk

(a) In higher-risk cases where employment has been identified as a risk factor, the officer should ordinarily observe the place and general operation of the employment and make direct contact with the employer. A more detailed investigation of the employer may be required if the legitimacy of employment is an issue. In making contacts with or investigating employers for the purpose of obtaining information necessary for supervision, officers should be cautious to avoid unnecessary disclosures that could result in loss of employment.

(b) When an offender changes employment frequently, abruptly, or for reasons that are unclear, the officer should contact the former employer to determine the circumstances under which the offender left. Contact with the former employer may highlight specific issues such as absenteeism or conflicts with supervisors or co-workers which may indicate a need for correctional intervention.

§ 460.10.20 Supervising Self-Employed Offenders

(a) Routine monitoring of the self-employed offender will often require review of business documents such as sales records, balance statements, or quarterly tax returns. Officers, who are not trained in how to interpret business documents, or in any of the enhanced monitoring strategies described below, should consult the Financial Investigation Desk Reference for U.S. Probation and Pretrial Services Officers for information
and, when necessary, enlist office or community experts to assist in implementing these aspects of the supervision plan.

(b) Enhanced monitoring strategies for self-employed offenders with significant employment or financial-related risks include:

(1) Determining how the offender has established his “self-employed” status, i.e., sole proprietorship, S corporation, Limited Liability Corporation.

(2) If the business is established in a corporate form, reviewing the corporation filings to determine others involved in the corporation as officers or members of the board of directors and to verify that there are no criminal association issues.

(3) Interviewing the officers of the corporation to determine if they understand and are actively involved in running the business.

(4) Contacting customers to ascertain the conduct of the business and how the offender is representing himself or herself, i.e., as an employee or the actual owner of the business. Such contacts should be done in such a way as to avoid jeopardizing the business relationship whenever possible; and any third-party risk warning to a customer that may result in a loss of that relationship must be authorized by the court.

(5) Verifying that the offender and the business have complied with all state, local, and federal licenses and filing requirements and tax reporting obligations.

(c) If the business is not in compliance with all requirements, the officer should provide or arrange for assistance in organizing the business in a manner that complies with these requirements. The Small Business Administration, local tax offices, and other community resources should be utilized as training resources to encourage the offender’s self-sufficiency and compliance with these legal requirements.

§ 460.10.30 Unemployment, Underemployment, or Unstable Employment

(a) The reason for an offender’s employment problems will determine the appropriate blend of controlling and correctional interventions. Offenders who lack educational and employment skills will require referral for correctional interventions suitable to their circumstances, such as job training, education, or literacy. Offenders who have not had experience
holding down a job will also likely require job referral services and assistance in acquiring basic job search, application, and interview skills, and assistance in preparing for the work environment. Offenders who are suspected of malingering might be required to report daily or weekly on their job search activities.

(b) Whatever the reason for employment problems, officers should strive to have all offenders productively occupied throughout the year, and no offender should be permitted to be idle for a prolonged period unless excused due to disability or earned retirement. Officers should consider requesting a period of community service (see: § 460.25) for those offenders who are not productively occupied, with the nature of the service matched to the specific issues identified for the offender.

§ 460.10.40 Additional Resources

(a) Guide, Vol 8G (Criminal Monetary Penalties (Monograph 114)), § 450 (Self-Employed Individuals) and Form PROB 48F (Request for Self-Employment Records).


§ 460.15 Financial Conditions and Issues

In cases with conditions requiring payment of monetary penalties or obligations and those with identified problems related to finances, officers are to conduct ongoing verification of the offender’s financial status and, as necessary, provide assistance in securing and managing income. The addition of special conditions such as financial disclosure and prohibitions against incurring new credit can be requested as necessary to help the officer set the appropriate collection parameters for monetary conditions; deter and detect economic crimes; verify and monitor self-employment; or assist disorganized, impulsive offenders to gain control of their financial situation.

§ 460.15.10 Investigating Financial Status

(a) Guide, Vol 8G (Criminal Monetary Penalties (Monograph 114)) sets the standards for performing financial investigations and provides a wide range
of financial forms and information that will help in this process. In brief, officers are to:

(1) Obtain a signed authorization to obtain financial records. (This is required even if there is a special condition of financial information disclosure.) Use Form PROB 48I (Customer Consent and Authorization for Access to Financial Records During Supervision) for this purpose. This form notifies offenders of their rights under the Financial Privacy Act of 1978 and provides officers with ongoing access to credit reports throughout the period of supervision. It also authorizes the transfer of financial information obtained by the officer to the financial litigation unit of the U.S. attorney’s office for the collection of outstanding monetary penalties.

(2) Update the Net Worth Statement by having the offender complete either Form PROB 48 or Form PROB 48EZ. The more complete Form PROB 48 is recommended for use with offenders:

   (A) who are financially sophisticated;

   (B) who have been convicted of economic crimes; or

   (C) who have or, based on evidence, are suspected of having more than minimal assets or liabilities. Form PROB 48A (Request for Net Worth Statement Financial Records) is used to instruct the offender on the documents required to support the Net Worth Statement. It parallels the Net Worth Statement and provides space for the officer to request additional information and to schedule a follow-up interview.

(3) Update cash flow information using forms PROB 48B and PROB 48C.

(b) Officers should meet with the offender upon the return of the forms and supporting documentation to review them for completeness, discuss any ambiguities, clarify any differences between this and any previous Statements, and obtain a Declaration of Offender Net Worth and Cash Flow Statements (Form PROB 48D). This form is used for the offender to declare that the financial information submitted is accurate and complete and informs the offender that false statements could result in prosecution under 18 U.S.C. § 1001.

(c) Any new information provided by the offender should be compared with records obtained from other sources. Guide, Vol 8G (Criminal Monetary
Penalties (Monograph 114)) and the Federal Judicial Center’s Financial Investigation Desk Reference describe numerous independent sources from which to secure financial information.

§ 460.15.20 Enforcing Monetary Penalties

(a) When an offender sentenced to a term of supervision is also sentenced to pay a special assessment, fine, and/or restitution, payment of the financial penalty is routinely added as a condition of supervision. (Note: This is a mandatory condition for terms of probation and a standard condition for terms of supervised release.) Offenders are also required to notify the court of any material changes in their economic circumstances that might affect their ability to pay.

(b) Guide, Vol 8G (Criminal Monetary Penalties (Monograph 114)) and the Financial Investigation Desk Reference provide comprehensive information about the officer’s role in financial penalties, including the strategies and tools used to assess an offender’s ability to pay. In brief, officers are to assist in the execution of financial sentences during the period of supervision by updating financial information, determining necessary living expenses, recommending lump-sum payments and/or payment schedules designed to collect the maximum amount of money reasonably possible in the shortest period of time, and utilizing graduated interventions designed to bring offenders into compliance when they fail to pay their outstanding penalties.

(c) Establishing Payment Parameters

After updating the financial investigation, officers are to determine the offender’s current ability to pay a lump sum and, if not able to pay in full, a recommended payment schedule. Unless otherwise ordered by the court, the payment plan should reflect the maximum payment that the offender can reasonably manage given documented income and necessary expenses. Compliant offenders who cannot legitimately pay their obligation during the term of supervision, despite their best efforts, should be permitted to terminate their terms as otherwise appropriate. If the required payments are less than would be necessary to pay the total fine or restitution before expiration of supervision, contact should be made with the U.S. attorney, who may submit a petition for remission or pursue collection of the unpaid balance after expiration (18 U.S.C. § 3573).

(d) Officers may need to request modification of the conditions, as necessary, to:
(1) modify or set the payment schedule;
(2) provide the investigative tools required to maintain appropriate verification of and control over financial status (e.g., financial disclosure, travel restrictions); and/or
(3) modify the requirements of other conditions that may unnecessarily impede the offender’s ability to meet the terms of financial sentences.

Unless otherwise ordered by the court, payments received for outstanding criminal monetary penalties are applied in the following order:

(1) Special assessments;
(2) Restitution, including interest, to private victims (e.g., individuals, organizations, corporations);
(3) Restitution, including interest, to third-party compensators (e.g., insurance companies);
(4) Restitution, including interest, to the United States as a victim;
(5) Fine principal;
(6) Community restitution;
(7) Fine interest; and
(8) Penalties and other costs, including the cost of prosecution and court costs.

See also: Guide, Vol 8G (Criminal Monetary Penalties (Monograph 114), § 630 (Application of Payments and Liability to Pay Criminal Monetary Penalties)).

(e) Offender co-payments for monitoring and treatment services are not criminal penalties and are therefore outside the schedule for payment of special assessments, restitution, fines, other penalties, and costs. Payment for electronic monitoring or treatment services may be collected concurrently with payments for criminal monetary penalties, but should not impede a defendant's ability to make restitution.
(f) **Verifying Payments and Appropriateness of Payment Parameters**

Throughout any period of supervision during which financial penalties are outstanding, officers are to:

1. Verify payments regularly with the district clerk or court-ordered recipient to ensure that the offender is not delinquent with payment or in default on this obligation;

2. Reassess the offender’s ability to pay every six months and request modification to restructure payments as necessary; and

3. Notify the court or Parole Commission of any failure to pay. Notification should be made within 30 days after a determination that the payment is delinquent; and must be made within 30 days once the payment is in default (18 U.S.C. § 3603(7));

4. A fine or restitution is delinquent when a payment is more than 30 days late (18 U.S.C. § 3572(h)).

5. A fine or restitution is in default if a payment is delinquent for more than 90 days (18 U.S.C. § 3572(j)), i.e., when there has been no payment for 4 months or the amount in arrears exceeds three monthly payments.

6. If investigation determines that offenders in arrears are unable to pay their obligations at that time, officers should assist them in securing and managing income and/or take steps to adjust the payment schedule. For offenders able but unwilling to pay, officers should coordinate with the U.S. attorney’s office to implement more intrusive collection mechanisms (liens; garnishees) or to initiate revocation proceedings.

§ 460.15.30 **Monitoring and Intervention**

(a) Officers can maintain an ongoing picture of an offender’s financial condition by close scrutiny of the financial information submitted with the monthly supervision report and — as consistent with the offender’s assessed risk of noncompliance and sources of income or assets — independent verification (through, e.g., credit checks, review of external sources of financial information, home contacts, and collateral contacts with employers) to corroborate offender’s self-reports. Officers should periodically conduct a comparative assessment of the financial documents
obtained to review their consistency; identify any unusual deposits, withdrawals, or purchases; and determine spending patterns.

(b) If needed, officers should also assist in job referrals, employment counseling, or social services. See also: § 460.10 (Employment and Education). Whether these services are provided by the officer or by an in-house expert or via referral should depend on the severity of the problem and the best source of expertise to address that problem.

(c) Form PROB 48J (Monthly Management Worksheet) can be used to encourage offenders to record how their income is spent and to audit offender spending patterns. Once the spending pattern is determined, officers can suggest ways to reduce unnecessary expenses to help an offender reduce debt, stay within a budget, and meet other monetary obligations; or they can refer the offender for more in-depth financial or employment counseling. If monitoring and intervention activities reveal the existence of non-committed cash flow or additional assets, the payment plan should be revised accordingly.

§ 460.15.30 Additional Resources

(a) Guide, Vol 8G (Criminal Monetary Penalties (Monograph 114)), Ch 4 and Ch 6.


(c) Financial Investigation Series for U.S. Probation Officers, Federal Judicial Center.

§ 460.20 Third-Party Risk

Third-party risk is defined as a "reasonably foreseeable" risk of physical or financial harm to a specifically identified third party or parties. The standard conditions of release require the offender to notify, and permit the officer to notify, third parties of risks that may be occasioned by the offender’s criminal record or personal history or characteristics. If necessary, special conditions restricting travel, employment, contact, or associations, or those requiring correctional interventions, should be requested to provide the tools needed to implement the appropriate blend of supervision strategies.

§ 460.20.10 Elements of Third-Party Risk

Third-party risk must be “reasonably foreseeable,” which means that the circumstances of the relationship between the offender and the third party (e.g., employer or household
member) suggest the offender may act in a criminal or antisocial manner similar or related to past conduct. See also: Guide, Vol 8E, § 350.10.30. Further, the risk must involve a specifically identified individual, which means that risk to an undefined group (such as the general public) or to a broad class of individuals (such as all children in the neighborhood) does not give rise to a duty to warn. Since, however, all types of identified risks are to be addressed by appropriate controlling and correctional interventions, the practical consequence of this distinction is that the special duty to warn guidelines that apply in third-party risk cases do not apply when the risk is general rather than specific. (For further information on notification in sex offender cases, see: § 460.40.) Third-party risk should be reassessed at each significant change of circumstances— particularly changes in residence or employment, and prior to each case evaluation.

§ 460.20.20 Monitoring and Intervention

(a) When a third-party risk is identified, officers should increase the intensity of controlling and correctional strategies, make (or require the offender to make, and then verify) certain disclosures to third parties, and/or preclude risk-related employment or contact.

(b) The selection of a particular approach is to be based upon the seriousness of the risk created and the possible jeopardy to the offender’s employment or other aspects of rehabilitation. Although the standard third-party risk condition requires warnings to third parties, it is recommended that officers not preclude employment or disclose information that might result in loss of employment without either the offender’s consent or a special condition of release or court approval. See also: § 460.10 (Employment and Education).

(c) Compliance with third-party restrictions should be verified by unannounced work, business, home, and community contacts and/or written correspondence. See: Form PROB 32. Where employment is the basis for the third-party risk, mere submission by the offender of a job description or pay stub is not sufficient to verify compliance. See also: § 460.10 (Employment and Education).

§ 460.20.30 Additional Resources

Confidentiality of Pretrial Services, Presentence, and Supervision Release Information. David N. Adair, Jr., AO Associate General Counsel.

§ 460.25 Community Service

Community service is a versatile condition that can serve multiple purposes. It can, for example, serve as the “publicly discernible penalty” in probation cases or as a negative
consequence for noncompliance; as a controlling strategy that requires offenders to be productively occupied; or as a correctional strategy that provides a way for offenders to acquire job readiness skills and job experience or broaden their network of associates in a more productive direction. In addition to the specific sentencing purpose to be served, the desired by-product of community service is always to benefit the community.

§ 460.25.10 Placement and Implementation

(a) Community service placements are to be purposeful, realistic, appropriate, reliable, and designed to benefit the community. Offenders are not compensated for their community service. Officers are always to disclose the offender’s criminal history so that the potential placement agency may make its decision to accept a placement with full knowledge of the facts.

(b) Offenders should be required to complete their community service obligation promptly unless there is a reasonable basis to delay the placement. For example, initiation of community service may be delayed to allow employed offenders to complete an imposed term of home confinement, to allow for intensive corrective treatment, to stabilize a drug-abusing offender, or to allow the offender to meet short-term extraordinary personal or family responsibilities. If an extensive delay is contemplated, the officer should either request that the special condition be removed or notify the court or Parole Commission of the anticipated delay in implementation.

(c) Factors to be considered in making placements include:

(1) the sentencing objective(s) of the court;
(2) the characteristics, skills, and abilities of the offender;
(3) the needs of the community;
(4) third-party risk; and
(5) logistical considerations, such as the availability of transportation and the time necessary to complete the required hours vis-à-vis the offender’s other employment, family, and financial responsibilities.

(d) Officers should also consider whether the placement would be viewed as potentially inappropriate in the eyes of the community. For example, it may be inappropriate to permit certain offenders to serve their sentences as youth athletic league coaches — a position which establishes them as role models for children — but it may be acceptable for them to mow the
athletic field. Care should also be taken when placing offenders in positions of trust with other vulnerable groups, e.g., as a Meals on Wheels volunteer visiting the elderly in their homes.

(e) The community service site selected should provide non-denominational services to the community. For example, an offender should not receive community service credit for serving as a deacon in his church; however, if the church operates a soup kitchen open to all members of the community, the offender may perform the community service there.

(f) The site selected should also have a reliable manager who is willing to work with the officer to provide accurate information regarding the offender’s attendance and participation.

§ 460.25.20 Monitoring and Verification

Compliance with community service hours may be verified by on-site monitoring, collateral contact with the service agency, and/or review of documentation provided by the service agency. The degree of personal or on-site contact with the service agency will depend on the degree and nature of the risk presented by the offender and the extent to which the office has developed an ongoing relationship with the service agency.

§ 460.30 Substance Abuse

Given the established relationship between substance abuse and criminal activity, officers should make ongoing efforts to detect substance abuse (see: Appx 4B) and to intervene promptly when a problem is identified. This intervention is described in detail in Vol 8E, § 550.

§ 460.35 Mental Health

Mental health cases represent a growing segment of the supervision population and present special challenges. Detailed information about the supervision of a mentally ill offender can be found in Vol 8E, § 560.

§ 460.40 Sex Offenders

Although sex offenders represent a small segment of the overall offender population, the predatory, secretive, and repetitive behaviors of serious sex offenders present an increased risk to the public and to certain vulnerable groups, particularly children. For policy about the investigation and supervision of sex offenders, see: Guide, Vol 8I (Sex Offender Management) [available shortly].
§ 460.45 Computer-Assisted Crime

(a) Computer-assisted offenses range from crimes that cannot be committed without a computer or connected device to the use of a computer or connected device to facilitate the commission of traditional crimes. The most common computer-assisted crimes in the federal system involve securities and credit card fraud, network manipulation, hacking or cracking, identity theft, on-line gambling, software and recording piracy, child sexual exploitation, child pornography, cyber-stalking, and counterfeiting.

(b) The nature of the specific crime will affect the types of special conditions that may be appropriate.

§ 460.45.10 Computer as Object, Victim, or Target

Crimes in this category involve attacks on the confidentiality, integrity, or availability of a computer’s information services, i.e., targeting a computer system to acquire stored information, steal services, corrupt data, or interfere with the accessibility of the computer server. A special condition prohibiting access to a computer may be appropriate for a serious hacker or “denial of service” offender.

§ 460.45.20 Computer as Subject or Storage Device

Unlawful conduct of this type involves using a computer or connected device to store data used in carrying out criminal activity, e.g., transmitting a computer program containing instructions to trigger a malicious act automatically. A special condition allowing computer search may be appropriate for some offenders in this class.

§ 460.45.30 Computer as Instrument or Tool

(a) With this type of criminal conduct, a computer or connected device is used to make traditional unlawful activity easier and faster. Appropriate special conditions to assist the officer in supervising this oftentimes sophisticated offender might include: prohibiting the offender from owning or operating a computer; prohibiting the use of a device to access the internet, bulletin board systems, or chat rooms; and computer search.

(b) Some offenders in this category also present mental health and sex offender issues, with the internet serving to create a virtual network that supports their deviant behavior, providing access to child pornography or to remote storage locations for illegal documents, images, or photographs. It is important with these offenders to incorporate treatment strategies for sex offenders. See: § 460.40.
(c) Regardless of the category of a computer-assisted crime, officers may initially feel uncomfortable supervising an offender who has exceptional specialized knowledge in this complex area. However, traditional supervision strategies can be very effective with high-tech offenders as long as officers have a basic familiarity with computers and internet terminology. These strategies include the use of targeted inquiry to develop information about offenders’ computing environments and their purposes or patterns of use, and review of telephone records to yield information about internet providers. Specifically, officers should ascertain information from the offender and collateral sources about:

1. what types of computer equipment they own or have access to at their residence and place of employment;
2. what internet service providers they have on home and employment computers;
3. what web pages they operate or maintain; and
4. if a computer search condition is in effect, what e-mail addresses, screen names, and passwords they use.

(d) For higher-risk offenders with computer search conditions, high-tech strategies are available for recording computer and/or internet activity or examining offenders’ hard drives and recordable media. As these techniques require substantial and ongoing training and are time consuming to implement, officers will usually need to enlist the assistance of office specialists or outside experts. Note that the systems staff within the district is not specifically trained in computer forensics and are not hazardous duty staff. Although often willing, they should not accompany officers in the field.

§ 460.45.40 Additional Resources


§ 460.50 Domestic Violence

(a) Domestic violence impacts all members of the abusive household, especially minor children who are victims or witnesses of abuse. Research indicates that batterers who abuse their partners are more likely to abuse their children, and children who are raised witnessing domestic violence are significantly more likely to later become criminal offenders. Through their
involvement with offenders and their families, officers have a unique opportunity to help break this cycle.

(b) Probationers and supervised releasees convicted for the first time of a domestic violence crime are subject to a mandatory condition that they attend a rehabilitation program approved by the court in consultation with a State Coalition Against Domestic Violence or other appropriate experts if an approved program is readily available within a 50-mile radius of the offender's legal residence.

(Note: A domestic violence crime is defined at 18 U.S.C. § 3561(b) as a crime of violence in which "the victim or intended victim is the spouse, former spouse, intimate partner, former intimate partner, child, or former child of the defendant, or any other relative of the defendant.")

The court or Parole Commission may also impose special conditions prohibiting contact or requiring participation in other types of programs (e.g., anger management; family counseling), when appropriate to the circumstances of the individual case.

(c) Unlike the sometimes aberrant behavior of the mental health offender, domestic violence is a controlled behavior that often includes deliberate attempts to conceal. Further, domestic violence victims are often reticent to discuss the abuse due to embarrassment or fear of retaliation. Officers should therefore make discreet inquiries about domestic violence and must be particularly alert for external warning signs such as:

(1) signs of physical abuse, for example, bruises, fractures, or scars;
(2) signs of psychological abuse, for example, excessive concern about talking to the officer, timidity, or failure to establish eye contact;
(3) arrests or reports of domestic disturbance or disturbing the peace;
(4) substance abuse, particularly alcohol abuse, in the home.

(d) Monitoring in domestic violence cases should include frequent home contacts with offenders and their families, review of local police records, and collateral contacts with those who have an opportunity for daily observation of the potential victim (e.g., employers, teachers, and school counselors).

(e) Domestic violence issues are complex and not amenable to simple solutions. Interventions that are cautiously enacted pursuant to a thoughtful plan that incorporates both correctional and controlling strategies and draws
on a variety of community-based resources will be more effective and less
dangerous to the officer, offender, and family members than a reactive
intervention. Officers not specifically trained in this area are to seek the
assistance of their supervisors and domestic violence experts before
intervening in domestic violence situations.

(f) Depending on the nature and extent of the problem, appropriate correctional
interventions may include domestic violence counseling, batterers’ re-
education groups, anger management programs, parenting classes, family
counseling, or substance abuse counseling.

(g) Officers should also be aware of the mandatory child abuse reporting
requirements in their states and carry emergency contact information for
children services with them while in the field.

§ 460.50.10 Additional Resources

Domestic Violence Awareness for Probation and Pretrial Services Officers, Federal
Judicial Center Broadcast, September 2004.

§ 460.55 Location and Movement Restrictions

§ 460.55.10 Residential Community Placement

(a) Placement

The court or Parole Commission may impose as a special condition that an
offender reside at or participate in a program offered by a Residential
Reentry Center or other facility located in the community. Such a condition
may be considered for either controlling or correctional purposes, with the
purpose of the condition guiding the placement. When the primary purpose
is control, offenders should be placed in a structured residential setting.
When the primary purpose is to provide re-integrative services that
emphasize basic economic and living responsibilities, a less restrictive
program might be more appropriate. Before making a placement, officers
should verify that the necessary services and/or level of confinement are
available. The placement should generally not exceed six months or, in the
case of parolees, 120 days.

(b) Monitoring and Intervention

Officers need to communicate clearly to both the offender and facility staff
the reason for the placement and to establish and maintain ongoing
communication with both offender and facility staff that is focused on the
specific steps to be taken to facilitate successful reintegration and to comply with the conditions of supervision.

§ 460.55.20 Location Monitoring Program

(a) Program Overview

The court or Parole Commission may impose a special condition requiring an offender to be monitored in the community via the use of location monitoring technology. For specific guidance on location monitoring policies and procedures, see: Guide, Vol 8F (Federal Location Monitoring Program (Monograph 113)).

(1) Location monitoring technology provides officers with the capability to enforce and monitor an offender’s compliance with one or more conditions of supervision. The various types of location monitoring technologies should be considered tools that may be utilized to:

   (A) Monitor court or Parole Commission imposed conditions;

   (B) Manage or mitigate identified risks (such as the risk an offender may present to a specific person); and

   (C) Verify approved offender locations at home or in the community and provide information about the offender’s movement in the community.

(2) The court may order a specific location monitoring technology or provide the officer the discretion to implement a particular technology to address the risk. In post-conviction supervision, the goal is the successful completion of the term of supervision, during which the offender commits no new crimes; is held accountable for victim, family, community, and other court-ordered responsibilities; and prepares for continued success through improvements in his or her conduct and condition.

(3) Location monitoring technologies have advantages and limitations. For example, while location monitoring technologies may be utilized to verify an offender's location at a specific location or area during a prescribed time, the information provided by the technology will not necessarily be sufficient to make conclusions regarding compliant and/or noncompliant behavior. The information must be corroborated through other supervision strategies such as community visits and collateral contacts. The use of location monitoring technology can be
an effective sanction or action when addressing violations. However, it should only be recommended to address specific risks associated with a violation. For example, if an offender has violated conditions of supervision by failing to be at his or her employment location at the time of an officer’s visit or other attempts to verify, location monitoring can be recommended as a sanction. In this example, location monitoring is a controlling strategy and provides enhanced offender accountability.

(4) The effective use of location monitoring technology may serve as a deterrent as the technology can establish offender accountability. The greater the need to establish offender accountability, the greater the need to utilize a technology that provides monitoring at the highest level and provides information (activity reports) that establish an offender's whereabouts at any given time. The selection of the level of monitoring and the type of technology should also depend on the offender's movement in the community and the purpose of his or her location at various locations in the community.

(5) Location monitoring technology should be dynamic in that officers should consistently evaluate the need for the technology, the level of monitoring, and the type of technology utilized or recommended. Effective management of location monitoring technology will avoid the risk of under-supervising high-risk offenders and over-supervising low-risk offenders.

(b) Program Components (From Least to Most Restrictive)

Similar to the prior home confinement program, the levels of restriction in the location monitoring program may range from a nighttime curfew to 24-hour home incarceration. The degree to which offenders are permitted to leave their homes is determined case by case and depends on the purpose and the intent of the judicial officer or releasing authority. The previous "components of home confinement" will now be referred to as "location monitoring program components" because the location monitoring technology can now be utilized to monitor an offender’s location both in the home and at approved locations in the community.

(1) Curfew

Curfew requires the participant to remain at home during set time periods of the day. For example, the offender is required to remain in his or her home during the hours of 8:00 p.m. to 6:00 a.m.
(2) Home Detention

Home detention requires a participant to remain at home at all times except for pre-approved and scheduled absences for employment, education, religious activities, treatment, attorney visits, court appearances, court-ordered obligations, or other activities as approved by the officer.

(3) Home Incarceration

Home incarceration is the most restrictive component of the location monitoring program. It requires 24-hour-a-day lock-down except for medical necessities and court appearances or other activities specifically approved by the court.

The statute specifies that the home detention and home incarceration components of the program will be used only as an alternative to incarceration.

§ 460.55.30 Travel Restrictions

(a) The standard conditions of supervision prohibit the offender from leaving the district without the permission of the probation officer. All travel requests should be submitted in advance to allow the officer sufficient time to verify the nature and purpose of the travel.

(b) Imposition of Restrictions

Before allowing travel outside the district, officers should check travel restrictions or special requirements in the destination district, make an assessment of third-party and other risk posed by the travel, and determine whether or not the offender is in compliance with conditions of supervision (especially those requiring payment of criminal or family financial obligations). Any risk should be balanced against the purpose of and need for travel as it relates to furthering the objectives of supervision in the individual case, e.g., maintaining or securing employment, acquiring education, and strengthening family ties. Funds for proposed recreational travel should ordinarily be applied to any delinquent financial penalty accounts or court-ordered financial family obligations, in lieu of travel.

(c) Officers must seek the express consent of the court or Parole Commission before granting an offender permission to travel outside of the United States. Before initiating the request with the court, officers should check with the
consulate of the receiving country to ensure that any special requirement or restriction on offender travel can be met.

(d) Absent compelling reasons to the contrary, leisure travel should be restricted for offenders during the initial assessment and for offenders who:

1. are in violation status;
2. have outstanding monetary penalties;
3. have family financial obligations that are not being met;
4. are in substance abuse treatment programs if the travel would interfere with the continuity of the treatment process;
5. have a history of sex offenses or organized crime offenses (including large drug conspiracies);
6. have travel otherwise identified as a risk issue (e.g., significant foreign ties related to criminality).

(e) Travel Permits

A travel permit should be completed for all out-of-district travel, outlining the dates, locations, and purpose of the travel. Special directions and expectations for the offender should be outlined on the permit. A copy of the permit should be provided to the offender and to the destination district (if applicable), with a copy maintained in the case file.

(f) Monitoring

All offenders granted permission to travel should be instructed to call the officer upon return. Officers may also require higher-risk offenders on travel to call in at specified times; to agree to carry secure pagers and respond within a defined, reasonable period of time; to wear a sweat patch for the detection of drug use; or, depending on the anticipated length of absence, to check in with the probation office in the travel district.

§ 460.60 Association Restrictions

§ 460.60.10 Monitoring Associations

(a) The standard conditions of supervision prohibit offenders from associating with felons or with those who are engaged in criminal conduct. Special
conditions may also be fashioned to prohibit contact with particular individuals or groups associated with the risk factors in the individual case. Particularly close scrutiny of associations is required for offenders convicted of organized crime or large-scale conspiracies involving, for example, drugs or fraud.

(b) Strategies for monitoring associations include:

(1) inquiring into the identities of unknown persons present during unannounced home and field contacts;

(2) noting the tag numbers of unknown vehicles seen during home contacts or drive-bys for verification of ownership;

(3) randomly checking telephone toll records;

(4) reviewing e-mail correspondence (requires a “Computer Search” condition); and/or

(5) investigating the identity and criminal history of prospective employers or employees.

§ 460.60.20 Confidential Informants

(a) Approval

The standard conditions of release prohibit offenders from entering into any agreement to act as an informer or a special agent of a law enforcement agency without permission. A confidential informant is an offender who engages in the prohibited activity of associating with persons engaged in criminal activity for the purpose of furnishing information to or acting as an agent for a law enforcement or intelligence agency.

(b) Acting as a confidential informant is generally inconsistent with the rehabilitative and re-integrative goals of supervision. There are rare occasions, however, when the law enforcement benefits to the community justify permitting the offender to engage in this high-risk activity.

(c) All requests by law enforcement agencies to use a parolee as a confidential informant must meet U.S. Parole Commission guidelines (see: U.S. Parole Commission Rules and Procedures Manual, Nov. 2007, Appendix 3). All requests to use an offender on probation or supervised release as a confidential informant should be reviewed by the chief probation officer or
designee and submitted for court approval *only* if the offender's proposed cooperation meets the following criteria:

(1) the offender's service as an informant is voluntary;

(2) there is a benefit to the community;

(3) the request for assistance is credible;

(4) there is a likelihood of success against a significant target;

(5) the background and motivation of the offender is not counterproductive;

(6) the offender is not likely to recidivate;

(7) the officer is able to maintain supervision of the offender; and

(8) the period of assistance is reasonable and has a clear termination date.

(d) Monitoring

If the request to serve as a confidential informant is approved, officers are to establish a systematic, coordinated approach to supervise a confidential informant in order to improve officer safety and reduce the risk for the offender or others in the community. There should be a written agreement that clearly defines the roles, duties, and reporting responsibilities of the probation office, the offender, the U.S. attorney’s office, and the law enforcement agent during the period approved. Whenever possible, this agreement is to be reviewed with the offender in the presence of the agent, with such review to highlight which conditions of supervision are suspended as a result of the cooperation (i.e., some criminal association) and which are not.

(e) Reporting responsibilities of both the offender and the law enforcement agency representative should also be determined at the onset of the cooperation agreement.

§ 460.60.30 Additional Resources

(a) **Suggested Procedures for the Management by Federal Probation and Pretrial Services Officers of Defendants and Offenders Who are Confidential Informants.** Prepared by the Administrative Office of the United States
§ 470 Recording Supervision Activity

§ 470.10 Officer Requirement to Keep Records

Under 18 U.S.C. § 3603(5), probation officers must keep a record of their work.

§ 470.20 Chronological Record Purpose

(a) The chronological record is the means by which officers document key elements of the offender’s circumstances and the supervision process, with emphasis on the work done to accomplish the desired outcomes of supervision and the results achieved.

(b) The chronological record also conveys accurate up-to-date information about the case to facilitate:

(1) Communication among officers and office staff who may share responsibility for the case during the period of supervision;

(2) Supervisory oversight of the appropriate application of supervision statutes and policies in each individual case; and

(3) Evaluation of the quality and effectiveness of program implementation at office, district, and national levels.

(c) It is essential that these records be complete, accurate, and prepared contemporaneously with the event recorded.

§ 470.30 Chronological Record Content

The chronological record is to include only meaningful events that describe:

(a) The status, conduct, and condition of the offender;

(b) The supervision activities undertaken by the officer to implement the supervision plan and respond to identified risk/need issues; and
(c) Key case processing events that affect the parameters of the supervision term (e.g., conditions added or removed by the court) or the supervision plan (e.g., case staffings).

§ 470.40 Inappropriate Chronological Record Content

In keeping chronological records, the officer must remember that the following content is generally inappropriate or always inappropriate to include:

(a) Generally inappropriate to include future events (except those to document specific officer instructions to an offender) (Note: Future events are more efficiently recorded in a calendaring system that can produce reminders.);

(b) Generally inappropriate to include incidental communications among office staff (e.g., e-mails between officers to schedule a home contact or a case staffing);

(c) Generally inappropriate to record the receipt of routine documents (e.g., monthly reports from offenders or treatment providers; documentation of financial payments) that are themselves in the file unless they reflect changed circumstances or otherwise prompt officer action; and

(d) Always inappropriate for supervisors to use the chronological record as the vehicle to document officer performance issues or to provide instruction to an officer. (Note: Officer performance issues and supervisory instructions to an officer should be documented in the officer’s file—and calendared for follow-up by the supervisory officer—rather than documented in the defendant’s file. See also: Quality Performance Management.)

§ 470.50 Chronological Record Entry Preparation

(a) Chronological entries reflect the professionalism of the officer and are to be purposeful, precise, objective, and ready for judicial review.

(b) The following guidance applies in preparing chronological record entries:

(1) Make entry both factual and pertinent.

(2) Make each entry a clear, concise statement that describes the “who, what, how, when, why, and where” of a relevant event.

(3) When recording contacts, summarize the purpose of the contact, the issues addressed, and, as appropriate, any action taken by the
officer, the reaction of the offender, and any change to the offender’s status.

(4) Avoid verbatim “I said then s/he said” reporting and get to the point.

(5) Avoid editorializing and recording unsupported personal opinions.

(6) Do not record extraneous information that is not germane to supervising the offender.

(7) Do not use slang or pejorative terms (except as may be relevant when quoting others).

(8) Do not use any but the most basic abbreviations (e.g., FBI, DEA, USPO, USPSO, UA) without first providing the full reference. (Note: For example, to avoid having to repeat the full name of a local treatment provider, give an abbreviation along with the full name the first time the provider is mentioned and then use the abbreviation alone in later references, e.g., “Mr. Jones was referred to the Glendale Substance Abuse and Mental Health Counseling Center (GCC) for outpatient services.”)

(9) Do proof entries for spelling and grammar.
§ 510 Overview

(a) The principles of good supervision apply to all offenders, including those presenting substance abuse and mental health issues, or both issues at
the same time, which is known as a co-occurring disorder. The challenge to eliminate substance abuse and stabilize mental health issues can be further complicated by the criminal thinking patterns. The application of the principles of good supervision (see: Vol 8E, § 170 (Principles of Good Supervision)) ensures that resources are effectively utilized on those offenders that need them most in order to achieve desired outcomes. Focusing solely on the treatment needs, however, is not as effective as following a balanced supervision plan that is individualized, proportional, purposeful, multi-dimensional, proactive in implementation, and responsive to changes.

(b) There are some strategies unique to offenders who exhibit substance abuse and mental health problems. The first of these strategies is the Stages of Change model. This model offers a framework for promoting intrinsic change in offenders through meaningful interactions. However, thought patterns leading to offender feelings of entitlement, unrealistic beliefs regarding consequences, and failure to accept responsibility for personal conduct must also be addressed.

(c) Achieving and maintaining sobriety and/or mental health stability is challenging and requires effort on the part of the offender. For all, this process will continue well beyond the finite period of supervision. Motivating the offender to become an active participant in this self-improvement process enhances short-term and long-term outcomes.

(d) Supervision techniques should address offender motivation and the criminal thinking patterns that support substance abuse and criminal conduct. Addressing substance abuse in this comprehensive manner will reduce recidivism. Promoting mental health stability through education, self-awareness, and treatment intervention can also improve offender outcomes. In many cases, treatment interventions can help facilitate the development of healthy interpersonal relationships and improve the offender’s ability to interact with pro-social family, peers, and others in the community. These factors are highly correlated with offender success.

(e) For long-term success, treatment of substance abuse and mental health disorders must also include relapse prevention strategies. Reinforcement of relapse prevention techniques throughout the term of supervision provides the offender with the greatest opportunity for continued success.

(f) Reducing recidivism rates is the primary goal of post-conviction supervision. It is incumbent on the officer to develop and apply the necessary skills to be an effective change agent.
§ 520 A Model for Positive Change

(a) An individual’s motivation and readiness to change his or her behavior is key to the effectiveness of treatment interventions. People move through predictable stages of change during substance abuse recovery or while struggling to achieve mental health stability. The Stages of Change model developed by DiClemete and Prochaska (Addiction and Change: How Addictions Develop and Addicted People Recover, 1992) can help an officer understand and influence an offender’s readiness to move through the various stages of change (see below).

![Stages of Change Diagram]

(b) The stages of change are:

1. Precontemplation – The offender may not consider his or her substance abuse or mental health instability to be problematic.

2. Contemplation – The offender is aware of a “problem” but minimizes its impact on his or her life; is unwilling to give up the benefits of maintaining the self-destructive pattern; or feels overwhelmed by the effort required to get the problem under control.
(3) Determination or Preparation – This is often described as the “decision point.” The person is actively seeking a plan of action and making plans to address the problem.

(4) Action – Actively taking steps to change his or her behavior. This may be accomplished by participating in the treatment process.

(5) Maintenance – Ongoing preventive behaviors to self-regulate and maintain the positive change.

(c) The Stages of Change model conceptualizes the internal process an individual goes through when changing his or her behavior. An offender may be in different stages for various behaviors at the same time. The failure to internalize any one of these steps will result in a negative outcome. A critical component to moving an offender through the Stages of Change is the content and quality of interactions between the officer and the offender. Treatment literature indicates that the relationship between the clinician and the client is the most important component to create lasting change. Probation literature is beginning to indicate the same relationship between the officer and the offender. **(Note: Burnett R. & McNeil F., The Place of the Officer-Offender Relationship in Assisting Offenders to Desist from Crime, Probation Journal: Journal of Community and Criminal Justice, 2005, V53. n3. p. 221-242.)**

(d) Factors Influencing Change

![Pie chart showing factors influencing change]
(e) A preferred method to develop this positive relationship is motivational interviewing. Rather than simply confronting the offender with the negative consequences of his or her actions, motivational interviewing uses constructive interactions to promote offender change. The basic tenets of motivational interviewing include the following:

1. Motivation to change is elicited from the offender and not imposed from outside.
2. It is the offender’s task, not the officer’s, to articulate and resolve ambivalence between his or her desired behavior and actual behavior.
3. Direct persuasion or confrontation is not an effective method for resolving behavioral ambivalence.
4. An officer’s interaction style is generally a quiet and eliciting one.
5. An officer is directive in helping the offender examine and resolve behavioral ambivalence.
6. Readiness to change is not an innate trait, but a fluctuating product of interpersonal interaction.
7. The relationship between the officer and the offender is more like a partnership than an adversarial role, where the officer simply tells the offender what to do.

(f) For an officer to successfully utilize motivational interviewing, the following skills must be mastered:

1. Express empathy: Let the offender see that you understand how he or she sees the world.
2. Support self-efficacy: Help the offender understand that he or she can change.
4. Develop discrepancy: Help the offender see the discrepancy between his or her current behavior and future goal.

(g) Officers exercise their authority judiciously, using only those supervision strategies that are sufficient, but not greater than necessary, to
accomplish sentencing purposes in the individual case. (Note: This principle for the judicious use of officers' authority is consistent with the language at 18 U.S.C. § 3553(a), which directs the court to impose a sentence sufficient, but not greater than necessary, to comply with enumerated sentencing purposes.) They treat all offenders, colleagues, and community partners with dignity and respect. Establishing rapport and maintaining a dialogue with offenders, family members, employers, community service providers, and others is the fundamental work of the supervision officer. Inquiring, listening, and assessing are his or her primary tools.

§ 530 Officer and Specialist Roles

§ 530.10 Role of the Officer

(a) Supervision of treatment cases is based on a partnership between the officer and the offender. This partnership must be rooted in empathy and respect. At all times, an officer’s role in a treatment case must be consistent with research-based supervision strategies, conscious of potential signs of risk to another, and aware of appropriate professional boundaries. When this role is balanced, the officer can affect change and facilitate an offender’s positive reintegration into the community.

(b) Officers must be familiar with the treatment services available to the offender. This includes familiarity with both contract and non-contract services. Officers should also keep abreast of the current research in the field of substance abuse and mental health treatment and research-proven modalities being utilized by providers in their region.

(c) Officers must believe that treatment works and that positive change can occur when an individual is provided with the opportunity and tools for success. While this change may require multiple treatment attempts and possible failures, an officer must remain steadfast in his or her commitment to be a conduit for change.

(d) The role of the officer in the treatment process is unique compared to other types of cases. In addition to the core supervision activities outlined in Guide, Vol 8E, § 430, the officer supervising a treatment case can facilitate an offender’s access to specialized services, complement the treatment process, strengthen the relationship between an individual and his or her clinician, and help assist the offender with implementing a successful community-based aftercare plan. Officers must be cognizant of
the need for limits and boundaries as well as the emotional toll that certain cases may generate.

(e) During the treatment process, the officer is in a unique position to provide first-hand information that is typically unavailable to clinicians. Absent collateral information from third parties, treatment is largely based on self-report. Through their fieldwork, officers can gather information and make observations regarding living situations, inter-personal relationships, and other behaviors that can aid the clinician. When relevant to the clinical progress or regression of the offender, this information must be shared with the clinician. It is important that officers develop the necessary skills to gather this information from collateral contacts, while at the same time preserving the confidentiality of the offender’s treatment needs and services. The officer must maintain regular verbal communication with the clinician as the supervision and clinical services staff work together to produce a successful offender outcome. In general this communication (either by telephone or face-to-face contact) should occur monthly; however, the frequency of contact must be based on the offender’s risk and needs.

(f) Officers should be educated in the signs and symptoms of substance abuse relapse and mental health decompensation. It is well established that individuals who relapse or decompensate often begin by exhibiting predictable behaviors long before they return to using substances or displaying overt mental health symptoms. See: § 550.30.55 (Substance Abuse Supervision Matrix) and § 560.30.50 (Mental Health Supervision Matrix). These behaviors, which are discussed in detail later in the chapter, need to be understood and recognized by officers. Armed with this knowledge, officers can intervene promptly and implement appropriate and timely interventions.

§ 530.20 Role of the Treatment Specialist

(a) The treatment specialist’s role is that of the district expert in the supervision and treatment of offenders in his or her respective specialty area. This expertise is applied in carrying a substance abuse or mentally ill caseload and providing support to generalist officers. Treatment specialists need to have a comprehensive knowledge of their respective fields. This knowledge must include current research on evidence-based interventions for addiction and mental health disorders, national and local trends, the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV-TR), common diagnoses, typical modalities, and the current treatment services available within their communities. Specialists serve as the liaison with officers, treatment programs, management, Federal Bureau of
Prisons (BOP), and the courts. In addition to these duties, the treatment specialist works closely with the contracting officer to ensure that appropriate goods and services are procured for the district.

(b) Specialists must be committed to developing and delivering training that assists officers in establishing good supervision techniques that will produce positive outcomes. If a community lacks effective services, the specialist establishes expectations for local treatment providers to meet offenders’ needs. Specialists staff complex treatment cases with officers and supervisors to ensure that risks are managed and needs are met. These staffings also mentor officers in the area of effective supervision practice.

(c) Specialists should develop networks to keep current in the dynamic knowledge-base of treatment services. This network may include other officers and specialists, state or local agencies overseeing substance abuse and mental health services, local and national academia, and treatment providers within their community. This type of networking allows the specialist to be proactive in identifying the needs within the district and allows for more effective implementation of treatment services to offenders.

§ 540 Disclosure and Confidentiality

(a) There are several circumstances when probation officers will encounter issues of confidentiality and disclosure relating to substance abuse and mental health, including the following:

1. Obtaining treatment records from the BOP
2. Obtaining treatment records from providers
3. Responding to requests for clinical information
4. Treatment provided by judiciary employees
5. Disclosure of substance abuse treatment records
6. Disclosure of mental health treatment records

(b) The most comprehensive guidance for the handling of health-related information can be found in the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The purpose of this Act was to
enhance the efficiency of health care transactions and provide privacy protection and patients' rights to review their health information.

(c) HIPAA imposes both criminal and civil penalties on physical and mental health treatment providers for non-compliance with the Act. Although the judiciary is not subject to HIPAA, treatment providers and officers providing treatment are bound by its rules. Understanding what information is protected and must be made available for offender review is important. This knowledge is key to preventing confidential probation information from being inadvertently released or treatment records from being inappropriately withheld. In addition to the federal access and privacy protections outlined in HIPAA, individual states may have legislation that provides additional protections. It is important to understand and follow the laws within your local jurisdiction.

§ 540.10 Obtaining Treatment Records from Providers

(a) HIPAA clarifies the right of offenders to control access to their health information. The officer will generally seek relevant medical, psychiatric, or substance abuse assessment or treatment records with a release of information, voluntarily signed by an offender. This release is for specific information, and the duration of the authorization is also for a specified period of time. Forms PROB 11A through PROB 11I contain the necessary language to meet these and other requirements of HIPAA. However, because these release forms vary in scope and duration, the officer should thoughtfully select a release form that provides an adequate, but not greater than necessary, scope to accomplish the goal for which the information is requested. Because an offender may revoke access to one specific treatment record while leaving intact access to other treatment records, authorizations should not be combined. That is, separate authorizations should be completed for substance abuse treatment and mental health treatment even if services are being provided by the same provider.

(b) An authorized release is required to verify an offender's participation in court-ordered treatment. If an offender is required to participate in substance abuse or mental health treatment as a condition of supervision and refuses to authorize the release of the relevant information to confirm attendance or maximize the effectiveness of treatment, the officer should seek the addition of a condition directing the offender to authorize the release necessary to fulfill the goals of the imposed treatment condition.
§ 540.20 Responding to Requests for Clinical Information

(a) Under HIPAA, offenders have the right to review their protected health information, but with very important exceptions. Persons requesting treatment records, whether provided by court order or under a federal contract, should be referred directly to the treatment provider. Some of the exceptions to disclosure under HIPAA are listed below:

(1) Counseling or psychotherapy notes are non-disclosable.

(2) Information that may harm the client or others may be withheld.

(3) Information compiled in anticipation of use in civil, criminal, and administrative proceedings is not subject to the same right of review and amendment as is health care information in general (§164.524(a)(1)(ii)).

(b) HIPAA distinguishes between two types of disclosure: authorized and mandatory;

(1) Authorized disclosure is obtained when the offender executes a written authorization form that meets certain standards. Release Forms PROB 11A through PROB 11I meet these standards.

(2) Mandatory disclosure of HIPAA-protected information is required in only two instances:

(a) When the Department of Health and Human Services conducts an investigation of compliance with HIPAA.

(B) By lawful court order.

(c) An individual may re-disclose lawfully obtained information. For instance, offenders may share their health information with their attorney. Likewise, an officer may re-disclose lawfully obtained information under certain circumstances. The officer should mark all material sent to the provider as “Confidential, Not Subject to Re-disclosure” to prevent the re-dissemination of federal materials.

(d) HIPAA authorizes treatment providers to determine what information to release, when to release it, and to whom to release it. These determinations can only be made by the treatment provider. It is the treatment provider that faces both criminal and civil penalties for non-
compliance with HIPAA. The fact that the treatment provider is working for the federal court does not provide immunity.

(e) U.S. probation officers are given the following guidance with respect to HIPAA:

(1) Carefully select the appropriate release forms containing language that has been crafted to meet HIPAA requirements.

(2) Treatment providers may require written information from our agency to be effective in the counseling of offenders. Limit written information to what is necessary and stamp it “Confidential and Not Subject to Re-disclosure.” This will help reduce the likelihood that it will be inadvertently released.

§ 540.30 Treatment Provided by Judiciary Employees

(a) Although judiciary employees are discouraged from providing clinical services, if such services are provided by judiciary employees (including officers who provide treatment) and they perform services that fall within the definition of “health care provider” contained in 45 CFR 160.103, they must comply with all provisions of HIPAA. Officers providing treatment services directly to offenders should evaluate their electronic transactions to discern whether they fall within the definition of “transaction” contained in 45 CFR 160.103. Even if officers providing treatment determine that they do not engage in HIPAA-covered transactions, their offices should maintain treatment records separately from probation file material and, while not bound by HIPAA, respond to requests for disclosure of treatment records in a manner consistent with the objectives of HIPAA.

(b) A probation officer conducting groups using a manualized cognitive behavior program only acts as a facilitator. This is not in any way providing clinical treatment services (counseling) and the officer is not considered a healthcare provider.

§ 540.40 Other Disclosure of Substance Abuse Treatment Records

(a) Although the judiciary generally is not bound by the provisions of HIPAA, the confidentiality of substance abuse treatment records maintained in probation and pretrial services files is governed by two separate authorities: the Code of Federal Regulations and the general confidentiality regulations protecting all pretrial services and probation material.
(b) The confidentiality of substance abuse records is contained in 42 CFR part 2. This permits a treatment provider to disclose otherwise protected treatment information to the criminal justice system. This permission is granted when participation in the program is a condition of supervision and the offender has signed a written authorization to such disclosure. This regulation gives treatment providers the authority to release information to officers in connection with their duty to monitor the offender. In addition, an officer who receives this information may re-disclose and use it, if necessary, to carry out official duties. Such re-disclosure does not require a specific waiver from the offender or permission from the court. This regulation provides for unimpeded communication between officers during the course of an individual’s progression through the supervision process. It also allows officers and prosecuting attorneys to openly communicate while the offender is under supervision.

(c) Simple drug testing conducted for monitoring purposes and not connected to treatment is not covered by 42 CFR. An officer cannot independently release drug testing results without the authorization of the sentencing court, or the chief probation officer, if such authority has been designated by the court.

(d) The regulations outlined in 42 CFR also permit disclosure without the consent of the offender in response to a medical emergency and for research purposes where an individual’s identity is not revealed.

(e) As defined by 42 CFR and HIPAA, third-party risk notification is an important component of an officer’s core duties and, therefore, is a permissible re-disclosure under the regulation.

§ 550 Substance Abuse

§ 550.10 Authority

§ 550.10.10 Mandatory Drug Testing

(a) The mandatory conditions of 18 U.S.C. § 3563(a)(5) and (e), 3583(d), and 4209(a) are outlined at Guide, Vol 8E, § 220. Offenders are required to refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of release when on probation or supervised release and at least two periodic drug tests thereafter, unless this condition was suspended by the court after a determination that the offender presents a low risk of future substance abuse. Offenders under the jurisdiction of the U.S. Parole Commission are required to pass a drug
test prior to release and refrain from any unlawful use of a controlled substance and submit to at least two periodic drug tests for use of a controlled substance. This condition may also be suspended by the Commission for any parolee if it determines that there is good cause for doing so.

(b) Special procedures are not required to conduct the mandatory drug tests. The required tests may be taken by the probation officer or a contract provider. These tests are not processed differently from other tests to detect substance use. A negative test result should not be sent to a national lab for confirmation unless adulteration is suspected. No “presumptive positive” is to be sent to a national lab for confirmation unless the offender is subject to imprisonment for failing the test and either the offender denies the accuracy of the test or there is some other reason to question the results. If an admission of use is made by the offender, a voluntary admission form (PROBPTS 4) should be utilized to document the disclosure of use. Additionally, a sample can be sent directly to the national laboratory for testing if the offender has a history of using a drug that does not have a corresponding local screening test.

(c) It is advisable to get a separate drug testing condition, even when the mandatory drug testing requirements have been imposed, if the supervision plan includes drug testing as part of an ongoing controlling strategy.

§ 550.10.20 Special Conditions for Substance Abuse Testing and/or Treatment

(a) Conditions may be imposed at the time of sentencing or as a modification during the course of supervision. If added after sentencing, the condition(s) may be imposed only after notice and hearing under Rule 32.1(b) of the Federal Rules of Criminal Procedure. Procedures outlined in Chapter 2.40-09 of the Parole Commission Rules are applicable in parole cases. Any additional drug testing and treatment conditions should be approved by the specialist and/or supervisor prior to presenting the modifications to the jurisdictional authority.

(b) As with all additional conditions, a probation officer should recommend that the court impose a condition authorizing drug testing and/or treatment services of persons under supervision only when such a condition is necessary to enforce the conditions of release or to protect the public. These conditions (authorized by 18 U.S.C. § 3563) must be reasonably related to the nature and circumstances of the offense and the history and circumstances of the offender, and for purposes of sentencing set forth in § 3553(a)(2).
Officers should, in consultation with their supervisors or treatment specialists, make this determination based upon the offense of conviction, the background of the offender, and the nature of the substance abuse or mental health history. Officers should be guided by local policies in determining wording that meets the objectives of supervision and the requirements of their court. In fashioning drug testing and treatment conditions, the following should be considered:

1. Participation in Testing or Treatment Is Ordered by the Court

   The condition should clearly indicate that the order for treatment or testing is a court order or directive and should not inadvertently delegate this authority to the probation office. Language ordering the offender to participate in testing or treatment “if directed by the probation officer” should be avoided. The condition should, however, permit the officer discretion in determining how, when, and where treatment is to occur.

2. The Condition Should Permit Implementation along a Flexible Treatment Continuum

   The special condition requiring the offender to participate in substance abuse treatment should be worded in such a manner as to permit the officer, in consultation with the treatment provider, to adjust the modality, duration, and intensity of treatment to the risk and needs presented by the offender. Conditions that permit flexible movement along the continuum of care (outpatient, intensive outpatient, hospitalization, and inpatient treatment) provide for timely intervention in response to offender progress or regression.

3. The Offender Should Contribute to the Cost of Treatment Services (Co-Payment)

   When testing or treatment services are ordered, offenders should be required to pay for these services to the degree that they are able. The collection of reasonable co-payments for services meets both administrative and treatment objectives. It provides good stewardship of public money and ensures that limited funding resources are used for maximum benefit. Collection also meets the treatment purpose of providing a symbol for offenders of their investment in the treatment process. If an offender feels invested in the treatment process, he or she is more likely to achieve success. (Note: Taxman, F., Tools of the Trade, 2005.) Collecting even
minimal co-pays supports this latter purpose. It is also important that the wording of the requirement to contribute to the cost of treatment does not inadvertently delegate the establishment of the amount of the co-payment to the probation officer. Districts are encouraged to establish a court-approved sliding scale for treatment services. The condition requiring payment should reference this pre-approved payment schedule and allow for the implementation of a co-payment amount that is responsive to changes in an offender’s financial circumstances.

(4) The Condition Should Include a Provision Authorizing Ongoing Testing

For clarity, the court should also explicitly order the offender to submit to drug-testing during and after formal treatment services are provided. It is advisable to get a separate drug-testing condition, even when the mandatory drug-testing requirements of the Violent Crime Control and Law Enforcement Act of 1994 have been imposed, and the supervision plan includes drug-testing as part of an ongoing controlling strategy. Circuits vary in their wording requirements for the drug-testing condition. Officers are directed to their local court policies to adopt wording that meets circuit requirements.

(5) Clarify That the Offender must Abide by the Rules of the Treatment Program

Implicit in an order requiring an offender to participate in treatment is the offender’s obligation to follow the requirements of the treatment program — to attend when required and participate during sessions. Most treatment programs also require an offender to abstain from alcohol during the course of treatment. These requirements can also be explicitly added to the condition or clarified at a later date on an individual basis if the offender presents resistance.

§ 550.20 Correctional Strategies and Interventions

(a) As outlined in Guide, Vol 8E, Ch 4, correctional strategies are comprised of activities designed to change offender behavior. This section focuses on linking offenders with appropriate treatment services.

(b) In addition to the principles of good supervision that should be used with all cases, certain evidence-based practices are applied to the supervision
of substance-abusing offenders. For cases where treatment is indicated, the National Institute of Drug Abuse (NIDA) provides a succinct listing of evidenced-based principles that will increase the likelihood of positive outcomes. In addition to NIDA, *Tools of the Trade* is a good resource for officers and administrators. The Department of Justice and National Institute of Corrections provide specific information regarding effective interventions in *Implementing Evidence-Based Practice in Community Corrections: The Principles of Effective Intervention*. Ongoing professional education is necessary to take full advantage of research progress.

§ 550.20.10 Re-Entry Planning Stage

(a) Officers should start planning as soon as they receive a case of an individual who is released to the community after a period of detention or imprisonment. Attempts should always be made to ensure a seamless transition so the continuum of care is not broken.

(b) During the planning process and selection of a treatment intervention, officers need to be aware of and responsive to an offender’s gender, background, cultural, and environmental factors. These factors can influence the offender’s treatment needs, and failure to find treatment services that address these unique issues can impede successful outcomes. For example, many female offenders are victims of trauma. This experience may impact what type of treatment would provide the best results for this type of offender.

§ 550.20.15 Screening and Assessment

A thorough understanding of the nature and severity of the offender’s substance abuse problem is an essential first step to establish an effective plan for correctional intervention. Developing this understanding may require two stages: screening and assessment.

(a) Screening

The screening process places the offender in one of two categories — a well-documented substance abuser or an uncertain substance abuser.

(1) Well-Documented Substance Abuser

Offenders who come to supervision with a recent and well-documented history of substance abuse do not require
administration of a validated screening instrument. Documents that may be available to the officer include:

- Previous substance abuse screenings
- Previous assessments
- Treatment records
- Collateral contacts with family members or others
- Self report
- Drug-testing results

Additional substance abuse information may be obtained from the following sources:

- The detaining authority
- The Federal Bureau of Prisons
- Military Parole Board
- Presentence reports
- Pretrial services

By using the available documentation, officers can determine decisions about further assessment and treatment placement. For offenders who completed treatment in the Federal BOP, including community-based transitional services, officers are to consider the discharge summaries and recommendations from these programs in order to maximize continuity of care.

(2) Uncertain Substance Abuser

Offenders who come to supervision with indications of substance use or a distant history of substance abuse require the administration of a validated screening instrument. The recommended screening instrument is the [Texas Christian University Drug Screen](https://www.tcu.edu/offices/health/chemistry/lab/testing/drug_screening.html) (TCUDS).

When screening and/or other case information indicates substance dependence, a clinical assessment is typically the next step in the correctional intervention process.

(b) Assessment

(1) An assessment is more comprehensive than a substance abuse screening and is typically conducted by a clinically trained substance abuse professional or an officer who is clinically trained to provide this service. The assessor identifies the offender's
substance abuse severity, strengths, weaknesses, and readiness for treatment and provides a written recommendation for the level of services appropriate to address the identified problems. As required by the treatment services statement of work, assessments must be conducted in a face-to-face setting utilizing a structured interview tool. Examples of these tools include:

- ASI - Addiction Severity Index
- MAQ - Maryland Addiction Questionnaire
- SCID-IV - Structured Clinical Interview for DSM – Substance Use Disorder Module

(2) To strengthen the quality of the assessment, the officer must share biopsychosocial information with the assessor. Typically, this information is contained in the criminal history and personal characteristics sections of the presentence report. This information should be supplemented with any information on substance use or treatment discovered subsequent to the presentence report.

(3) Whether the assessment is completed by a contracted professional or an in-house officer, the assessment report and recommended treatment plan are provided to the supervising officer who, in collaboration with the assessor and the specialist or supervising U.S. probation officer, determines the course of treatment. It is important to note that in cases where contracted treatment is ordered by the court, the assessment may be conducted as the initial session and need not be requested separately.

(c) Paying for Assessments

Most states require licensed clinicians to conduct an assessment before the start of services. This service is wrapped into the cost of most treatment services; thus, referrals for assessment should be reserved for unique circumstances. The state-required assessment should be obtained by the probation officer and retained in the file for case-planning activities.

§ 550.20.20 Implementing a Treatment Strategy

(a) The vendor treatment plan should be collaboratively developed by the treatment provider, the specialist and/or officer, and the offender. It should address the modality, intensity, and anticipated duration of treatment. Although the development of the treatment plan is a collaborative process, the officer is ultimately responsible for approving contracted services.
(b) All officers are expected to have sufficient knowledge about addiction and available treatment services to make informed choices in the development of the treatment plan. Officers cannot abdicate this responsibility to the treatment provider, as treatment providers may have a financial stake in the execution of the plan and often do not have the benefit or expertise to see the range of criminogenic needs being addressed in the overall intervention strategy.

(c) The type of treatment that is provided to an offender can make a significant difference in the degree of success that is realized. "Treatment on a Continuum" provides a model of the continuum of treatment services that may be available.

§ 550.20.25 Continuum of Services

(a) Treatment interventions must be viewed as a continuum of care. The officer is responsible for finding the correct entry point into the treatment continuum. As an offender improves or struggles, the officer moves the individual up or down the continuum. The goal of treatment intervention is for the offender to become capable of sustaining his or her own recovery, either independently or with the assistance of community-based resources.
(b) The goal is to match the offender to the proper entry point on the treatment continuum that best addresses his or her risk and needs. For example, the time from last use, medical issues resulting from substance use, presence of a co-occurring disorder, offender motivation, relapse potential, and environment must be considered prior to matching an offender with the correct level of treatment. The Probation Substance Abuse Treatment Placement Matrix (loosely based on the American Society of Addiction Medicine Criteria) may assist officers in treatment-matching. (Note: TIP 8: Intensive Outpatient for Alcohol and Other Drug Abuse, 1994, Substance Abuse and Mental Health Services Administration, Pub. #94B2077.) Offenders should be assessed for each dimension and the highest level of care indicated should be the type of treatment provided to the offender. Based on the offender’s risk and needs, this assessment may be completed by the probation office or through a professional referral.

<table>
<thead>
<tr>
<th>§ 550.20.40(c) Probation Substance Abuse Treatment Placement Matrix</th>
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<tbody>
<tr>
<td><strong>Dimensions</strong></td>
</tr>
<tr>
<td>(1) Actively Using Substances (within the last 48 hours)</td>
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<tr>
<td>(2) Medical Issues Resulting from Substance Use</td>
</tr>
<tr>
<td>(3) Combination of the Mental Health and Substance Abuse Issues (Co-Occurring Disorders)</td>
</tr>
</tbody>
</table>
§ 550.20.40(c) Probation Substance Abuse Treatment Placement Matrix

<table>
<thead>
<tr>
<th>Level of Treatment</th>
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<tbody>
<tr>
<td>(4) Willingness to Engage in Treatment</td>
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<tr>
<td>(5) Relapse Potential</td>
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<td>(6) Recovery Environment</td>
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(d) The vendor treatment plan should include long-term and short-term goals. Tying measurable objectives to these goals assists the provider, officer, and offender to monitor progress. Outlining achievable milestones that the offender completes as he or she works towards treatment termination ensures that the treatment is goal directed.

§ 550.20.30 Intensity of Treatment

In keeping with the underlying supervision philosophy of proportional intervention, it is critically important that the intensity of treatment match the specific treatment needs of an offender. Research indicates that providing services too intensely can make offenders more likely to commit future crimes. (Note: Latessa, E. & Lowenkamp, C. *The Evaluations of Ohio’s Reclaim Funded Programs, Community Corrections Facilities and DYS Facilities*, 2005.) Initial placement and movement within the treatment continuum is based on ongoing officer assessment of current risk and needs.

§ 550.20.35 Treatment Referral Process

(a) Once a treatment referral is initiated, the officer should arrange a three-way meeting with the offender and the clinician. This meeting should be a face-to-face interaction; however, if this is not possible, a conference call
between the parties will suffice. Before this meeting, the officer should prepare a referral letter and forward a release form to the agency. A referral letter should provide all relevant information known about the offender, including:

(1) Legal status
(2) Criminal history
(3) Substance abuse history
(4) Mental health history
(5) Prior treatment interventions
(6) Past and/or current medication protocols
(7) Family history
(8) Current living situation
(9) Employment status

(b) During this initial meeting, an individualized treatment plan should be developed that clearly outlines the goals and objectives of treatment and the methods that will be used to achieve those goals. The officer should use this meeting to address any concerns the offender has and discuss how compliance will be monitored and the consequences of non-compliance. The officer should clearly state his or her role in monitoring the treatment plan.

(c) A PROB 45 form must be issued for all contract and non-contract treatment services. For contract treatment, the PROB 45 form outlines the specific services (including duration and frequency) that are authorized for payment. In non-contract treatment, Form PROB 45 is used for internal and national statistical purposes. The non-contract Form PROB 45 must identify the offender, the agency, and the service rendered; the duration and frequency are not necessary for statistical purposes.

(d) Form PROB 45 should be used as a supervision tool and hence signed by the offender and the officer. This document serves as a treatment contract between the offender and the officer. Form PROB 45 must also be signed by the referral agent in order for services to be authorized. As the treatment needs of the offender change, Form PROB 45 must be
amended and re-signed by the appropriate parties to reflect all changes in authorized services.

§ 550.20.40 Fidelity

(a) As with any service (contract and non-contract) provided to offenders on behalf of the U.S. courts, the quality of the intervention must be monitored. Specialists confirm that the vendor is meeting the requirements in the treatment services statement of work. This includes monitoring the quality of the specific services being delivered by the vendor. For example, if a vendor is providing cognitive behavioral treatment (CBT), the specialist ensures that the vendor is adhering to CBT principles.

(b) Officers also have a role in monitoring the quality of treatment services. Offenders who are court ordered to attend treatment may be reluctant to complain about inadequate services. Officers are required to monitor individual cases to ensure that the needs of the offenders are being met in a competent and effective manner.

§ 550.20.45 Duration of Treatment

Research indicates that substance abuse treatment that lasts less than 90 days is ineffective, with success rates equaling those of offenders who were never sent to treatment.  (Note: The National Institute of Drug Abuse, The Principle of Drug Abuse Treatment for Criminal Justice Populations: A Research Based Guide, 2006.) All treatment should include at least 90 days, recognizing that a small number of cases may require treatment for up to 18 months. For example, an offender may need three different types of treatment in the treatment continuum. Each type of treatment may be less than 90 days, but the total duration of treatment should exceed 90 days.

§ 550.20.50 Use of Alcohol

Research shows that alcohol use is likely to trigger a recovering drug addict’s return to drug use.  (Note: Alterman A. I., Cacciola J. S., McKay J. R., McLellan A. T., and Rutherford, M. J., Relationship of Alcohol Use to Cocaine Release in Cocaine Dependant Patients in and Aftercare Study, Journal of Studies on Alcohol, 1999, V 60.) Additionally, substance-dependent offenders may substitute alcohol for their drug of choice. For substance-dependent offenders, abstinence from alcohol during the term of supervision is critical to facilitate positive outcomes. Failure to restrict and monitor alcohol use for this population may increase the risk to the community. If an offender does not have an alcohol restriction condition, it is recommended that the officer ask for this modification to the offender’s conditions.
§ 550.20.55 Mandated Treatment

Offenders mandated to participate in substance abuse treatment (known as coercive treatment) have rates of positive outcomes similar to those of non-mandated participants. Effective treatment programs engage and retain clients by increasing the internal motivations of those who join treatment due to legal circumstances. (Note: TIP 17: Planning for Alcohol and Other Drug Abuse Treatment in the Criminal Justice System, Substance Abuse and Mental Health Services Administration, 2001.)

§ 550.20.60 Service Selection

It is important for officers who make substance abuse placement decisions to utilize a common vocabulary. The following terms provide a foundation for all subsequent discussion. It is important to note that the following service descriptions are summarizations of the project codes in the national treatment services statement of work. This list is not exhaustive. Please see the current year statement of work for the entire list of project codes and corresponding statements of work.

(a) Self-Help Programs

These programs are born out of the 12-step movement. These groups may or may not include the 12-step tradition and are led by non-professionals who are part of the recovery community. These programs come in many forms: faith-based, lifestyle specific, profession specific, age specific, and many other variations. The common link in these groups is a community of like individuals who provide support to each other as they strive for a life of abstinence. Self-help should be an adjunct component of treatment services and should not be confused with clinical treatment. When the court orders substance abuse treatment, self-help groups alone are not sufficient to satisfy the condition. Self-help programs are key components in helping an offender maintain a life of sobriety beyond the term of supervision.

(b) Cognitive Behavioral Treatment (CBT)

Research shows that this form of group treatment is among the most successful interventions with substance-dependent offenders. (Note: Wilson D. B., Bouffard L. A. & McKenzie D. L, A Quantitative Review of Structured Group-Oriented Cognitive-Behavioral Programs for Offenders, Criminal Justice and Behavior, 2005 V 32 n. 2 p (172-204).) When and where available, CBT should be the default choice of treatment for substance-dependent offenders.
The basic premise behind CBT is that thoughts influence behavior. The goal of this intervention is to change the way offenders think, hence changing the way they behave. Broadly, CBT can be broken into two different types, *clinical* and *manualized*:

(1) **Clinical CBT (2021)** counseling is led by a trained and certified counselor. The specific modality used by the counselor may vary, but research indicates that CBT is the most successful intervention with substance-dependent offenders.

(2) **Manualized CBT (2022)** is an intervention led by a trained facilitator. These groups can be offered by the probation officer or a contract provider. The groups typically offer a structured approach to a specific component of an intervention plan. For example, Moral Reconation Therapy and Thinking for a Change were created to be officer-led groups. They address the criminal thinking component of a substance-dependent offender. Groups such as these allow the officer to provide a unique criminal justice intervention to the treatment process. These groups may be offered in conjunction with clinical treatment.

(c) **Counseling**

Counseling is a clinical interaction between an offender and a trained and certified counselor. The interactions are deliberate and based on various clinical modalities, which have demonstrated evidence to change behavior. Individuals providing counseling are certified and/or have credentials to engage in substance-abuse treatment intervention recognized by the state or local certifying authority. Some of the counseling interventions offered in the treatment services RFP are listed below.

The intensity of group and individual counseling can vary depending on several factors, including the severity of addiction being treated. The intensity of these types of interventions can range from one to eight hours per week.

(1) **Individual Counseling (2010)**

An intervention with one offender by a trained and certified counselor or paraprofessional under the supervision of a certified counselor.
(2) Group Counseling (2020)

An intervention with two or more offenders that includes clinical intervention led by a trained and certified counselor. This type of treatment is utilized for special populations. An example is the success that the Matrix Model has demonstrated with methamphetamine addicts. It is important to note that clinical modalities that fail to teach and practice skills have shown little value in reducing substance abuse and future criminal activity.

(3) Treatment Readiness Group (2090)

This clinical service is meant to prepare offenders for success in substance abuse treatment. Offenders who are pre-contemplative and contemplative require intervention to move them through the Stages of Change prior to action.

(4) Family Counseling (2030)

One of the six criminogenic needs is dysfunctional family relationships. For some offenders, the key to preventing future crime is addressing family environment. Family counseling is one strategy that can be used to address this criminogenic need. Family counseling is an intervention with an offender and one or more family members. The intensity and duration of family counseling can vary.

(5) Intensive Outpatient Counseling (IOP) (2080)

This intervention is reserved for offenders who require a higher degree of structure than is provided in either individual or group counseling, but less structure than is offered in residential treatment. In IOP, an offender continues to live at home while receiving intensive services. These services include group and individual counseling (defined above) with a minimum of three-hour sessions at least three days a week. Again, it is highly recommended that the providers utilize manualized cognitive behavioral interventions as a significant portion of this programming. IOP services typically range from three to sixteen months.

If an offender cannot achieve abstinence, or the immediate cessation of use would result in physical complications for the offender, an officer may consider the use of:
(6) Inpatient Detoxification (8010, 8020)

Inpatient detoxification is not a treatment that changes behavior. It is a medical service to assist the individual with the removal of illicit substances (detoxifying) from his or her body. A seamless transition to treatment should always follow discharge from inpatient detoxification.

(d) Residential Treatment

This is the most intensive form of treatment that can be provided to offenders. There are two forms of treatment that may be appropriate for substance-abusing offenders: short-term residential treatment and long-term placement in a therapeutic community.

(1) Short-Term Residential (2001)

Residential treatment programs of 90 days or less are referred to as short-term programs. The services they provide vary greatly. Officers should receive treatment updates at least every 30 days from short-term residential facilities.

(2) Therapeutic Community (TC) (1001)

In TCs, offenders live in and as a community, monitor each other's behavior, and work within a regimented treatment process. Officers should make themselves aware of offenders' progress at least every 60 days. Stepping down to a service such as intensive outpatient (2080) or group counseling (2020) would be the appropriate transition from a TC.

(e) Medication-Assisted Treatment

(1) When traditional therapies are not effective in isolation, medication-assisted treatment can provide the necessary physical stabilization to improve the success of treatment. Medications are frequently used in conjunction with a clinical program of services. Some common medications used in the treatment of substance-abuse disorders are methadone, levo-alpha-acetyl-methadol (LAAM), buprenorphine (Suboxone and Subutex), naltrexone (ReVia), and Antabuse. For details on this and other medications, see: Appx 5A.

(2) Medication-assisted treatment is utilized to assist in detoxification, craving reduction, and receptor blocking. The goal of treatment is a
drug-free state of being. All medication-assisted treatment should be administered in conjunction with intensive counseling or therapy and frequent random urine collection. Urine collection can be used to confirm medication compliance and to ensure that offenders are not using illicit drugs in conjunction with their medication.

(3) Medication-assisted treatment can only be used if the offender is at least 18 years old and volunteers for treatment. The offender must also have a medical clearance stating that there is minimum danger of side effects and that he or she is fully aware of the potential side effects. The offender should be withdrawn completely from medication-assisted treatment after there is sustained progress and the officer and treatment providers jointly determine that the medication-assisted treatment is no longer needed.

(f) Incentives as a Correctional Strategy

(1) As part of the multidimensional approach required for effective supervision (see: Vol 8E, Ch 1), officers are to use positive incentives to encourage pro-social behavior and reinforce progress toward objectives. The usefulness of positive incentives should not be underestimated; research indicates that rewards are more effective than sanctions when seeking to achieve long-term behavior change. (Note: Taxman, F., Tools of the Trade, 2005.) Incentives must be implemented in a swift, consistent, and graduated manner.

(2) Incentives are provided by adding a positive reinforcement or taking away an existing sanction or restriction. Officers must modify supervision plans to reflect earned achievement incentives such as reduced restrictions or less frequent contact (see: Vol 8E, Ch 3).

(3) Recognition incentives may include:

- Verbal praise
- Letter of congratulations from officer, supervisor, chief, or judge
- Certificates of achievement or successful completion from officer, supervisor, chief, or judge
- Offender recognition sessions that may include judges, treatment providers, staff, and/or family to acknowledge accomplishment

(4) Reduced supervision incentives may include:
• Petitioning the court to establish less intrusive conditions
• Moving the offender to less intensive treatment
• Reducing frequency of drug testing
• Moving to lower intensity supervision (see: § 370.20).
• Petitioning the court for early termination of supervision (see: § 380.10).

(5) Common objectives, milestones, and possible incentives are as follows:

<table>
<thead>
<tr>
<th>Common Substance Abuse Objectives</th>
<th>Associated Milestones</th>
<th>Possible Incentives</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) Remain drug free.</td>
<td>90 days with no positive tests for illegal or illicit drugs or stalls or “no show” for testing.</td>
<td>Verbal acknowledgement and congratulations</td>
</tr>
<tr>
<td>(B) Participate in treatment in accordance with treatment plan.</td>
<td>Quarterly report from treatment provider indicating that offender has successfully complied with all participation requirements and other aspects of the treatment plan. Successful completion of phases.</td>
<td>Certificate of phase completion</td>
</tr>
<tr>
<td>(C) Successfully complete treatment.</td>
<td>Successfully discharged from treatment.</td>
<td>Offender recognition session</td>
</tr>
</tbody>
</table>

§ 550.30 Controlling Strategies

§ 550.30.10 Urine Collection

(a) The most reliable method of drug testing is urinalysis. The specific process for collecting and conducting urinalysis is determined based on offender availability, timeliness of the result, test validity, and cost effectiveness. Traits of a quality urinalysis program include:

(1) Random submission: less than 24 hours notice to the offender

(2) Observed collection

(3) Proper chain of custody

(b) Generally, collection by the probation office provides the most reliable means of conducting random urinalysis. Contractors should not be utilized for urinalysis collection except where geographical considerations make it
prohibitive for an offender to come to the probation office on short notice, or it is determined to be more cost effective for the district.

(c) Random testing may be implemented by the officer during unannounced field contacts. Automated systems (code-a-phone) may also be utilized to notify offenders to report for random drug testing. Scheduled drug tests serve little purpose and should rarely be included as part of a contract or non-contract treatment plan. When developing a random testing strategy, officers should take into account the offender’s use pattern and the detection period for the type of drug(s) of concern so as to maximize the possibility of detection.

(d) The frequency of testing for offenders who are in drug treatment is governed by the Three Phase Program, which requires a minimum of three random tests with less than 24 hours notice per month during Phase I; a minimum of two such tests monthly during Phase II; and a minimum of one such test monthly during Phase III.

(e) Offenders not currently in drug treatment should be tested at a frequency based on their risks and needs. The following factors should be considered in making this determination:

1. Type of drug(s) being abused
2. Offender’s history of use (age of onset, frequency, and method of use)
3. TCU score and clinical diagnoses
4. Treatment history
5. Duration of abstinence
6. History of relapse
7. Relationship between the offender’s drug use and criminal activity

§ 550.30.15 Urinalysis Processing

There are two main types of urine testing: immunoassay and gas chromatography/mass spectrometry (GC/MS). GC/MS is the definitive test. Often, immunoassay testing is utilized as a first-level screening, with GC/MS being utilized to confirm a positive screen. Below are three examples of drug testing methodologies:
(a) Non-Instrumented Drug Tests (NIDT)

Non-instrumented drug tests are hand-held immunoassay testing devices. These devices are available in many forms, including cups, cassettes, slides, and dipsticks. NIDTs are used for the first level of urine screening. If the result is positive, and contested by the offender, the sample must be submitted to the national drug testing laboratory for GC/MS confirmation.

(b) On-Site Laboratories

On-site laboratories utilize instrumented immunoassay testing devices. On-site laboratories are used for the first level of screening. If the result is positive, and contested by the offender, the sample must be submitted to the national drug testing laboratory for GC/MS confirmation.

(c) National Drug Testing Laboratory

The national drug testing laboratory provides immunoassay, specimen validity testing, and GC/MS confirmation.

(1) Specimen validity testing should be utilized when there is suspicion that an offender has altered his or her urine specimen.

(2) GC/MS testing should only be used when an offender tests positive at the screening level, denies the use or questions the test results, and the results could lead to incarceration. If the offender tests positive at the screening level and signs a voluntary admission form, the sample should not be sent to the national drug testing laboratory for GC/MS confirmation.

§ 550.30.20 Specimen Validity Testing

Not all specimens are valid. Offenders may intentionally or unintentionally alter their urine specimen. Examples of alteration include attempts to dilute urine, alter the pH, and/or introduce a foreign substance into their urine. It is recommended that specimen validity tests be available at the time of specimen collection in order to be performed when deemed necessary by the collector and/or on-site testing personnel. There are visually-read dipstick-type devices for measuring specimen validity, as well as hand-held refractometers for measuring specific gravity. In addition, many collection cups and cup-type non-instrumented drug-test devices are available with temperature strips. All on-site laboratory instruments can provide this testing feature.
§ 550.30.25 Sweat Patch Testing

The sweat patch is a device that detects the presence of drugs in perspiration. Although the sweat patch does not produce the immediate results of on-site urinalysis, the methodology provides a means of continuous detection and is less intrusive for officers and offenders. The sweat patch may be a particularly useful testing adjunct with offenders for whom urinalysis testing is difficult, such as those with certain medical conditions ("shy bladder" and paraplegia), those living in remote locations, in cross-gender observation situations (e.g., a male officer supervising a female offender in a satellite office), or those on travel status.

§ 550.30.30 Alcohol Testing

(a) Alcohol abstinence conditions are to be monitored through collateral contacts with family and associates who have daily opportunity to observe the offender’s behavior and through frequent random breathalyzer testing. Urine testing, even if random, is unlikely to provide an accurate window of use, given that alcohol is excreted at a rate of approximately one ounce per hour.

(b) Absent an abstinence condition, officers may request that offenders submit to breathalyzer testing under the standard condition prohibiting excessive use of alcohol when there is reason to suspect excessive use or the substitution of alcohol as a drug user’s drug of choice. Refusal would be grounds for requesting a special alcohol testing condition and, depending on circumstances and in consultation with the specialist, may be used to support a request for a condition requiring alcohol abstinence and treatment.

§ 550.30.35 Prescription Medication

(a) Prior to administering a drug test, officers should inquire about prescription and over-the-counter medication use. Officers should be aware of the potential abuse of prescription and over-the-counter medication and investigate the appropriate uses and duration of use for medications. This information must be independently verified by the prescribing physician.

(b) If an offender who is using a prescription or over-the-counter medication tests positive at the screening level, gas chromatography/mass spectrometry confirmation and identification is warranted. On a case-by-case basis, districts must determine which specimens are sent to the national drug testing laboratory to ascertain if the positive test result was from legitimately prescribed medication.
(c) If the prescription interferes with an offender's progress in substance abuse treatment, the officer should seek a release from the offender and advise the prescribing physician in writing of the offender's substance abuse history and efforts to avoid substance abuse. Oftentimes, non-opiate substitutes are prescribed for persons at risk for addiction when a physician is aware of the history. Inquiry is certainly suggested if an offender presents multiple prescriptions for medications of concern or utilizes multiple physicians to extend a prescription of concern.

§ 550.30.40 Drug Use Admissions

If a presumptive positive result is obtained during drug testing, an officer should confront the offender with the result prior to sending the sample to a national lab for gas chromatography/mass spectrometry confirmation. When possible, the offender’s admission of use should be documented in writing (Form PROBPST 4). Officers should follow up the admission with in-depth interviews with the offender and contact with collateral sources to find out the details of the use and its broader impact on the offender’s risk and needs. When contacting collateral sources, the officer cannot disclose the offender’s drug use without express written authorization. Circuits and/or districts may vary in the acceptance of drug use admissions. Officers are directed to their local court policies to adopt practices that meet their circuit and/or district requirements.

§ 550.30.45 Managing Noncompliant Behavior

(a) The conditions of supervision provide a framework for community protection and behavior change. If an offender does not conform to these conditions, he or she is demonstrating noncompliant behavior.

(b) Common examples of noncompliant behavior among substance abusers include:

- Missing treatment appointments
- Not participating or displaying inappropriate behavior in treatment
- Using alcohol or other controlled substances
- Missing or stalling drug or alcohol tests
- Tampering with or diluting a urine specimen
- Testing positive on drug or alcohol tests
- New criminal behavior
- Abusing prescription medication
- Not reporting as directed

(c) When responding to noncompliant behavior, officers should refer to the principles and practices outlined in Guide, Vol 8E, Ch 6.
§ 550.30.50 Responding to Relapse

(a) All substance-abusing offenders, even those who are making significant progress in their recovery, are susceptible to relapse. The process of recovery often includes relapses; thus, they are likely, unavoidable, and not necessarily indicative of long-term failure. (Note: Treatment Assistance Protocol 19: Counselors Manual for Relapse Prevention for Chemically Dependant Criminal Offenders, Department of Health and Human Services Publication Number 96-3115, 1996.)

(b) Pre-lapse behaviors include a number of behaviors and poor choices that lead to a full-blown relapse. Examples include the sudden loss of a job, change in mood, choosing to associate with others who are abusing substances, and going back to places where drugs were purchased or used. These decisions and behaviors can be early warning signs that a relapse is imminent. The officer should be well acquainted with the pre-lapse behaviors and relapse prevention techniques to encourage sobriety throughout the term of supervision.

(c) The behavioral change process is full of trial and error. The balanced use of correctional and controlling strategies for drug use can prevent a return to criminality. Substance abuse treatment and case planning is a dynamic process and should be altered throughout the course of supervision in response to the offender’s current risk and needs. The officer can accomplish this through regular reviews and updates to the supervision plan and by making collateral contacts.

§ 550.30.55 Substance Abuse Supervision Matrix

For offenders to be successful, interventions must be coordinated, address and enhance an offender’s readiness for change, and incorporate effective assessment and treatment. Below is a non-exhaustive matrix of the integrated, ongoing response and intervention model:
<table>
<thead>
<tr>
<th>Stage of Change</th>
<th>Offender Perspective</th>
<th>Supervision Activities</th>
<th>Officer Intervention with Offender</th>
<th>Treatment Options</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Pre-Contemplation</td>
<td>There is no intention to change behavior. Does not believe the behavior is problematic. Behavior controls are external rather than internal.</td>
<td>Exert external controls to manage behavior. Frequent random drug testing. Clear explanation of consequences for drug use. Emphasis on collateral contacts, particularly with those in offender's personal sphere of influence, to assess use patterns and gain information regarding the impact of the substance abuse on offender's life. If treatment is indicated, establish intervention plan with treatment provider.</td>
<td>Validate lack of readiness. Clarify that the decision is theirs. Encourage re-evaluation of current behavior. Encourage self-exploration, not action. Explain and personalize the risk. Conduct screening and/or assessment.</td>
<td>Treatment Readiness Group Skillfully managed group or individual counseling focusing on raising awareness of the impact of substance abuse on other aspects of life. If substance abuse is severe and risk for use is high, consider hospitalization or custodial intervention to disrupt the cycle.</td>
</tr>
<tr>
<td>Stage of Change</td>
<td>Offender Perspective</td>
<td>Supervision Activities</td>
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<td>(b) Contemplation</td>
<td>Aware that a problem exists and is seriously thinking about overcoming it, but has not yet made a commitment to take action.</td>
<td>Strong presence to encourage compliance. Frequent random testing with clear proportionate response for drug use. Emphasis on collateral contacts, particularly with those in offender's personal sphere of influence. Contact with treatment provider to share information. Clear response to missing treatment sessions to minimize manipulative behavior.</td>
<td>Reaffirm that decision is theirs and review both the benefits and consequences of their decision. Encourage an evaluation of pros and cons of behavior change. Identify and promote new, positive outcomes should the change occur.</td>
<td>Treatment Readiness Group Purposefully managed group or individual counseling focused on raising awareness of the impact of substance abuse on other aspects of life, and to encourage exploration of ambivalence.</td>
</tr>
<tr>
<td>(c) Determination</td>
<td>Aware that a problem exists and is seriously thinking about overcoming it, but has not yet made a commitment to take action.</td>
<td>Continue above supervision activities.</td>
<td>Identify and assist in problem-solving obstacles. Help offender identify social support. Encourage small initial steps.</td>
<td>Skillfully managed group or individual counseling to support exploration of options for intervention, encourage continued self-exploration and anticipatory loss of maladaptive behavior.</td>
</tr>
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§ 550.30.55 Substance Abuse Supervision Matrix

<table>
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<tr>
<th>Stage of Change</th>
<th>Offender Perspective</th>
<th>Supervision Activities</th>
<th>Officer Intervention with Offender</th>
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<tr>
<td>(d) Action</td>
<td>Modification of behavior, experiences, or environment in order to overcome the problem. Action involves behavioral changes and requires considerable commitment of time and energy.</td>
<td>Collateral contacts to encourage support for offenders’ efforts. Provide incentives for achieved milestones. Begin to reduce frequency of drug testing.</td>
<td>Focus on restructuring triggers and social support. Bolster self-efficacy for dealing with obstacles. Combat feelings of loss and reiterate long-term benefits.</td>
<td>Skillfully managed groups to continue exploration and provide positive support. Follow established treatment plan that will vary depending on severity of dependence, addiction, and choice of substance.</td>
</tr>
<tr>
<td>(e) Maintenance</td>
<td>Continued commitment to sustaining positive behavioral change.</td>
<td>Periodic drug testing. Use of telephone calls to supplement less frequent community contacts to check on commitment to maintenance. Provide incentives of milestones and achievements.</td>
<td>Plan for follow-up community-based support. Reinforce internal rewards. Discuss relapse prevention techniques.</td>
<td>Begin transitioning out of treatment and into 12-step support programs. Establish community-based support system.</td>
</tr>
</tbody>
</table>

§ 550.40 Concurrent Planning

§ 550.40.10 Monthly Treatment Reports

(a) While an offender is in treatment, the contract treatment provider must prepare a monthly treatment report (Form PROB 46) every 30 days and a written treatment plan every 90 days. The monthly treatment report must detail the offender’s progress. The treatment plan must include specific and measurable goals and objectives with target completion dates. The officer should work closely with the treatment provider to ensure that the offender is receiving goal-directed services and is actively participating in the treatment process.
(b) Officers should encourage non-contract treatment providers to submit a written monthly report. This report should detail the offender’s progress in treatment.

§ 550.40.20 Transition from Treatment

(a) The provider should include a justification in the treatment plan documenting the offender’s continued need for treatment. If recommending termination, the provider should complete a discharge summary and outline the reason for concluding formal services (e.g., whether the offender responded to treatment and treatment is no longer needed or whether the offender failed to respond to treatment). Additionally, the discharge summary should include recommendations for community-based aftercare that the offender can readily access. The officer should receive the discharge summary at the conclusion of treatment.

(b) If the termination is successful, the discharge summary must be reviewed during a meeting between the treatment provider, officer, and offender at the conclusion of treatment services. This meeting should be a face-to-face interaction; however, if this is not possible, a conference call between the parties will suffice. The purpose of this meeting is to provide positive feedback regarding the offender’s progress in treatment and to ensure a successful transition to aftercare services.

(c) When treatment is terminated, either successfully or unsuccessfully, a Form PROB 45 must be completed. This form, signed by the referral agent, must indicate that all services are terminated.

§ 550.40.30 Transition from Supervision and Beyond

(a) The community is best served when the offender remains drug-free, employed, and invested in healthy relationships beyond the period of supervision. Transitioning is defined as the process of moving an offender from a formal treatment relationship to a community-based aftercare program that is managed by the offender and monitored by the officer. Transitioning from treatment is conducted throughout the treatment process to ensure that the offender possesses the tools and community resources necessary to function under decreasing levels of supervision.

(b) To assist with aftercare planning, the officer must participate in a final three-way meeting between the offender and the clinical provider. The purpose of this meeting is to provide positive feedback regarding the
offender’s progress in treatment and to ensure a successful transition to aftercare services.

(c) The officer must be aware of community-based programs and services that aim to help offenders with treatment needs or provide support. These programs may include day reporting centers, specialized housing, 12-step programs, and programs that assist those with medical needs and medication services. Ongoing communication with collateral contacts is essential when formal treatment services conclude to ensure that the offender is in compliance with the aftercare plan in the community.

(d) One of the most important goals of supervision is to change an offender’s behavior in order to reduce the likelihood of future criminal activity. It is critical to provide supervision, treatment, and aftercare planning to maximize the offender’s ability to remain a productive member of society post-supervision. The current understanding is that if an offender can maintain behavior change for three years after supervision termination, the behavior change has been internalized.

§ 560 Mental Health

§ 560.10 Overview

§ 560.10.10 Supervision Challenges

(a) Mental health cases represent a growing segment of the supervision population and present special challenges. Depending on the type and severity of the problem, mental health offenders may present a danger to themselves, family members, the officer, and/or the community and may be limited in their ability to associate actions with consequences and/or to conform their behavior to meet supervision objectives and expectations.

(b) It is important to understand that simply being diagnosed with a mental health disorder does not establish an offender’s predisposition to violence. (Note: Monahan, J., Steadman, H., Robbins, P., Appelbaum, P., Banks, S., Grisso, T., Heilbrun, K., Mulvey, E., Roth, L., and Silver, E. (2005). An actuarial model of violence risk assessment for persons with mental disorders. *Psychiatric Services*, 56, 810-815.) The MacArthur Research Network on Mental Health and the Law at the University of Virginia found the following:
(1) People diagnosed with a mental health disorder and no substance abuse issues are no more likely to become violent than the general population.

(2) People diagnosed with co-occurring disorders show rates of violence greater than the general population.

(3) The type of violence committed by people discharged from a psychiatric hospital is very similar to the type of violence committed by other people living in the community.

§ 560.10.20 Mental Health Disorders

(a) A mental health disorder is a condition in which an offender exhibits behaviors or feelings that deviate substantially from the norm. Mental health disorders can range from mildly maladaptive to profoundly psychotic and can result in:

- Unrealistic behavior
- Marked inability to control impulses
- Grossly impaired judgment
- An inability to care for oneself or meet the demands of daily life
- A loss of contact with reality
- Violence to self or others

(b) The number of offenders with mental health disorders continues to grow but still constitutes a relatively small percentage of the total number of offenders under federal supervision. However, their supervision demands are disproportionate because these offenders may:

- Require more monitoring and supervision
- Pose difficult management problems and require careful monitoring
- Require specialized treatment
- Require more flexibility and patience on the part of the officer
- Require communications strategies that are firm yet non-confrontational.

(c) The American Psychiatric Association’s *Diagnostic and Statistical Manual of Mental Disorders* (DSM-IV-TR) defines the symptoms and behaviors of mental disorders. This manual is the authority in classifying mental health disorders. Officers working with offenders with mental health disorders should be familiar with the DSM-IV-TR. A familiarity with this manual will help officers interpret information found in psychiatric or psychological
evaluation reports, communicate with treatment providers, and identify individuals with mental disorders.

(d) The DSM-IV-TR uses a classification system that consists of five axes:

(1) Axis I: Clinical disorders, including major psychiatric disorders that may be a focus of clinical attention;

(2) Axis II: Personality disorders and mental retardation;

(3) Axis III: General medical conditions that are relevant to etiology or case management;

(4) Axis IV: Psychological and environmental problems; and

(5) Axis V: Global assessment and highest level of adaptive functioning.

(e) The axes that are most relevant to officers supervising offenders with mental health disorders are Axes I and II, which classify mental and personality disorders.

(f) Axis I clinical disorders include:

(1) Mood disorders, including major depression and bipolar disorder

(2) Schizophrenia and other psychotic disorders

(3) Anxiety disorders, including panic disorder, phobias, and post-traumatic stress disorder

(4) Delusional disorders

(5) Paraphilias

(6) Dissociative disorders

(7) Substance abuse disorders (discussed earlier in this chapter)

(g) Axis II personality disorders are classified into three clusters:

(1) Cluster A includes the paranoid, schizoid, and schizotypal personality disorders
(2) Cluster B includes the antisocial, borderline, histrionic, and narcissistic personality disorders.

(3) Cluster C includes the avoidant, dependant, and obsessive-compulsive personality disorders.

(h) Offenders may be diagnosed with one or more Axis I and/or Axis II disorders. The term co-occurring disorders refers to both a substance abuse and mental health disorder in the same individual.

§ 560.10.30 Authority

(a) The statutory authority to provide supervision to offenders with mental health disorders is contained in the following:

Under 18 U.S.C. § 3603(2), (3), and (8), a probation officer shall:

(1) Keep informed, to the degree required by the conditions specified by the sentencing court, as to the conduct and condition of a probationer or a person on supervised release, who is under supervision, and report his conduct and condition to the sentencing court.

(2) Use all suitable methods, not inconsistent with the conditions specified by the court, to aid a probationer or a person on supervised release who is under his supervision, and to bring about improvements in his conduct and condition.

(3) When directed by the court, and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of 18 U.S.C. §§ 4243 and 4246, and report such person’s conduct and condition to the court ordering release and to the Attorney General or his designee and immediately report any violation of the conditions of release to the court and the Attorney General or his designee.

(b) Additionally, treatment services for persons with mental health-related issues are contained in 18 U.S.C. § 3672, which states that the Director of the Administrative Office of the U.S. Courts shall contract for services for the care in the community of a person suffering from a psychiatric disorder.
§ 560.10.40 Special Conditions for Mental Health Evaluation and/or Treatment

(a) Conditions may be imposed at the time of sentencing or as a modification during the course of supervision. If added after sentencing, the conditions may be imposed only after notice and hearing under Rule 32.1(b) of the Federal Rules of Criminal Procedure. Procedures outlined in Chapter 2.40-09 of the Parole Commission Rules are applicable in parole cases.

(b) Officers should be guided by local policies in determining wording that meets the objectives of supervision and the requirements of their court. In fashioning mental health evaluation and treatment conditions, the following should be considered:

1. Participation in Evaluation and Treatment Is Ordered by the Court

   The condition should clearly indicate that the order for evaluation and treatment is a court order or directive and not inadvertently delegate this authority to the probation office. Officers should avoid language ordering the offender to participate in evaluation and/or treatment “if directed by the probation officer.” They should, however, use language that permits the officer discretion in determining how, when, and where treatment is to occur.

2. The Condition Should Permit Implementation Along a Flexible Treatment Continuum

   The special condition requiring the offender to participate in mental health treatment should be so worded that the officer, in consultation with the treatment provider, can adjust the modality, duration, and intensity of treatment to the risk and needs presented by the offender. Conditions that permit flexible movement along the continuum of care (outpatient, intensive outpatient, residential, and hospitalization) provide for timely intervention in response to offender progress or regression.

3. The Offender Should Contribute to the Cost of Treatment Services (Co-Payment)

   When evaluation and treatment services are ordered, offenders should be required to pay for these services to the degree that they are able. The collection of reasonable co-payments for services meets both administrative and treatment objectives. It provides good stewardship of public money and ensures that limited funding resources are used for maximum benefit. Collection also meets the
treatment purpose of providing a symbol for offenders of their investment in the treatment process. Collecting even minimal co-pay supports this latter purpose and has been shown to improve treatment outcomes. It is also important that the wording of the requirement to contribute to the cost of treatment does not inadvertently delegate the establishment of the amount of the co-payment to the probation officer. Districts are encouraged to establish a court-approved sliding scale for treatment services. The condition requiring payment should reference this pre-approved payment schedule and allow for the implementation of a co-payment amount that is responsive to changes in an offender’s financial circumstances.

(4) The Offender Shall Comply with the Medication Regime as Determined by the Physician

When medication is ordered by the physician, the offender must comply with the medication regime. Offenders may experience negative side-effects from psychotropic medications. Officers cannot allow or give permission to offenders to alter or terminate a medication regime. If negative side-effects are identified, officers must report this information to the prescribing physician for follow-up.

(5) Clarify That the Offender Must Abide by the Rules of the Treatment Program

It is implicit in an order requiring an offender to participate in treatment that the offender must follow the requirements of the treatment program; that is, to attend when required and participate during sessions. These requirements can also be explicitly added to the condition or clarified at a later date on an individual basis if the offender shows resistance.

§ 560.20 Correctional Strategies and Interventions

As outlined in Guide Vol 8E, Ch 4, correctional strategies are comprised of activities designed to change offender behavior. This section focuses on linking offenders with appropriate treatment services.

§ 560.20.10 Re-Entry Planning Stage

(a) For individuals who are released to the community after a period of detention or imprisonment, case planning should start as soon as the
officer receives the case. Attempts should always be made to ensure a seamless transition so the continuum of care is not broken. This is especially important when managing a mental health treatment case. The unique needs of the mental health offender must be considered, such as medication management, availability of psychiatric treatment, and past relationships with therapeutic providers.

(b) During the planning process and selection of a treatment intervention, officers need to be aware of and responsive to an offender’s gender, background, cultural, and environmental factors. These factors can influence the offender’s treatment needs, and failure to find treatment services that address these unique issues can impede successful outcomes.

(c) Re-entry planning is especially important for offenders requiring ongoing psychotropic medication management. Offenders being released from the Federal Bureau of Prisons (BOP) correctional facilities should have up to a 60-day supply of all medications currently prescribed. The offender’s pre-release information from the BOP should include BOP Form BP-A-351 (Medical Psychological Pre-Release Evaluation), which includes useful information such as the type of diagnosis and the type of medications and dosages. However, officers must make appropriate referrals for evaluation and treatment to ensure that the offender will be provided with prescriptions for medications as needed.

§ 560.20.15 Screening and Assessment

The goal of screening offenders in the criminal justice system for mental health disorders is to identify offenders needing services as early as possible. A thorough understanding of the offender’s mental health issues and current status is an essential first step in establishing an effective supervision plan for an offender with a mental health disorder.

Developing this understanding may require two processes: screening and assessment.

(a) Screening

The screening process places the offender in one of two categories — a well-documented mental health disorder, or an uncertain mental health disorder.

(1) Well-Documented Mental Health Disorder(s)
(A) Offenders who come to supervision with a recent and well-documented history of mental health disorder(s) do not require an initial screening. Documents that may be available include the following:

- Previous mental health screenings
- Previous assessments
- Treatment records (e.g., psychiatric evaluations, hospitalization records)
- Collateral contacts with family members or others
- Self report

(B) Additional mental health information may be obtained from the following sources:

- The detaining authority
- The Federal Bureau of Prisons
- Military Parole Board
- Presentence investigation
- Pretrial services

(C) Utilizing the available documentation, the officer in consultation with the mental health specialist can make decisions about further assessment. For example, with offenders who have completed treatment in the Federal Bureau of Prisons, including community transitional services, officers are to consider the discharge summaries and recommendations from these programs in order to maximize continuity of care.

(2) Uncertain Mental Health Disorder(s)

(A) Offenders who come to supervision with indications of a mental health disorder or a distant history of a mental health disorder may require the administration of a validated screening instrument. This screening can be conducted by an officer using a validated instrument or by a qualified mental health professional.

(B) When screening and/or other case information indicates the possibility of a mental health disorder, a clinical assessment is typically the next step in the correctional intervention process.
(b) Assessment

(1) *The Diagnostic and Statistical Manual of Mental Disorders* (DSM-IV-TR) serves as the authoritative reference for making and understanding clinical mental health diagnoses. The DSM-IV-TR is used to classify and differentiate mental disorders.

(2) There are several types of evaluations available for officers to request, depending on the current risk and needs of the offender. Officers should consult with their specialists and supervisors to determine the appropriate type of assessment for each offender. It is important to note that the following service descriptions are summarizations of the project codes in the national treatment services statement of work. This list is not exhaustive. Please see the current year statement of work for the entire list of project codes and corresponding statements of work.

(A) *Mental Health Intake Assessment and Report* (5011): This is the most common and often least expensive type of evaluation. This is a mental health report that may be conducted by a masters-level and/or doctoral-level licensed/certified clinician who meets the standards of practice established by his or her professional regulatory board. The purpose of a mental health intake assessment is to determine the need for treatment or additional assessments.

In addition to the mental health assessment and report, the following evaluations may be requested when additional information is required:

(B) *Psychological Evaluation and Report* (5010): This is an assessment or evaluation conducted by a licensed/certified psychologist. This evaluation includes all available information from offender self-reports, criminal justice records, and available mental health or psycho-social reports. The purpose of this evaluation and report is to provide and/or clarify diagnostic impressions, assist in differential diagnosis, and/or assist in treatment planning.

(C) *Psychiatric Evaluation and Report* (5030): This is a medical evaluation conducted by a licensed medical doctor, preferably a psychiatrist. The purpose of this evaluation is to
§ 560.20.20 Implementing a Treatment Strategy

(a) The type of treatment that is provided to an offender can make a significant difference in the degree of success that is realized. For a model of the continuum of available treatment services, see: § 560.20.25(a). The goal is to match the offender to a treatment that best addresses his or her risk and needs. Officers are responsible for being sufficiently knowledgeable about mental health disorders and available mental health services. The officer acts as a broker of services for offenders with mental health disorders.

(b) The mental health provider decides the particular treatment approach. The treatment plan should be collaboratively developed by the treatment provider, the officer, and the offender. It should address the modality, intensity, and anticipated duration of treatment. Although the development of the treatment plan is a collaborative process, the officer is ultimately responsible for ensuring that the provider is aware of any changes in the offender and his or her environmental, social, and/or supervision status. The goals of treatment should be established by the service provider working in conjunction with the officer and with the input of the offender whenever possible. This plan should include long-term and short-term goals. Tying measurable objectives to these goals assists the provider, officer, and offender to monitor progress. Outlining achievable milestones that the offender completes as he or she works towards mental health stability insures that the treatment is goal directed.

§ 560.20.25 Continuum of Services

Treatment interventions must be viewed as a continuum of care (see chart, below). Although it is the responsibility of the treatment provider to find the correct entry point into the treatment continuum, officers need to be aware of the services available to offenders with mental health disorders and understand the continuum of services. As an offender improves or struggles, the offender should be moved up or down the continuum of services. The goal of treatment intervention is for the offender to become capable of sustaining his or her own mental health stability, either independently or with the assistance of community-based resources.
§ 560.20.30 Intensity of Treatment

In keeping with the underlying supervision philosophy of proportional intervention, it is critically important that the intensity of treatment match the specific treatment needs of an offender. Although the placement and movement within the treatment continuum is based on the mental health provider’s assessment, the supervising officer should have ongoing communication with the mental health provider to provide information regarding the offender’s adjustment on supervision and any change in risk and needs as determined by the officer.

§ 560.20.35 Treatment Referal Process

(a) Once a treatment referral is initiated, the officer should arrange a three-way meeting with the offender and the clinician. This meeting should be a face-to-face interaction; however, if this is not possible, a conference call between the parties will suffice. Prior to this meeting, the officer should prepare a referral letter and forward a release form to the agency. A referral letter should include all relevant information known about the offender, including:
(1) Legal status

(2) Criminal history

(3) Substance abuse history

(4) Mental health history

(5) Prior treatment interventions

(6) Past and/or current medication protocols

(7) Family history

(8) Current living situation

(9) Employment status

(b) During this initial meeting, an individualized treatment plan should be developed that clearly outlines the goals and objectives of treatment and the methods that will be used to achieve those goals. The officer should use this meeting to address any concerns the offender has and help strengthen the relationship between the offender and the clinician. The officer should clearly state his or her role in monitoring the treatment plan.

(c) A Form PROB 45 must be issued for all contract and non-contract treatment services. For contract treatment, the Form PROB 45 outlines the specific services (including duration and frequency) that are authorized for payment. In non-contract treatment, the Form PROB 45 is used for internal and national statistical purposes. The non-contract Form PROB 45 must identify the offender, the agency, and the service rendered; the duration and frequency are not necessary for statistical purposes.

(d) Form PROB 45 should be used as a supervision tool and hence signed by the offender and the officer. This document serves as a treatment contract between the offender and the officer. Form PROB 45 must also be signed by the referral agent in order for services to be authorized. As the treatment needs of the offender change, Form PROB 45 must be amended and re-signed by the appropriate parties to reflect all changes in authorized services.
§ 560.20.40 Fidelity

(a) As with any service (contract and non-contract) provided to offenders on behalf of the U.S. courts, the quality of the intervention must be monitored. Specialists check that the vendor is meeting the requirements in the treatment services statement of work. This includes monitoring the quality of the specific services being delivered by the vendor. For example, if a vendor is providing Dialectical Behavior Therapy (DBT), the specialist ensures that the vendor is adhering to DBT principles.

(b) Officers also have a role in monitoring the quality of treatment services. Offenders who are court-ordered to attend treatment may be reluctant to complain about inadequate services. Officers are required to monitor individual cases to ensure that the needs of the offenders are being met in a competent and effective manner.

§ 560.20.45 Duration of Treatment

(a) Due to the varying degrees of biological, social, and environmental characteristics of mental health disorders, it is impossible to provide a recommended duration of treatment. Some offenders can benefit from brief treatment with a duration of three to six months, while others may need treatment during the entire period of supervision and beyond.

(b) The officer should remain in contact with the mental health provider to have an ongoing understanding of the current treatment needs of the offender and his or her progress in treatment. Additionally, due to the nature and complexity of mental health cases, the officer should be aware of any changes in treatment modality or medication and the possible effects the changes may have on the offender’s response and adjustment to supervision.

§ 560.20.50 Use of Alcohol

(a) The use of alcohol must be closely monitored for offenders with mental health disorders. Alcohol use can have a negative impact on medication effectiveness and can potentially decrease mental health stability. This instability may lead to increased mental health symptoms and increased risk to the community.

(b) Offenders taking psychotropic medication should not be permitted to consume alcohol. Officers, in conjunction with the treatment provider, should consider the offender’s use of alcohol and whether alcohol use should be restricted or forbidden. If the officer determines that alcohol use
should be forbidden and the offender does not have an alcohol restriction condition, the officer must ask for this modification.

§ 560.20.55 Mandated Treatment

Mental health treatment is often court-ordered as part of supervision. Yet, many individuals resist treatment, fail to attend treatment sessions regularly or at all, or drop out of treatment prematurely. Offenders with mental health disorders may not believe their diagnosis or that treatment is necessary. Requiring an offender to attend treatment may be necessary for the offender to gain assistance and relief from his or her mental health symptoms.

§ 560.20.60 Service Selection

It is important for officers working with mentally disordered offenders to utilize the same vocabulary for treatment and service selection. When considering service selection, officers should be aware of providers who utilize evidence-based practices in treating offenders with mental health disorders. The following terms provide a foundation for potential service selection:

(a) Evidence-Based Practices

The Substance Abuse and Mental Health Services Administration (SAMHSA) and its Center for Mental Health Services (CMHS) have introduced six Evidence-Based Practices Implementation Resource Kits, described below, for use in the treatment of mental health-related disorders.

(b) Illness Management and Recovery

The Illness Management and Recovery program strongly emphasizes helping people to set and pursue personal goals and to implement action strategies in their everyday lives. The information and skills taught in the program include:

- Recovery strategies
- Practical facts about mental illness
- The Stress-Vulnerability Model and strategies for treatment
- Building social support
- Using medication effectively
- Reducing relapses and coping with stress
- Coping with problems and symptoms
- Getting needs met in the mental health system
(c) Assertive Community Treatment

The goal of Assertive Community Treatment is to help people stay out of the hospital and to develop skills for living in the community, so that their mental illness is not the driving force in their lives. Assertive community treatment offers services that are customized to the individual needs of the consumer, delivered by a team of practitioners, and available 24 hours a day. The program addresses needs related to:

- Symptom management
- Housing
- Finances
- Employment
- Medical care
- Substance abuse
- Family life
- Activities of daily life

(d) Family Psychoeducation

Family psychoeducation involves a partnership among consumers, families and supporters, and practitioners. Through relationship building, education, collaboration, problem solving, and an atmosphere of hope and cooperation, family psychoeducation helps consumers and their families and supporters to:

- Learn about mental illness
- Master new ways of managing their mental illness
- Reduce tension and stress within the family
- Provide social support and encouragement to each other
- Focus on the future
- Find ways for families and supporters to help consumers in their recovery

(e) Supported Employment

Supported employment is a well-defined approach to helping people with mental illnesses find and keep competitive employment within their communities. Supported employment programs are staffed by employment specialists who have frequent meetings with treatment providers to integrate supported employment with mental health services. The core principles of this program include:

- Eligibility based on consumer choices and preferences
• Supported employment as an integrated treatment
• Continuous follow-along supports
• Help with moving beyond the patient role and developing new employment-related roles as part of the recovery process

(f) Co-Occurring Disorders: Integrated Dual Diagnosis Treatment

Integrated dual diagnosis treatment is for people who have co-occurring disorders: mental illness and a substance abuse disorder. This treatment approach helps people recover by offering both mental health and substance abuse services at the same time and in one setting. This approach includes:

• Individualized treatment, based on a person’s current stage of recovery
• Education about the illness
• Case management
• Help with housing
• Money management
• Relationships and social support
• Counseling designed especially for people with co-occurring disorders

§ 560.20.65 Self-Help Programs

These programs are born out of the 12-step movement. These groups may or may not include the 12-step tradition and are led by non-professionals who are part of the recovery community. Support groups and advocacy groups are excellent resources for people with many types of mental disorders. These programs come in many forms: faith-based, lifestyle specific, profession specific, age specific, and diagnosis specific (e.g., Dual Recovery Anonymous). The common link in these groups is a community of like individuals who support each other as they strive to manage their symptoms. Self-help should be an adjunct component of treatment services and should not be confused with clinical treatment or court-ordered mental health or co-occurring treatment. Self-help programs are a key component in helping an offender manage his or her symptoms beyond the term of supervision.

§ 560.20.70 Counseling

(a) Counseling is a clinical interaction between an offender and a psychiatrist, psychologist, or masters-level practitioner who is licensed or certified by the state’s professional regulatory board. The interactions are deliberate and based on various clinical modalities that have demonstrated evidence to stabilize mental health symptoms. A non-exhaustive list of counseling
interventions is provided below. It is important to note that the following service descriptions are summarizations of the project codes in the national treatment services statement of work. This list is not exhaustive. Please see the current year statement of work for the entire list of project codes and corresponding statements of work. The intensity of group and individual counseling can vary depending on several factors, including the severity of symptoms and diagnosis.

(1) Individual Counseling (6010)

An intervention with one offender by a psychiatrist, psychologist, or masters-level therapist.

(2) Group Counseling (6020)

An intervention with two or more offenders that includes clinical intervention led by a trained and licensed or certified practitioner. This type of treatment is utilized for special populations. For example, dialectical behavioral therapy (DBT) has demonstrated success for individuals suffering from a personality disorder.

(3) Cognitive-Behavioral Group (6028)

 Practitioners conducting cognitive-behavioral group utilize theoretical models such as behaviorism, social learning, or cognitive-behavioral theories of change that promote pro-social behavior and reinforcement. The use of this modality is diagnosis specific.

(4) Education Group (6021)

A mental health education group is topic-specific and may be delivered to the offender and/or his or her family. The purpose of this group is to:

(A) offer insight into the offender's illness and to teach coping strategies to deal with the realities of his or her disorders;

(B) assist with treatment compliance; and

(C) assist offenders and/or family members on how to access community support services, etc.
(5) Family Counseling (6030)

Family counseling is an intervention with an offender and one or more family members. The intensity and duration of family counseling can vary.

(6) Intensive Outpatient Mental Health Counseling (6080)

This service is delivered to one or more offenders who demonstrate psychiatric symptoms or marked exacerbation of clinical symptoms. This service is typically reserved for complex cases requiring more intense or structured outpatient interventions.

(b) Residential Treatment

(1) Short-term Residential Treatment (6001)

Short-term residential treatment is for offenders needing treatment for a period not exceeding 90 days. This service is for offenders who cannot function in the community and require a structured short-term living environment.

§ 560.20.75 Co-Occurring Disorders

(a) Officers must be alert to the symptoms of mental health disorders in substance-abusing offenders and vice versa. Symptoms of substance withdrawal can mimic symptoms of mental illness, and the excessive use of substances may result in psychiatric symptoms, such as anxiety, depression, or psychosis. An offender with a mental health disorder may self-medicate to ease the symptoms of mental health disorders, resulting in a substance abuse disorder. Either situation can lead to the simultaneous presence of both disorders, known as a co-occurring disorder. The Substance Abuse and Mental Health Services Administration estimates that as many as half the offenders with mental health disorders also abuse substances. (Note: Substance Abuse and Mental Health Services Administration, TIP 44, Substance Abuse Treatment for Adults in the Criminal Justice System, 2005. Publication Number SMA09-4056.)

(b) Offenders with co-occurring disorders should receive services in an integrated fashion. When receiving integrated treatment services, offenders’ needs are treated by the same clinician and/or team in the same location. Offenders are unable to separate their mental health disorders from their substance abuse disorder; thus, treatment should not
be separated. When an integrated treatment approach is not available, it is essential that the officer ensure effective communication and consistency between treatment providers.

(c) The following integrated treatment services may be available for offenders diagnosed with co-occurring disorders:

(1) Individual Counseling for Co-Occurring Disorders (6015)

An intervention with one offender by a psychiatrist, psychologist, or masters-level therapist.

(2) Group Counseling for Co-Occurring Disorders (6026)

An intervention with two or more offenders that includes clinical intervention led by a trained and licensed/certified practitioner.

(3) Education Group for Co-Occurring Disorders (6027)

This group includes treatment readiness for clients or family members with little or no understanding of the interdependence of co-occurring mental health and substance abuse disorders.

(4) Short-Term Residential Treatment for Co-Occurring Disorders (6001)

Is defined as an inpatient treatment program for individuals who are suffering from both chemical abuse or dependence and a mental health disorder.

(5) Long-Term Residential Treatment for Co-occurring Disorders (6002)

Is defined as an intensive residential treatment program for individuals who are suffering from both chemical abuse or dependence and a mental health disorder.

§ 560.20.80 Medication-Assisted Treatment

(a) Counseling alone is not always effective. Medication-assisted treatment may provide the necessary symptom stabilization to improve the success of treatment. Medications are frequently used in conjunction with a clinical program of service. These medications must be prescribed by a
psychiatrist, other medical doctor, or a qualified practitioner with prescriptive authority.

(b) Officers should be familiar with the intended effects and side effects of medications taken by the offenders they supervise (see: National Institute of Mental Health publication Mental Health Medications (2008)). Officers should contact the prescribing physician or pharmacy for information regarding medication uses, side effects, and potential problems.

(c) Psychotropic medication must be taken as prescribed. These medications may cause various side effects, including slurred speech, drowsiness, constipation, sleep disruption, changes in appetite and weight, and sexual dysfunction. Officers should remind offenders taking psychotropic medications that the medication may not be effective unless taken as prescribed and encourage them to discuss the side effects with their treatment provider.

(d) Depending on the district’s available resources for treatment services, officers may be able to request Ongoing Medication Monitoring (6051) to verify that the offender is compliant with his or her medication requirements. Additional information about this service is available in the treatment services RFP.

(e) Offenders being released from Bureau of Prisons (BOP) correctional facilities should have up to a 60-day supply of all medications currently prescribed. The offender’s pre-release information from the BOP should include BOP Form BP-A-351 (Medical Psychological Pre-Release Evaluation), which includes useful information, such as the type of diagnosis and the type of medications and dosages.

(f) Throughout the course of supervision, officers should be linking offenders with community resources for medication assistance. Medication-assisted treatment frequently continues beyond the offender’s supervision term.

§ 560.20.85 Incentives as a Correctional Strategy

(a) As part of the multidimensional approach required for effective supervision (see: Guide, Vol 8E, Ch 1), officers are to use positive incentives to encourage pro-social behavior and reinforce progress toward objectives. The usefulness of positive incentives should not be underestimated. Research indicates that rewards are more effective than sanctions at influencing long-term behavior change. (Note: Taxman F., Tools of the Trade, 2005.) Incentives must be implemented in a swift, consistent, and graduated manner.
(b) Incentives are provided by adding a positive reinforcement or taking away an existing sanction or restriction. Officers must modify supervision plans to reflect earned achievement incentives, such as reduced restrictions or less frequent contact (see: Guide, Vol 8E, Ch 3).

(c) Recognition incentives may include:

- Verbal praise
- Letter of congratulations from officer, supervisor, chief, or judge
- Certificates of achievement or successful completion from officer, supervisor, chief, or judge
- Offender recognition sessions that may include judges, treatment providers, staff, and/or family to acknowledge accomplishment.

(d) Reduced supervision incentives may include:

- Petitioning the court to establish less intrusive conditions
- Moving the offender to less intensive treatment
- Reducing frequency of drug testing (if applicable)
- Moving to lower-intensity supervision (see: § 370.20)
- Petitioning the court for early termination of supervision (see: § 380.10)

(f) Common objectives, milestones, and possible incentives are as follows:

<table>
<thead>
<tr>
<th>§ 560.20.85(f) Common Objectives, Milestones, and Possible Incentives</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Common Mental Health Objectives</strong></td>
</tr>
<tr>
<td>(1) Remain medication compliant</td>
</tr>
<tr>
<td>(2) Participate in treatment in accordance with treatment plan</td>
</tr>
<tr>
<td>(3) Successfully complete treatment</td>
</tr>
</tbody>
</table>
§ 560.30 Controlling Strategies

§ 560.30.10 Managing Noncompliant Behavior

(a) The conditions of supervision provide a framework for community protection and behavior change. If an offender does not conform to these conditions, he or she is demonstrating noncompliant behavior.

(b) Common examples of noncompliant behavior among mentally ill offenders include:

- Missing treatment appointments
- Not participating or displaying inappropriate behavior in treatment
- Using alcohol or other controlled substances
- Missed or stalled drug or alcohol tests
- Positive drug or alcohol tests
- New criminal behavior
- Not taking medication as prescribed or abusing prescription medication
- Not reporting as directed

(c) When responding to noncompliant behavior, officers should refer to the principles and practices outlined in Guide, Vol 8E, Ch 6.

§ 560.30.20 Managing Decompensation

(a) Although offenders diagnosed with mental health disorders are no more violent than the general population, when an offender begins to show signs of decompensation, his or her risk of violence may increase. Signs of decompensation are diagnosis specific, but may include:

- Change in hygiene practices,
- Failure to take medication,
- Change in sleep habits,
- Change in appetite,
- Missed appointments,
- Hallucinations,
- Delusions, or
- Substance use.

(b) If the officer observes or receives information that an offender is exhibiting behavior consistent with mental health decompensation, the officer must take steps to ensure the safety of the offender, the community, and himself or herself.
§ 560.30.30 Responding to Threats of Violence

(a) Officers must always take threats of violence against themselves or others seriously and must respond immediately to any indication that the individual may be suicidal or homicidal. The following are potential suicidal or homicidal warning signs:

- Threatening to hurt or kill oneself or another
- Talking about wanting to hurt or kill oneself or another
- Looking for ways to kill oneself or another by seeking access to firearms, available pills, or other means
- Talking or writing about death, dying, or suicide when these actions are out of the ordinary for the person
- Feeling hopeless
- Feeling rage or uncontrolled anger or seeking revenge
- Acting reckless or engaging in risky activities seemingly without thinking
- Feeling trapped, like there’s no way out
- Increased alcohol or drug use
- Withdrawing from friends, family, and society
- Feeling anxious, agitated, or unable to sleep or sleeping all the time
- Experiencing dramatic mood changes
- Seeing no reason for living or having no sense of purpose in life

(b) The officer’s role in any mental illness decompensation leading to threats of violence is to ensure the safety of the offender, the community, and himself or herself. The following strategies must be implemented:

1. Cease home contacts
2. Staff the case with the mental health specialist and/or supervising U.S. probation officer
3. Contract for offender safety
4. Notify the local mental health crisis unit or local police department for a health and welfare check (e.g., to assess for emergency mental health commitment)
5. Immediately notify the treatment provider
6. Immediately notify any third party at risk
(7) Obtain warrant (if necessary)

(8) Follow through until the crisis is resolved

§ 560.30.40 Emergency Mental Health Commitments

(a) Offenders suffering from mental health disorders may require immediate medically monitored inpatient care in order to stabilize their symptoms. Each state or local jurisdiction has its own set of rules and procedures to accomplish this commitment. Emergency mental health commitments can be sought without direct intervention from the sentencing judge should the situation require such an intervention. Generally, offenders may be committed if one of the following conditions applies:

(1) Mentally Ill Persons
   Persons who are mentally ill and pose a danger to themselves or others;

(2) Mentally Retarded Persons
   Persons who are mentally retarded (developmentally disabled) and pose a danger to themselves or others; or

(3) Chemically Dependent Persons
   Persons who are chemically dependent, unable to manage personal affairs, and pose a danger to themselves or others.

(b) Officers should consult with the mental health specialist regarding the procedures for mental health commitments.

§ 560.30.50 Mental Health Supervision Matrix

For officers to better manage offenders with mental health disorders, interventions must be coordinated, address and enhance an offender’s readiness for change, and incorporate effective assessment and treatment. Below is a non-exhaustive matrix of the integrated, ongoing response and intervention model.
§ 560.30.50 Mental Health Supervision Matrix

<table>
<thead>
<tr>
<th>Mental Health Disorder</th>
<th>(1) Symptoms</th>
<th>(2) Supervision Activities</th>
<th>(3) Treatment Options</th>
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</thead>
<tbody>
<tr>
<td><strong>(a) Depression</strong></td>
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<tr>
<td>A depressive disorder is an illness that involves the body, mood, and thoughts. It is not the same as a passing &quot;blue&quot; mood. Depression can be episodic in nature.</td>
<td>Depressed or sad mood.</td>
<td>Obtain an appropriate diagnosis.</td>
<td>Counseling may be appropriate for mild forms of depression.</td>
<td>Immediately contact service provider to discuss symptoms and appropriate intervention.</td>
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<tr>
<td></td>
<td>Lack of interest or involvement in usual activities.</td>
<td>Refer to an agency that offers services that the offender can access post supervision.</td>
<td>Medication management and counseling (including individual, group, or IOP) may be appropriate for moderate to severe depression.</td>
<td>Staff the case with the MH specialist and/or SUSPO.</td>
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<tr>
<td></td>
<td>Significant change in weight.</td>
<td>Take all remarks about suicide or violence seriously.</td>
<td>Two of the short-term psychotherapies that research has shown helpful for some forms of depression are interpersonal and cognitive/behavioral therapies.</td>
<td><em>If threats to self or others:</em></td>
</tr>
<tr>
<td></td>
<td>Insomnia or increased need for sleep.</td>
<td>Do not accuse the offender of faking illness or of laziness or expect him or her &quot;to snap out of it.&quot;</td>
<td>Inpatient hospitalization may be required for cases with severe symptoms.</td>
<td>Cease home contacts.</td>
</tr>
<tr>
<td></td>
<td>Fatigue or loss of energy.</td>
<td>Keep reassuring the offender that, with time and help, he or she will feel better.</td>
<td>Important to monitor medication compliance.</td>
<td>Staff the case with the MH specialist and/or SUSPO.</td>
</tr>
<tr>
<td></td>
<td>Diminished concentration.</td>
<td>Maintain strong communication with the treatment provider.</td>
<td>Maintain strong communication with the treatment provider.</td>
<td>Notify the local mental health crisis unit or local police department for a health and welfare check (e.g., to assess for emergency mental health commitment).</td>
</tr>
<tr>
<td></td>
<td>Feelings of worthlessness</td>
<td>Develop collateral contacts to assess offender functioning.</td>
<td>Develop collateral contacts to assess offender functioning.</td>
<td>Immediately notify any third party at risk.</td>
</tr>
<tr>
<td></td>
<td>Recurrent thoughts of death, suicidal thoughts, attempts, or plans</td>
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<td></td>
<td>Follow through until the crisis is resolved.</td>
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<tr>
<td><strong>(b) Bipolar</strong></td>
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<tr>
<td>Bipolar disorder is a brain disorder that causes unusual shifts in an offender's mood, energy, and ability to function.</td>
<td>Mania symptoms (see depressive symptoms under depression).</td>
<td>Obtain an appropriate diagnosis.</td>
<td>Medication management and counseling (including individual, group, or IOP) is optimal for managing the disorder over time.</td>
<td>Immediately contact service provider to discuss symptoms and appropriate intervention.</td>
</tr>
<tr>
<td></td>
<td>Increased energy, activity, and restlessness.</td>
<td>Refer to an agency that offers services that the offender can access post supervision.</td>
<td>Two of the short-term psychotherapies that research has shown helpful for some forms of depression are interpersonal and cognitive/behavioral therapies.</td>
<td>Staff the case with the MH specialist and/or SUSPO.</td>
</tr>
<tr>
<td></td>
<td>Excessively &quot;high,&quot; overly good, euphoric mood.</td>
<td>Take all remarks about suicide or violence seriously.</td>
<td>Inpatient hospitalization may be required for cases with severe symptoms.</td>
<td><em>If threats to self or others:</em></td>
</tr>
</tbody>
</table>

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### § 560.30.50 Mental Health Supervision Matrix

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<tr>
<td>Different from the normal ups and downs that everyone goes through, the symptoms of bipolar disorder are severe. They can result in damaged relationships, poor job or school performance, and even suicide.</td>
<td>Extreme irritability. Racing thoughts and talking very fast. Distractibility, can't concentrate well. Little sleep needed. Unrealistic beliefs in one's abilities or powers. Poor judgment. Spending sprees. Increased sexual drive. Abuse of drugs, particularly cocaine, alcohol, and sleeping medications. Provocative, intrusive, or aggressive behavior. Denial that anything is wrong.</td>
<td>Violence seriously. Keep reassuring the offender that, with time and help, he or she will feel better. Monitor medication compliance. Maintain strong communication with the treatment provider. Develop collateral contacts to assess offender functioning. Mood changes can occur and should be reported immediately to the offender's treatment provider to prevent a full-blown episode. Regular daily routines are important to offenders with this disorder. Scheduled appointments may help protect against manic episodes and regularize their daily routines.</td>
<td>That research has shown helpful for some forms of depression are interpersonal and cognitive/behavioral therapies. Types of counseling commonly used for bipolar disorder are cognitive/behavioral therapy, psycho-education, family therapy, and interpersonal and social rhythm therapy. Inpatient hospitalization may be required for cases with severe symptoms.</td>
<td>Cease home contacts. Staff the case with the MH specialist and/or SUSPO. Notify the local mental health crisis unit or local police department for a health and welfare check (e.g., to assess for emergency mental health commitment). Immediately notify any third party at risk. Follow through until the crisis is resolved.</td>
</tr>
<tr>
<td>(c) Schizophrenia</td>
<td>The symptoms of schizophrenia fall into three broad categories: <strong>Positive symptoms</strong> are unusual thoughts or perceptions, including hallucinations, delusions, thought</td>
<td>Obtain an appropriate diagnosis. Refer to an agency that offers services that the offender can access post supervision. Take all remarks about suicide or</td>
<td>Schizophrenia is a chronic disorder that needs constant management. At the moment, it cannot be cured, but the rate of recurrence of psychotic episodes can be decreased by</td>
<td>Immediately contact service provider to discuss symptoms and appropriate intervention. Staff the case with the MH specialist and/or SUSPO.</td>
</tr>
<tr>
<td>Schizophrenia is a chronic, severe, and disabling brain disorder most often characterized by delusional thoughts and</td>
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**If threats to self or others or experiencing**
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<td>auditory or visual hallucinations.</td>
<td>disorder, and disorders of movement.</td>
<td>violence seriously. Verify antipsychotic medication compliance to decrease the likelihood of psychotic symptoms. To gain a clear picture of an offender’s risk and needs, an officer must maintain strong communication with the treatment provider and develop collateral contacts to assess offender functioning because offenders with schizophrenia often resist treatment, believing that their delusions or hallucinations are real. Delusional thinking and hallucinations can occur and should be reported immediately to the offender’s treatment provider to prevent a full-blown episode.</td>
<td>medication. Antipsychotic medications are prescribed in almost all cases. Counseling can help offenders who are already stabilized on antipsychotic medications. Inpatient hospitalization may be necessary during the course of treatment.</td>
<td>psychotic symptoms: Cease home contacts. Staff the case with the MH specialist and/or SUSPO. Notify the local mental health crisis unit or local police department for a health and welfare check (e.g., to assess for emergency mental health commitment). Immediately notify any third party at risk. Follow through until the crisis is resolved.</td>
</tr>
<tr>
<td>Negative symptoms</td>
<td>Negative symptoms represent a loss or a decrease in the ability to initiate plans, speak, express emotion, or find pleasure in everyday life. These symptoms are harder to recognize as part of the disorder and can be mistaken for laziness or depression. Cognitive symptoms (or cognitive deficits) are problems with attention, certain types of memory, and the executive functions that allow us to plan and organize. Cognitive deficits can also be difficult to recognize as part of the disorder but are the most disabling in terms of leading a normal life.</td>
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<td>(d) Anti-Social Personality Disorder</td>
<td>Deceitful.</td>
<td>The offender needs firm limits.</td>
<td>In spite of the fact that these individuals are very resistant to treatment, if you see many of these signs, a mental health evaluation may be a helpful tool to develop supervision strategies and achieve compliance.</td>
<td>Decompensation is often associated with new criminal activity.</td>
</tr>
<tr>
<td></td>
<td>Impulsivity or failure to plan ahead.</td>
<td>Officers should focus on helping the offender accept responsibility for his or her behavior.</td>
<td>Use controlling strategies sufficient but not greater than necessary to ensure public safety.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Irritability and aggressiveness.</td>
<td>Tight control, supervision, and clear and certain consequences for their actions are necessary.</td>
<td>Staff the case with the MH specialist and/or SUSPO.</td>
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<tr>
<td></td>
<td>Reckless disregard for safety of self or others.</td>
<td>Maintain strong communication with the treatment provider to avoid triangulation.</td>
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<tr>
<td></td>
<td>Consistent irresponsibility.</td>
<td>Develop collateral contacts to assess offender functioning.</td>
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<td></td>
<td>Lack of remorse.</td>
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<td></td>
<td>The offender may have a bigger investment in outsmarting the officer and beating the system than in effecting positive changes.</td>
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<tr>
<td>(e) Borderline (BPD)</td>
<td>Intense bouts of anger, depression, and anxiety that may last only hours, or at most a day.</td>
<td>Obtain an appropriate diagnosis.</td>
<td>Group and individual psychotherapy are partially effective.</td>
<td>Immediately contact service provider to discuss symptoms and appropriate intervention.</td>
</tr>
<tr>
<td></td>
<td>Episodes of impulsive aggression, self-injury, and drug or alcohol abuse.</td>
<td>Refer to an agency that offers services that the offender can access post supervision.</td>
<td>Dialectical behavior therapy (DBT) was developed specifically to treat BPD.</td>
<td>Staff the case with the MH specialist and/or SUSPO.</td>
</tr>
<tr>
<td></td>
<td>View themselves as fundamentally bad.</td>
<td>Take all remarks about suicide or violence seriously.</td>
<td>Insight-oriented therapy can be helpful but research is showing an increased support for a cognitive/behavioral approach.</td>
<td>If threats to self or others:</td>
</tr>
<tr>
<td></td>
<td>May feel unfairly misunderstood, bored, empty, have little idea who they are.</td>
<td>Monitor medication compliance.</td>
<td></td>
<td>Cease home contacts.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maintain strong communication with the treatment provider.</td>
<td></td>
<td>Staff the case with the MH specialist and/or SUSPO.</td>
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<td></td>
<td>Notify the local mental health crisis unit or local police.</td>
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<tr>
<td>This instability often disrupts family and work life, long-term planning, and the individual's sense of self-identity.</td>
<td>Highly unstable patterns of social relationships. Intense but stormy attachments; their attitudes towards family, friends, and loved ones may suddenly shift from idealization (great admiration and love) to devaluation (intense anger and dislike). Highly sensitive to rejection. Impulsive behaviors, such as excessive spending, binge eating, and risky sex.</td>
<td>Develop collateral contacts to assess offender functioning. Intense mood changes will occur and should be reported immediately to the offender's treatment provider. Great care should be taken when a male officer is supervising a female offender with this disorder. Attachment issues and sexual promiscuity with this population can put officers at risk.</td>
<td>Prognosis is difficult to assess. While the disorder is chronic in nature, gradual improvements with work are definitely seen.</td>
<td>department for a health and welfare check (e.g., to assess for emergency mental health commitment). Immediately notify any third party at risk. Follow through until the crisis is resolved.</td>
</tr>
<tr>
<td>Mental Health Disorder</td>
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<tr>
<td>Co-occurring BPD</td>
<td>Because individuals with co-occurring disorders have multiple diagnoses, they may have a high rate of: hospitalization, violent and criminal behavior, suicidal behavior, noncompliance with medication regimes, housing instability and homelessness, substance abuse relapse.</td>
<td>Obtain an appropriate diagnosis. Refer to an agency where practitioners provide combined mental health and substance abuse treatment. Take all remarks about suicide or violence seriously. Keep reassuring the offender that, with time and help, he or she will feel better. Monitor medication compliance. Monitor relapse through drug testing. Maintain strong communication with the treatment provider. Develop collateral contacts to assess offender functioning.</td>
<td>Counseling may be appropriate for some co-occurring disorders. Medication management and counseling (including individual, group, or IOP) may be appropriate for cases with moderate to severe symptoms. Inpatient hospitalization may be required for cases with severe symptoms. Sending people with dual disorders to substance abuse treatment programs or to self-help groups such as AA, without offering substance abuse treatment in the mental health setting, is not an effective approach.</td>
<td>Immediately contact service provider to discuss symptoms and appropriate intervention. Staff the case with the MH specialist and/or SUSPO. If threats to self or others or experiencing psychotic symptoms: Cease home contacts. Staff the case with the MH specialist and/or SUSPO. Notify the local mental health crisis unit or local police department for a health and welfare check (e.g., to assess for emergency mental health commitment). Immediately notify any third party at risk. Follow through until the crisis is resolved.</td>
</tr>
</tbody>
</table>
§ 560.40 Concurrent Planning

§ 560.40.10 Contract versus Non-Contract Treatment Providers

(a) Officers are responsible to investigate treatment options for offenders. Officers should refer offenders to treatment providers that are able to provide long-term treatment. Some offenders are entitled to services from community mental health centers or veterans hospitals at no or limited cost to the offender. Although funds are allocated for mental health treatment, non-contract treatment services must be sought for any offender that is eligible. Placing an offender in non-contract treatment ensures the consistency and continuity of treatment beyond the term of supervision.

(b) Many offenders with chronic mental disorders are eligible for income and benefits provided through Social Security Insurance (SSI), a type of disability insurance. Persons with mental disorders may need assistance when applying for SSI benefits and when preparing the multiple appeals that are typically required. Officers can provide this assistance or refer the offender to local community resources, such as case-management services offered through United Way agencies.

(c) When an individual becomes incarcerated, his or her SSI benefits will be suspended. The offender must reapply and provide proof of release from custody to reinstate these benefits. This process can begin once the offender has been transferred to a Bureau of Prisons Residential Re-Entry Center (RRC). During the pre-release process, officers should work with the Bureau of Prisons RRC staff to ensure that eligible offenders are reapplying for SSI benefits. Psychiatrists are required to complete and sign the application. Therefore, if the application process has not been completed prior to the commencement of supervision, officers may need to make sure that treatment providers are assisting offenders with applying for these benefits.

§ 560.40.20 Treatment Termination

(a) If a mental health treatment provider recommends terminating treatment because of a lack of participation, cooperation, or progress in therapy, the officer must request a discharge summary.

(b) The officer should staff the termination decision with a mental health specialist and/or supervising U.S. probation officer if the officer believes any of the following to be true:
(1) The offender is currently dangerous to himself or herself or to others, potentially suicidal, noncompliant with the medication regime, or unable to care for himself or herself.

(2) There is reason to believe that the offender's condition will deteriorate and/or become dangerous without treatment.

(3) The offender continues to exhibit symptoms of a disorder.

(c) If the officer, the specialist, and/or the supervisor believes that any of the above is true, a meeting should be held with the provider to share the concerns regarding termination of treatment, and a referral to another provider may be necessary.

(d) Persons with mental disorders are prone to relapse; thus, the treatment condition should not be removed if treatment is terminated.

§ 560.40.30 Monthly Treatment Reports

(a) While an offender is in treatment, the contract treatment provider must prepare a Monthly Treatment Report (Form PROB 46) every 30 days and a written treatment plan every 90 days. The monthly treatment report must detail the offender's progress. The treatment plan must include specific and measurable goals and objectives with target completion dates. The officer should work closely with the treatment provider to ensure that the offender is receiving goal-directed services and is actively participating in the treatment process.

(b) Officers should encourage non-contract treatment providers to submit a written monthly report. This report should detail the offender's progress in treatment.

§ 560.40.40 Transition from Treatment

(a) The provider should include a justification in the treatment plan documenting the offender's continued need for treatment. If recommending termination, the provider should complete a discharge summary and outline the reason for concluding formal services (i.e., whether the offender responded to treatment and treatment is no longer needed, or whether the offender failed to respond to treatment). Additionally, the discharge summary should include recommendations for community-based aftercare that the offender can readily access. The officer should receive the discharge summary at the conclusion of treatment.
(b) This discharge summary must be reviewed during a three-way meeting at the conclusion of treatment services. This meeting should be a face-to-face interaction; however, if this is not possible, a conference call between the parties will suffice. The purpose of this meeting is to provide positive feedback regarding the offender’s progress in treatment and to ensure a successful transition to aftercare services.

(c) When treatment is terminated, either successfully or unsuccessfully, a Form PROB 45 must be completed. This form, signed by the referral agent, must indicate that all services are terminated.

§ 560.40.50 Transition from Supervision and Beyond

(a) The community is best served when the offender remains symptom free, employed, and invested in healthy relationships beyond the period of supervision. Transitioning is defined as the process of moving an offender from a formal treatment relationship to a community-based aftercare program that is managed by the offender and monitored by the officer. Transitioning from treatment is conducted throughout the treatment process through the technique of concurrent planning. Concurrent planning is the process by which the officer begins the transition planning at the commencement of supervision. This process ensures that the offender possesses the tools and community resources necessary to function under decreasing levels of supervision.

(b) The officer should be aware of community-based programs and services that aim to help offenders with treatment needs or provide support. These programs may include day reporting centers, specialized housing, 12-step programs, and programs that assist those with medical needs and medication services. Ongoing communication with collateral contacts is essential after formal treatment services conclude to ensure that the offender is in compliance with the aftercare plan in the community.

(c) Goals of supervising an offender with mental illness are to provide long-term symptom management and a non-criminal lifestyle. It is critical to provide supervision, treatment, and aftercare planning to maximize the offender’s ability to be a productive member of society post-supervision. Although mental health stability may require lifetime symptom management, it is critical that the offender’s criminogenic needs not be forgotten. It is believed that if an offender can maintain criminogenic behavior change for 3 years after supervision termination, the change was internalized. Transition planning for mentally ill offenders must include symptom management services and skills and services to mitigate ongoing criminogenic needs.
Guide to Judiciary Policy

Vol 8: Probation and Pretrial Services
Part E: Supervision of Federal Offenders (Monograph 109)

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§ 660 Tips for Managing Noncompliance

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§ 610 Overview

(a) The conditions of supervision fix the behavioral limitations with which the offender must comply. Offender actions that do not conform to the conditions of supervision constitute noncompliant behavior. An integral part of the officer’s job is to assess the likelihood that the offender will not comply and to implement strategies to prevent noncompliant behavior before it occurs. When, despite these efforts, offenders do not comply with their conditions, officers are to immediately begin an investigation, assessment, and planning cycle aimed at documenting the circumstances and managing the enhanced risk. Management of noncompliant behavior is a key to effective supervision.

(b) Noncompliant behavior may consist of new criminal activity or failure to meet the requirements of other conditions, commonly known as technical violations. Because noncompliant behavior can take many forms and may or may not entail substantial safety concerns, officers should be particularly attentive to the thoroughness and objectivity of their assessment, the judicious exercise of their authority, and their professional demeanor when addressing noncompliance with offenders. All responses are to be sufficient but not greater than necessary to bring this individual offender into compliance and promote his or her successful reintegration into the community.

(c) Officers are expected to fashion their response to noncompliance in the following way:

1. Select an appropriate intervention that includes both:
   
   A) controlling strategies to hold the offender accountable for his or her actions and
   
   B) correctional strategies to provide assistance and offer the offender every opportunity to succeed.

2. Assess the need for any additional monitoring strategies to maintain the proper level of awareness of the offender’s condition and behavior.

3. As appropriate, report to or request action by the court or Parole Commission in a timely manner.

4. Document the noncompliance and each of the above elements of the overall response in the chronological record.
(d) The next two sections of this chapter (§ 620 and § 630) set forth guidance on implementing these steps. (Note: Additional resources include Dealing with Noncompliant Behavior (Federal Judicial Center, 2000) and Communication for Problem Management (Federal Judicial Center, 2000).) Following these are sections on revocation procedures (see: § 640) and other revocation issues (see: § 650). The last section presents tips for managing noncompliant behavior (see: § 660).

§ 620 Determining the Appropriate Intervention

§ 620.10 Philosophy

(a) Intervening early and effectively in response to noncompliant behavior will foster success during the period of supervision and beyond. To do nothing in response to any violation, no matter how minor, only invites further noncompliance. Not responding, or responding with only covert detection activities, is not a viable option for effective supervision.

(b) Officers are to respond to all instances of noncompliance with a “two-pronged” approach that includes a combination of controlling and correctional interventions designed both to provide a negative consequence for the noncompliant behavior and to change the circumstances that contributed to that behavior.

(c) Controlling interventions are directed at deterring future noncompliance by holding offenders accountable through reprimands, warnings, or the imposition of more intrusive or restrictive requirements to serve as negative consequences for their behavior. Correctional interventions are directed at promoting future compliance by assisting the offender through information, education, training, counseling, or treatment to bring about positive changes in the circumstances that led to the noncompliance.

(d) It is the implementation of multidimensional and purposeful interventions that distinguishes supervision from mere monitoring and reporting of offender activities. Research has demonstrated that this combination of controlling and correctional strategies is far more effective than selecting one strategy over the other. (Note: J. Petersilia, "Intermediate Sanctions: What Have We Learned?" in Perspectives on Crime and Justice: 1997-1998 Lecture Series (National Institute of Justice 1998) p. 89.) The selection and implementation of the appropriate combination in the individual case is to be guided by the principles and framework described in the following sections.
§ 620.20 Principles

The standard for selecting appropriate strategies in response to noncompliance is that they be *sufficient, but not greater than necessary*, to achieve sentencing purposes and the objectives of supervision. Interventions are further to be purposeful and proportionate, multidimensional, certain and timely, realistic and escalating.

(a) Purposeful and Proportionate

Interventions are to be directed towards the defined objectives of supervision, as determined by the initial and ongoing assessments, and guided by the need to:

- protect the community;
- promote compliance with court orders; and
- facilitate positive change.

Interventions should further relate to the nature and degree of the noncompliant behavior and to the context in which the behavior occurs. Contextual elements to be evaluated include the past history of the offender, his or her overall adjustment during this period of supervision, and the circumstances surrounding the current instance of noncompliance. Because of these factors, an intervention used for one offender may not be appropriate for another offender even though both engaged in the same conduct. For specific examples, see: Guide, Vol 8E, § 550.20.

(b) Multidimensional

Interventions should include both controlling and correctional strategies. The most minor infraction can be addressed with a warning and re-instruction. The most serious infraction can be addressed with a recommendation for revocation and for correctional conditions of any term of release that may follow. For the myriad circumstances in between, the two types of strategies are to be combined in a blend suited to the circumstances and needs of the case.

(c) Certain and Timely

Interventions should have some elements that officers have the authority to implement under existing conditions and that can be implemented swiftly, e.g., increasing the frequency of substance abuse testing and preparing the offender for treatment while awaiting placement in a drug
treatment program. A threatened consequence that is not enforced will have little deterrent value and can undermine respect for the court order. A delayed response may result in offenders not fully recognizing the association between their behavior and its consequences.

(d) Realistic

Intervention requirements should not be impractical in and of themselves (e.g., 80 hours of community service a week) or so burdensome that they will likely interfere with an offender’s employment or family responsibilities (e.g., reporting to a distant probation office multiple times a week at 9:00 a.m.) or be beyond the offender’s ability to achieve (e.g., getting a job within 24 hours). Unrealistic expectations facilitate failure rather than success.

(e) Graduated

Repeated instances of noncompliance are to be addressed by increasingly more intensive interventions. Each subsequent response should be the next least intrusive deemed sufficient to accomplish supervision objectives.

§ 620.30 Preferences for Community-Based vs. Revocation Responses

(a) Community-based interventions are the preferred response to technical violations of release conditions except where a community-based intervention is not permitted by statute or is discouraged by United States Sentencing Commission policy, or the behavior:

(1) is part of a pattern that in this offender’s past has been associated with a significant and imminent threat to public safety; or

(2) represents repeated noncompliance after less intrusive community-based interventions have failed.

(b) A request for revocation is the preferred response when the noncompliance:

(1) poses a significant and imminent risk to the community;

(2) constitutes new felonious criminal behavior, i.e., is a Grade A or B violation as defined by U.S.S.C. Guidelines Manual, §7B1.1 (policy statement);
(3) is part of a pattern of chronic or serious noncompliance; or

(4) is otherwise required by statute.

(c) Title 18 U.S.C. § 3583(k) mandates revocation of supervised release and the imposition of a new term of imprisonment of at least 5 years if an offender required to register under the Sex Offender Registration and Notification Act commits any felony offender under chapter 109A, 110, or section 1201 or 1591.

(d) Under 18 U.S.C. § 3583(g), revocation of supervised release is required if the offender possesses a firearm or a controlled substance, refuses to comply with required drug testing, or tests positive for illegal controlled substances more than three times over the course of one year. Title 18 U.S.C. § 3583(d), however, directs that the court shall consider whether the availability of appropriate substance abuse treatment programs, or an individual's current or past participation in such programs, warrants an exception to these provisions when considering any action against a defendant who fails a drug test. Similar provisions for probation are provided at 18 U.S.C. §§ 3565(b) and 3563(e).

(Note: The 18 U.S.C. § 3565(b) mandatory probation revocation provision for failure to comply with a drug test erroneously refers back to a violation of the condition imposed by § 3563(a)(4) — which requires a mandatory treatment condition in domestic violence cases — rather than subsection (a)(5), which is the subsection that requires mandatory drug testing. This is the result of a congressional drafting error that occurred in 1996 when the current (a)(4) was added to the list of mandatory probation conditions without a conforming amendment to the cross-reference in § 3565(b). It is, however, clear from the plain wording of § 3565(b) that it is the drug testing condition that triggers the provision.)

Officers are always to assess the potential applicability of the treatment exception for offenders who test positive for drug use.

(e) When assessing the risks presented by noncompliant behavior, it is important to keep sight of both short-term and long-term public safety goals. There are circumstances where revocation is clearly the appropriate response to address imminent safety concerns or when other options have failed to address the ongoing and willful violation of other conditions. But revocation for technical violations is a short-term solution. Revoked offenders come back to their communities — with or without an additional period of supervision — and they come back, on average, in less than a year. The relatively short terms of imprisonment that are
available upon revocation are a natural consequence of the determinate system under which the supervised releasees who now dominate the post-conviction supervision population were sentenced. See: Guide, Vol 8E, § 160.10.20.

(f) The officer’s long-term safety priority is the reintegration of the offender into the community during the current term of supervision, i.e., working proactively to avoid noncompliance in the first place or implementing community-based interventions to bring the offender back into compliance whenever possible. But even when officers determine that they are no longer able to safely manage risk in the community, they are still to consider recommendations that will assist in the offender’s eventual reintegration, such as appropriate Federal Bureau of Prisons placements or conditions of release if the recommendation includes an additional term of supervision to follow revocation. Such recommendations comprise the “correctional prong” of responding to noncompliance in revocation cases.

§ 620.40 The Intervention Framework

(a) The advisory framework for responding to noncompliance groups violation behavior into three general categories of severity — low, moderate, and high — based on the seriousness and chronicity of the violation behavior; for each, a non-exhaustive list illustrates potentially appropriate responses, suggested time frames, and associated staffing, approval, and reporting processes. The framework is designed as a starting point for responding to noncompliance and is meant to stimulate rather than constrain creative and individualized interventions tailored to the circumstances of the offender and the behavior. (For information on applying the framework to the individual case, see: § 620.50.)

(b) Depending on the type of interventions deemed appropriate and the offender’s current conditions, some responses may require a request for modification of the conditions of release; others will not. (For procedures to request modification of conditions with and without the offender’s consent, see: § 630.30.50 and § 630.30.60.) Officers may never undertake an intervention that is not consistent with the existing conditions of release and circuit law.

§ 620.40.10 Low Severity Violations

Low severity violations are minor and nonrecurring. They should ordinarily result in a community-based response. There should be a logical link between the interventions selected and the nature of the violation, e.g., reprimanding and reviewing conditions in response to a first-time failure to report. Staffing with the supervisor is optional. A report
to the court or Parole Commission is optional. (For guidance on reporting violations, see: § 630.30.)

(a) Low Severity Violations: Examples

- All non-recurring technical violations
- Minor traffic infractions (unless a violation of a special condition)
- Minor offense conduct (for examples, see: U.S.S.G. § 4A1.2(c)(2)), unless an actual arrest occurs or such behavior is part of a pattern of noncompliance

(b) Example Responses

(1) Controlling Interventions (not an exhaustive list)

- Deliver oral reprimand
- Deliver written reprimand
- Set limits
- Establish deadlines
- Assign minor restrictions
- Establish behavioral expectations
- Increase reporting
- Intensify supervision
- Restrict travel
- Increase overt surveillance
- Conduct drug or alcohol test

(2) Correctional Interventions (not an exhaustive list)

- Review conditions
- Counsel or give advice
- Provide job assistance
- Refer for services
- Refer to self-help group
- Provide budget or financial help
- Enlist collateral support
- Provide or refer for marriage counseling, parenting skills, life skills, etc.

§ 620.40.20 Moderate Severity Violations

Moderate severity violations are more chronic or severe in nature. They should ordinarily result in community-based responses unless the violation is part of a pattern that in this offender’s past has been associated with a significant and
imminent threat to public safety or revocation is required by circuit law. Responses should generally be staffed with the supervisor and implemented within two weeks. A report to the court or Parole Commission is required.

(a) Moderate Severity Violations: Examples

- Grade C violations as defined by U.S.S.G. § 7B1.1(a)(3)
- An arrest, other than for minor traffic violations (Low Severity) and that is not a felony (High Severity)
- Failure to pay financial sanctions by specific date or refusal to provide requested financial information
- Any positive drug test not justified by a prescription
- Two or more drug test stalls (failure to produce specimen)
- Four or more failures to comply with treatment obligations or services, including no-shows (see exception for sex offenders)
- Two or more failures to comply with sex offender treatment
- Misdemeanant offense conduct (punishable up to 1 year in jail), whether arrested or not
- Serious traffic violations (hit and run, reckless endangerment, first DUI)
- Noncompliance with special conditions of supervision that are not High Severity
- Behavior that risks public safety that may be managed in the community
- Noncompliance of public notoriety (media reported)
- Violation of home confinement, first or second occasion
- Recurring noncompliance with respect to a fine or restitution (see: 18 U.S.C. § 3572(h) and (i) and 18 U.S.C. §§ 3613 and 3614)
- Recurring technical violations

(b) Illustrative Responses

(1) Controlling Interventions (not an exhaustive list)

- Noncompliance meeting in office
- Staffing with supervising U.S. probation officer or manager
- Administrative hearing
- Letter of warning, written reprimand
- Intensive supervision
- Increased drug testing
- Curfew (with or without electronic monitoring)
- Home detention (with or without electronic monitoring)
- Placement in Residential Reentry Center for monitoring
- Levy wages
• Controlling community service
• Financial Investigation
• Referral to IRS
• Referral for investigation
• Punitive community service
• Intermittent confinement (see: 18 U.S.C. § 3563(b)(10))
• Request revocation (optional)

(2) Correctional Interventions (not an exhaustive list)

• Review conditions or reinstruct
• Counsel and advise
• Increase counseling
• Outpatient counseling
• Intensive outpatient treatment
• Inpatient services
• Expand delivery of social services
• Medical or psychiatric consultation
• Place in Residential Reentry Center for services
• Budget or financial services
• Correcting community service
• Refer to self-help group
• Job training or placement
• Clinical intervention
• Vocation rehabilitation
• Enlist collateral support
• Refer for anger management sessions
• Establish behavioral contract

§ 620.40.30 High Severity Violations

High severity violations are those that require revocation by statute, involve substantial risk to the public, or represent repeated noncompliance after less intrusive community-based interventions have failed. They will ordinarily result in a request for revocation. Responses should generally be staffed with the supervisor and implemented within one week from the time that sufficient evidence has been assembled to support a request for revocation. Recommendations for a response other than revocation should be reviewed and approved by the supervisor and the chief or deputy chief. An alternate supervisor or staff specialist may be designated to participate in this staffing in lieu of, or in addition to, the chief or deputy chief. A report to the court or Parole Commission is required.
(a) High Severity Violations: Examples

- Grade A or B violations as defined by U.S.S.G. §§ 7B1.1(a)(1) & (2) (see also: 7B1.3(a)(1));
- Any felonious conduct (whether arrested or not) that can be established by preponderance of the evidence;
- Chronic violations of Low Severity and recurring violations of Moderate Severity, where intermediate sanctions and correctional strategies were ineffective;
- Recurring noncompliance with any special condition, where intermediate sanctions and correctional strategies were ineffective;
- Possession of a controlled substance;
- Possession of a firearm, silencer, or destructive device as defined by 18:921;
- Refusal to comply with court-ordered drug testing;
- Third or subsequent home confinement violation;
- Second or subsequent DUI;
- Four or more positive drug tests, without prescription verification; six or more failures to comply with treatment obligations or services, including no-shows (see exception for sex offenders);
- Four or more failures to comply with sex offender treatment;
- Physical interference or subterfuge with a drug test, for example, bringing foreign urine or contaminates to the drug testing site;
- Conduct representing imminent threat of serious physical or financial harm to self or others;
- Actual threats made against the public welfare or probation or court personnel.

(b) Example Responses

(1) Controlling Interventions
• Request for revocation except where special circumstances warrant a less arduous response as approved by the chief, deputy chief, or alternate supervisor or staff specialist designated by the chief.

(2) Correctional Interventions (not an exhaustive list)

• Consider suitability for voluntary surrender or remand following revocation (see: 18 U.S.C. § 3143);

• Consider Bureau of Prisons designation issues that may be relevant to the offender’s needs;

• Consider institutional program needs (e.g., drug treatment program);

• Consider specialized programs (e.g., boot camp, Residential Reentry Center, mental health facility);

• Recommend individualized special conditions of any supervised release term that may follow.

§ 620.50 Applying the Framework to the Individual Case

(a) The ultimate objective is to apply the principles of managing noncompliance to the individual case. In the business of supervising offenders, there is always the need to individualize the response and there are always exceptions to the general rule. Exceptions to the generally appropriate response based on the seriousness or chronicity of the violation behavior alone — as well as the selection of particular combinations of controlling and correctional interventions — should be based on an assessment of the implications for public safety given the overall circumstances of the offender and the context in which the violation occurred. The response times may also be altered as appropriate. For example, some suspected violations are complex and will require lengthy investigation to determine and document their occurrence. In such cases, the officer is to confer with the supervisor to discuss appropriate investigative activities and target time frames and may submit an interim report to the court.

(b) The determination of the appropriate intervention in response to noncompliance is to be a collaborative professional decision-making process implemented through case staffings. The involvement of
supervisors, office specialists, and occasionally office management will also promote consistency of decision-making throughout the district.

§ 620.50.10 Exceptions to the General Framework Requirements

Examples of context-based exceptions to the general framework requirements are:

(a) Driving Under the Influence

Driving Under the Influence (DUI) is classified as a moderate severity violation for which revocation is an option but is not favored. Requesting revocation may be appropriate, however, if the offender is under supervision for or has a history of DUI, or if there were aggravating circumstances present.

(b) Unauthorized Association with a Felon

Unauthorized association with a felon is classified as a low severity violation, but there may be instances where the nature of the unauthorized association is so closely related to the offender’s past pattern of criminal behavior that a request for revocation is warranted.

(c) Testing Positive for Drugs

Testing positive for drugs does not become a high severity violation until the fourth instance, but an offender with a chronic criminal history marked by violence and a negative supervision history who tests positive for phencyclidine and is not attending treatment may be ripe for a revocation request well before the fourth positive.

(d) Episodic Drug User

The episodic drug user who is actively participating in treatment, is making progress towards other objectives, and is not considered a danger to self or others should be given more consideration. This may be the offender who was referred for treatment on the basis of one or more positive tests and, much later following a period of compliance, briefly relapses, thereby generating the third and fourth positives in rapid succession. It is this offender, the one who is working in treatment and who is otherwise compliant, for whom the exception to requesting revocation in the “High Severity” category may be appropriate if consistent with circuit law.
§ 620.50.20 Selecting Elements of Community-Based Interventions

(a) The overall intervention is comprised of the various controlling and correctional elements and is to be sufficient, but not greater than necessary, to bring this individual offender into compliance and promote his or her successful reintegration into the community. The intrusiveness of the overall intervention is determined by:

(1) The nature of each individual element. For example, warning is less intrusive than restricting and re-instructing is less intrusive than treatment; and

(2) How the strategies are implemented and combined. For example, involving office management or notifying or involving the court or Parole Commission can be used to add weight to an otherwise lower-end intervention; a verbal warning and re-instruction by an officer falls lower on the continuum than would a written warning and re-instruction by the chief or supervisor with a copy to the court.

(b) Further, within the proportionality constraints of the intervention principles, officers should be innovative in their approach and creative in crafting responses suited to the situation. Officers should give thought to what is likely to be experienced as a negative consequence by this particular offender and to the most likely causes of his or her noncompliance that need to be addressed to avoid further problems. The goal is to appropriately blend and tailor strategies to provide what this offender needs for a successful reintegration into the community.

(c) In making these determinations, officers should consider the purposes of each available strategy. The purposes of some common community-based controlling strategies are as follows:

(1) Reprimands and warnings serve primarily to put the offender on notice that the misconduct has been detected and that additional steps will be taken if there is a recurrence. They may be oral and/or written, with the content of the warning to be guided by the intervention framework (see: § 620.40) and the officer’s assessment of the type of next least intrusive intervention that is likely to be perceived as a disincentive by the particular offender.

(2) Increased reporting serves to clarify for the offender that not complying with conditions will result in more burdensome requirements to document his or her activities.
(3) Administrative compliance reviews conducted by probation office management and judicial compliance hearings before the court emphasize the involvement and support of the office and/or court in responding to noncompliance.

(4) Increased restrictions make it clear to the offender that not complying with conditions will result in more limitations on freedom of movement and choice.

(5) Increased overt surveillance activities (e.g., increased testing for substance use; more frequent home and community contacts) make it clear to the offender that he or she is being watched more closely. Note that increased surveillance of which the offender is not aware is something that may be added to the overall response to enhance awareness, but is not considered an intervention and so does not satisfy the requirement to implement a controlling strategy.

(d) Extension of a term of probation or supervised release should be requested of the court only when an extension for a specified period of time will allow an uncooperative offender to fulfill specific special conditions of supervision, e.g., completion of drug treatment. (Note: Extension of a parolee's supervision beyond the full term expiration date can only be accomplished by revoking the term and denying the parolee street time credit for one of the permissible reasons outlined at 18 U.S.C. §§ 4210(b) and (c).) Such requests are not appropriate if the offender has outstanding monetary penalties, but has been in compliance with the conditions of supervision (including the schedule of payments) and has merely been unable to meet financial obligations due to an inability to pay.

(e) Six months prior to the expiration of supervision in any case with outstanding monetary penalties, officers are to notify the financial litigation unit of the United States attorney's office that an offender with an unpaid balance on his or her monetary penalty will soon complete the term of supervision. (Note: It is the United States attorney's office that is assigned the responsibility for collecting an unpaid fine or restitution (18 U.S.C. § 3612(c)). The United States attorney's office also has considerable means at its disposal for effecting collection for a period of up to 20 years from the later of the date (a) judgment was entered or (b) the offender was released from prison.)

Note: For specific procedures, see: Guide, Vol 8G (Criminal Monetary Penalties (Monograph 114)), §680 (Expiration of Supervision).
(f) The purposes of some common community-based correctional strategies are as follows:

(1) Re-instruction provides clear guidance to the offender as to exactly what he or she must do (or not do) to avoid a recurrence of the noncompliance. The re-instruction may be oral and/or written; be formalized through behavioral contracts; and/or include such things as requiring the offender to review a supervision orientation tape or attend another orientation meeting.

(2) Education or training provides the offender with additional information and skills. It may be provided by the officer, by specialists on staff, or via referral to contract or non-contract providers in the community.

(3) Therapeutic assessment serves the primary purpose of providing both the offender and the officer with information about the nature and extent of a suspected substance abuse or mental health problem and the need for and most appropriate form of remedial counseling or treatment. Assessments are always to be followed by appropriate action as indicated by the results.

(4) Counseling or treatment provides the offender with professional assistance in overcoming an identified substance abuse or mental health problem. The intensity will vary by approach (outpatient, inpatient, or therapeutic community) and session frequency and/or length of stay.

§ 620.60 Summary of Intervention Principles

Intervention principles may be summarized as follows:

(a) Every instance of noncompliance is to be addressed in order to keep small problems from becoming larger ones. The response must be consistent with the conditions of release and circuit law and be logically connected to the nature of the violation.

(b) The specific blend of interventions selected should be the least restrictive necessary to meet the objectives of supervision in the individual case, and the interventions are to be purposeful and proportionate, multidimensional, certain and timely, realistic and graduated.

(c) Officers should always employ a two-pronged approach to managing noncompliance that will:
(1) hold the offender accountable, and yet

(2) offer every opportunity to succeed under supervision. First, provide a negative consequence in the form of a controlling strategy. Then, immediately undertake some action to correct or treat the problem. For example:

(A) Unauthorized Travel (with no outstanding financial penalties; no prior association between travel and criminal activity)

Prohibit leisure travel for a specified period of time and review the conditions of supervision with specific emphasis on the procedure that must be followed prior to traveling.

(B) Unauthorized Drug Use

Immediately confront the offender and institute more frequent testing, and then follow with in-house screening and/or preparation and referral of the offender for substance abuse treatment.

(d) When implementing the two-pronged strategy, always be sure that the offender understands the difference between the purposes of the controlling and correctional strategies. Both are designed to change behavior, but both officers and offenders must recognize that the purpose of controlling strategies is to deter and that the purpose of correctional strategies is to provide the offender with tools designed to address the underlying cause.

(e) The goal is the successful completion of the term of supervision during which the offender commits no new crimes; is held accountable for victim, family, community, and other court-imposed responsibilities; and prepares for continued success. When the offender’s behavior compromises community safety or system integrity such that this goal is not possible for the current term of supervision, officers take steps to lay the groundwork for a more successful community reintegration the next time around.

§ 630 Completing the Response to Noncompliance

§ 630.10 Assessing the Need for Additional Monitoring Strategies

The officer’s responsibility to maintain awareness of the offender’s behavior and circumstances is distinct from the responsibility to intervene proactively in response to
noncompliance. Officers are to assess whether there is a need for any additional monitoring activities to maintain a proper level of awareness, e.g., more frequent contact with law enforcement.

§ 630.20 File Documentation

(a) Appropriate file documentation assists officers in managing their caseload, facilitates effective and efficient supervisory review, and builds a clear record to support more intrusive responses to any subsequent noncompliance.

(b) Each instance of noncompliance, and the response to that noncompliance, must be documented clearly and concisely in the chronological record. The entry is to identify the nature of the noncompliance and the required controlling and correctional elements of the intervention as well as any additional monitoring strategies that are planned to maintain awareness.

§ 630.20.10 Examples of File Documentation

(a) Example 1

**Noncompliant Behavior:** Offender tested positive for THC on 1/1/08.

**Consequence:** Offender required to report to office. Drug testing increased to Phase I. Court to be notified.

**Correctional Action:** Reviewed conditions of supervision and elements of program plan. Discussed additional sobriety support systems.

(b) Example 2

**Noncompliant Behavior:** Failure to meet reporting instructions. Failure to submit UA on 6/16/08.

**Consequence:** Offender required to report to office for UA. Compliance review with SUSPO.

**Correctional Action:** Reviewed and explained DATS and reporting instructions.
§ 630.30 Reporting Noncompliance

§ 630.30.10 Guidance


§ 630.30.20 Jurisdiction

Noncompliance should be reported to all of the courts that have jurisdiction over the offender. If another court has jurisdiction, the officer should send the report through the probation office in the other district and request transfer of jurisdiction. The Judicial Conference recommends transfer of jurisdiction for offenders in violation of the conditions of release to reduce burden and expedite the response.

§ 630.30.30 Standards

(a) All instances of noncompliance are to be reported promptly to the court or Parole Commission when they come to the officer’s attention unless:

(1) the noncompliance is minor, is not part of a continuing pattern of noncompliance, and is not indicative of a serious adjustment problem; and

(2) non-reporting will not present an undue risk to the public or be inconsistent with court directives or district policy.

(b) The following types of noncompliance are to be given reporting priority in accordance with local district policy:

(1) New Criminal Conduct

All alleged violations of the condition to obey all federal, state, and local laws punishable by any term of imprisonment. It is awareness and verification of the conduct itself, rather than the presence of a conviction, that triggers the reporting requirement.

(2) Alleged Violation that Carries a Mandatory Revocation Penalty
All alleged violations for possession of firearms or controlled substances, or for failure to comply with a mandatory drug test. See: 18 U.S.C. §§ 3565(b) and 3583(g) and Guide, Vol 8E, § 620.40, the intervention framework.

(3) Offender Unavailable for Supervision

All instances of absconding from supervision.

(4) Alleged Violation of Confinement or Tracking Conditions

Serious or repeated instances of noncompliance with conditions of regional re-entry center confinement, home confinement (including curfew), intermittent confinement, or remote offender locator tracking.

(5) Threat to Public Safety

Any other type or pattern of noncompliance that constitutes a risk to the community as determined by the officer's assessment of the nature of the alleged violation behavior(s) and the offender's past pattern of criminal activities. This includes, but is not limited to, the reporting of any alleged willful violations of risk-related special conditions, e.g., treatment, access to financial information, occupational restrictions.

(6) Financial Obligation in Default

Fines in default (as required by 18 U.S.C. § 3603(7)) and restitution in default. Under 18 U.S.C. § 3572(i), a fine or restitution is in default if payment is more than 90 days late.

§ 630.30.40 Informational Reports

If court action is not requested, the officer should complete a Form PROB 12A (Report on an Offender Under Supervision – No Court Action Requested) or its equivalent. This report should include a summary of the noncompliant behavior and the action taken, including both the controlling and correctional elements of the intervention, and any additional monitoring strategies deemed necessary. This report will give the judge the opportunity to review the conduct of the offender and the action taken by the officer. It will also document how a graduated response policy is being implemented in this case and thereby establish a record that is likely to enhance the probability of a positive response to any subsequent recommendations for court action should the noncompliance continue.
§ 630.30.50 Request for Court Action With Consent and Waiver

(a) An appearance in court is not required if the offender waives his or her rights to a hearing and representation by counsel and agrees to a modification of conditions (F.R.Crim.P. 32.1(b)). It is essential that the offender not be coerced or misled into signing a waiver. In particular, it should never be suggested that a more severe form of court action will be requested if the offender declines to agree to the proposed modification.

(b) To initiate court action with consent and waiver:

(1) Inform the offender that he or she has the right to confer with counsel before signing the waiver. All waivers of counsel must be knowing and intelligent. To ensure a knowing and intelligent waiver, the waiver process may take place before a magistrate judge.

(2) Have the offender sign Form PROB 49 (Waiver of Hearing to Modify Conditions or Extend Term of Supervision).

(3) Complete Petition for Modifying the Conditions or Term of Supervision with Consent of the Offender (Form PROB 12B or its equivalent) and attach the signed Form PROB 49 for filing with the clerk of court. This report should include the same information as described above for informational reports.

§ 630.30.60 Request for Court Action Without Consent and Waiver

Use a Petition for Warrant or Summons for an Offender under Supervision (Form PROB 12C or its equivalent) to initiate a revocation, modification, or judicial compliance review hearing by requesting a warrant or summons for further proceedings. The petition fulfills the requirement of F.R.Crim.P. 32.1 that a defendant be provided with written notice of the alleged violations and disclosure of evidence at the revocation hearing.

(a) Purpose of the Petition

A well-drafted petition allows the court to make an informed decision without further inquiry of the officer, promotes efficient use of court time, and demonstrates the officer's recognition of the rights of the offender. It can also be expected to:

(1) promote waivers of the preliminary hearing by informing the offender of the evidence that will be presented to support a finding of probable cause;
(2) assist the court in determining whether probable cause exists to issue an arrest warrant and to detain the offender, if necessary, during the revocation proceedings;

(3) serve as a guide for the assistant U.S. attorney; and

(4) promote fairness and efficiency by allowing the court and the defense to prepare for the hearing.

(b) Preparing the Petition

(1) Be thorough but to the point. Set forth with specificity the conditions that the offender is alleged to have violated and the dates and events of the defendant’s conduct that support the charges. Also indicate custody status if the offender was arrested.

(2) List each alleged violation separately, together with the elements necessary to establish its occurrence. Five elements are covered in the allegation of each violation:

<table>
<thead>
<tr>
<th>Element</th>
<th>Samples</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) When</td>
<td>[on July 3, 20_] [from on or about July 3, 20_, to on or about September 3, 20_]</td>
</tr>
<tr>
<td>(B) Where</td>
<td>in Tampa, Florida</td>
</tr>
<tr>
<td>(C) Who</td>
<td>John J. Jones</td>
</tr>
<tr>
<td>(D) What</td>
<td>broke into the home of John Doe and stole $1,200, in violation of Section 12345, Florida State Statutes.</td>
</tr>
<tr>
<td>(E) Evidence</td>
<td>Evidence in support of this charge includes arrest report number 1791-011, a criminal complaint filed by the county attorney, and eye witness testimony of the arresting officer (James Evans, Badge #1604).</td>
</tr>
</tbody>
</table>

(3) The statement of evidence should be sufficient to support a finding of probable cause (18 U.S.C. § 3606). Probable cause exists when facts or circumstances known to the officer would lead a reasonably prudent person to believe the offender has violated, or is violating, the law or any other condition of supervision. *Mere suspicion unsupported by facts is insufficient.*
In such cases, action should be deferred pending further investigation or final disposition.

(4) In preparing the statement of evidence,

(A) Limit the statement to verified, factual information that can be established through testimony, documents, or other reliable evidence.

(B) Cite sources of support for any relevant opinions and conclusions (e.g., a qualified chemist offering an opinion about a positive urine sample).

(C) Whenever possible, avoid secondhand (hearsay) testimony and obtain corroborating evidence (e.g., reliable documents or testimony from other sources).

(D) Clearly identify the source of each item of information.

(5) As permitted by district policy, officers should consult with and/or seek assistance from the U.S. attorney’s office in drafting petitions, especially in complex cases.

(c) Appointment of Counsel

Under Rule 32.1 of the Federal Rules of Criminal Procedure, an offender has the right to the assistance of counsel at a hearing for the modification or extension of community supervision and should be provided notice of their right to be represented by counsel at a preliminary hearing and revocation hearing. If the offender cannot afford to retain counsel, counsel may be appointed under 18 U.S.C. § 3006A(a)(1). While an offender may waive counsel, any waiver of counsel must be made knowingly and intelligently.

(d) Preparing the Violation Report and Recommendations

(1) Officers must provide the court with the information it needs to make an appropriate disposition of any violations found by the court. A violation report may be prepared for this purpose, either prior to the revocation hearing or after a finding of violation(s) in accordance with local district policy. The following information should be included in the violation report:

(A) Custody Status
Indicate whether the offender continues under supervision, has absconded, or is incarcerated, and, if incarcerated, the location and date incarceration began.

(B) Statutory Provisions

Note all statutory provisions governing whether revocation may be mandatory and the maximum allowable term of imprisonment should supervision be revoked. If the issue of the allowable term of imprisonment is complicated by issues of tolling or credit for time served that are not addressed directly by statutes, also cite any controlling legal opinions or, in their absence, the Guide, Vol 8E provisions that were used in determining how the applicable statute was interpreted in the individual case. See: § 650 (Other Revocation Issues).

(C) United States Sentencing Commission Policy Statements

Cite the applicable United States Sentencing Commission policy statements, which are found at Federal Sentencing Guidelines Manual, Chapter 7. Though policy statements are not binding, officers are required to advise the court of any pertinent policy statements. In this section of the report, officers are to set forth the class of the alleged violations, the options available to the court, the suggested range of imprisonment, and any factors that may warrant a decision outside of the suggested range.

(D) Compliance with Supervision Conditions

Report the status of the offender's compliance with all supervision conditions, including prior instances of noncompliance and interventions by the officer, as well as his or her progress on meeting other conditions to address identified supervision issues. Include the positive as well as the negative.

(E) Offender Characteristics

Provide a brief background statement and an update of any significant changes since the presentence report was prepared. Describe the current status of such matters as employment, finances, family obligations, and health.
(F) Recommendation

Provide a specific recommendation as to the penalty to be imposed if the court finds the offender has violated the conditions of supervision as alleged.

(2) The violation report should be disclosed to the offender, counsel for the offender, and the prosecutor and should follow district policy as to disclosure of the recommendation portion of the report.

§ 640 Revocation Procedures

§ 640.10 Commencing Action by Summons

(a) After investigating and documenting the alleged violation(s), the officer should use a summons to initiate revocation proceedings when each of the following circumstances is present:

(1) the offender is not in custody and his or her whereabouts is known;

(2) the offender's presence in the community does not pose a danger (physical or otherwise) to others;

(3) the offender does not pose a risk of nonappearance; and

(4) the offender is likely to appear voluntarily for a revocation hearing.

(b) The summons may be delivered in person or left at the defendant’s dwelling house or usual place of abode with some person of suitable age and discretion who resides there, with a copy of the summons to be mailed to the defendant’s last known address (F.R.Crim.P. 4(c)(3)(B)(ii)). The summons should include:

(1) the date, time, and place of the hearing; and

(2) a copy of Form PROB 12C, outlining the alleged violation(s).

(c) The evidence supporting requests for a summons should adhere to the probable cause standard or higher. See: § 630.30.60(a) (Purpose of the Petition).
§ 640.20 Commencing Action by Warrant for Arrest

(a) Prior to requesting issuance of an arrest warrant, the officer must fully investigate and document the alleged violation(s). If, however, the defendant poses an imminent danger to himself or others so as to require immediate action, a warrant may be requested prior to obtaining complete documentation.

(b) Officers should request an arrest warrant to initiate revocation proceedings when any of the following circumstances are present:

   (1) the offender has absconded from supervision;

   (2) the offender's presence in the community poses a danger to others;

   (3) the offender poses a risk of nonappearance; or

   (4) the offender has failed to respond to a previous summons.

(c) The warrant for arrest of probationer or supervised releasee is issued by the court, filed with the clerk’s office, and transmitted to the United States marshal for execution. A copy of Form PROB 12C should be attached to the warrant so that it may be given to the alleged violator at the time of arrest. For offenders who have absconded, officers are also to complete Form PROB 20 (Personal History of Absconder) immediately upon issuance of a warrant to assist the U.S. marshal in executing the warrant.

(d) The evidence supporting requests for an arrest warrant should adhere to the probable cause standard or higher. See: § 630.30.60(a) (Purpose of the Petition).

§ 640.30 Warrantless Arrest

Although 18 U.S.C. § 3606 provides that a probation officer may initiate a revocation proceeding by warrantless arrest without the prior filing of a petition for court action, such a procedure is not authorized by the Judicial Conference Committee on Criminal Law. Offenders are conditionally released by the court, and the officer must always use the warrant or summons process to commence revocation proceedings. Officers do not have the training, equipment, or support to execute an arrest safely.
§ 640.40 Preliminary Hearing

(a) Procedures for the preliminary hearing are set forth at F.R.Crim.P. 32.1(b), which requires:

(1) a prompt hearing before a judicial officer, typically a magistrate judge;

(2) notice to the person of the preliminary hearing and its purpose and of the alleged violation;

(3) an opportunity for the person to appear at the hearing and present evidence in his or her behalf;

(4) an opportunity, upon request, for the person to question witnesses against him or her unless there are no witnesses;

(5) notice of the person’s right to be represented by counsel; and

(6) having the preliminary hearing be on the record.

(b) If probable cause is found to exist, the person is held for a revocation hearing, but may be released pending the hearing under F.R.Crim.P. 46(c). Rule 46(c) provides that eligibility for release pending revocation shall be in accordance with 18 U.S.C. § 3143, which is the provision of the Bail Reform Act for release or detention of a defendant pending sentence or appeal and establishes a presumption of detention with specific listed exceptions.

§ 640.50 Revocation Hearing

(a) F.R.Crim.P. 32.1(b)(1)(B) requires that a revocation hearing be held within a reasonable time in the district of jurisdiction and that the offender be given:

(1) written notice of the alleged violation of supervision;

(2) disclosure of evidence against him or her;

(3) an opportunity to appear and present evidence;

(4) the opportunity to question adverse witnesses; and

(5) notice of the right to be represented by counsel.
(b) A revocation hearing may be conducted by a district judge or, under some circumstances, by a magistrate judge. Under 18 U.S.C. § 3401(d) and (h), a magistrate judge may modify, revoke, or terminate a term of probation or supervised release imposed by the magistrate judge; and 18 U.S.C. § 3401(i) provides that a district judge may designate a magistrate judge to conduct hearings to modify, revoke, or terminate supervised release terms imposed by the district judge and to submit to the district judge proposed findings of fact and recommended action.

§ 650 Other Revocation Issues

§ 650.10 Interruption or Tolling of the Term of Supervision

§ 650.10.10 Imprisonment for 30 or More Consecutive Days While On Supervision

(a) Under 18 U.S.C. §§ 3564(b) and 3624(e), terms of supervision are tolled (i.e., do not run) while the offender is imprisoned for 30 or more consecutive days in connection with a conviction. Absent circuit law to the contrary, the revocation of another concurrent term of supervision that results in imprisonment for 30 or more consecutive days will also toll the term.

(b) Example 1

An offender is sentenced to 5 years on supervision (either probation or supervised release) and after service of 2 years on supervision is incarcerated for 1 year for an offense that occurred prior to the term of supervision. The offender would have 3 years left to serve on supervision once he or she was released from the 1-year term.

(1) The imprisonment automatically triggers the tolling. No warrant is necessary, but the issuance of a warrant at the time of incarceration would serve to notify the offender of the tolling of the term to ensure that there is no misunderstanding as to whether the term of community supervision is running during incarceration.

(2) Absent circuit law to the contrary, pretrial detention pending adjudication of a charge does not trigger tolling, and time spent in pretrial detention for a charge that eventually leads to a conviction or revocation that results in
imprisonment for 30 days or more is not included in the tolled time.

(c) Example 2

An offender serving a 60-month term of supervised release is arrested for a new offense after serving 1 year in the community. The offender is detained on January 1 and is subsequently convicted and sentenced to a term of imprisonment of 1 year. He begins serving the new sentence on March 1 and is released on December 31. Assuming that the new conviction did not also result in revocation of supervision, the original term of supervised release is tolled from March 1 through December 31, a period of 10 months. The offender would therefore have 50 months remaining to serve on the original 60-month term of supervised release.

§ 650.10.20 Absconding

There are no statutes or recent case law clearly indicating whether absconding tolls a term of probation or supervised release. Unless contradicted by controlling law in the circuit, apply the general rule that a term is tolled when an offender makes him or herself unavailable for supervision. (Note: C. Goodwin, "Looking at the Law," Federal Probation (December 1997), p. 78.) Issuance of a warrant will help to establish the date tolling begins and assist in the absconder’s apprehension.

§ 650.10.30 Administrative Detention

The term of supervision runs (i.e., is not tolled) during periods of administrative detention, such as on an Immigration and Naturalization Service detainer, since these periods of incarceration are not in connection with a conviction or revocation.

§ 650.10.40 Deportation

Terms of supervision are not tolled during deportation unless the court orders that they be tolled. This policy avoids backlogged inactive cases and provides clear jurisdiction for revocation if the offender illegally re-enters the country during the term of supervision.

§ 650.20 Timing of the Misconduct for which Supervision Terms May Be Revoked

(a) Absent circuit law to the contrary, revocation can be based on any acts occurring during the period of supervision, even if not contained in the original petition for revocation, so long as proper notice is given prior to the hearing.
(b) Revocation cannot be based on acts that occur after the expiration of supervision; however, post-supervision acts can be considered in determining the sentence to impose where the court has revoked supervision based on acts committed during the supervision period.

(c) Revocation of a term of probation may be based on pre-probation conduct that was unknown at the time of sentencing.

(d) Revocation of a term of supervised release may not be based on misconduct that occurred before commencement of the term of supervised release.

§ 650.30 Delayed Revocation (Extended Jurisdiction to Revoke)

Under 18 U.S.C. §§ 3565(c) and 3583(i), revocation of probation or supervised release can be delayed for “any period reasonably necessary for adjudication” after the expiration of a supervision term for a violation that occurred within the term, provided that a warrant or summons is issued within the term. Generally, courts will consider all circumstances to determine what period of time is “reasonably necessary,” and so care should be taken to move forward with cases as quickly as possible to avoid any unreasonable delay.

§ 650.40 Sentences Available Upon Revocation of Probation

The sentences available upon revocation of probation vary based on whether the original offense was committed before or on/after September 13, 1994, the effective date of the Violent Crime Control and Law Enforcement Act (VCCA). See: Appx 1A (Key Legislation and Court Decisions Affecting Supervision).

§ 650.40.10 Original Offenses Committed on or after September 13, 1994

For original offenses committed on or after September 13, 1994, 18 U.S.C. § 3565(a)(2) requires the court to “re-sentence the defendant under Subchapter A” upon revoking a sentence of probation. Absent circuit law to the contrary, this permits the court to re-sentence the offender to any sentence up to the statutory maximum for the original offense after taking into consideration the non-binding policy statements set forth at U.S.S.C. § 7B1.3.

§ 650.40.20 Original Offenses Committed before September 13, 1994

For original offenses committed before September 13, 1994, pre-existing practices would apply except where the new provision is deemed more favorable to the offender than prior practice. In most circuits, the pre-existing practice limited the court
to imposing a sentence within the original guideline range after a term of probation is revoked.

§ 650.50 Revocation and Re-imposition of Supervised Release

(a) Upon revocation of supervised release, the court may impose a prison term to be followed by a term of supervised release, subject to limitations and requirements that vary depending on when the original offense was committed. For a summary, see: Appx 1B (Supervised Release Revocation Procedures).

(b) Any recommendations for revocation should also include recommendations as to the length of the prison term, whether a new term of supervised release should be imposed, and, if so, the length of such term. These recommendations must reflect consideration of the United States Sentencing Commission policy statements (U.S.S.C. Guidelines Manual, Chapter VII) and fall within the statutory parameters as described below. They should further comport with the principles of responding to noncompliance (see: § 620.20) and the purposes to be served by terms and conditions of supervised release (see: § 160.10.20).

(c) Although it is statutorily permissible to impose a new term of supervised release in most post-April 30, 2003 cases, officers should ordinarily recommend a discretionary new supervised release sentence only when the prison time imposed for the current violation, plus any prison time imposed for a prior revocation(s) of this term of supervised release, is less than the maximum prison term set forth at 18 U.S.C. 3583 (e)(3) (see: Appx 1B).

(d) Further, unless required by statute, officers should generally not recommend a new term of supervised release for offenders who have been convicted and sentenced to incarceration for a new state or federal conviction. This will appropriately focus supervision resources on offenders who continue to work toward a crime-free lifestyle while assuring that those who have re-offended are punished and incapacitated for any new crimes according to the laws of the jurisdiction in which the new crime was committed.

(e) Cases in Which the Original Offense Conduct Was Committed on or after July 27, 2006

These cases are subject to the provisions of the Adam Walsh Act, which modified revocation provisions for certain sex offenders. The Act
requires mandatory revocation and the imposition of a prison term of at least 5 years for any offender required to register under the Sex Offender Registration and Notification Act who commits a new felony offense under 18 U.S.C. chapter 109A, 110, or 117, or section 1201 or 1591. Further, the ordinarily applicable limitations on maximum prison terms set forth at 18 U.S.C. § 3583(e)(3) do not apply to such cases. Although this means that it would be permissible to impose a life term after revoking under the defined circumstances, prison term recommendations in such cases should ordinarily be in accordance with U.S.S.C. Policy Statement 7B1.4(b)(2), which states that if the minimum term of imprisonment required by statute exceeds the maximum revocation range of U.S.S.C. 7B1.4 (which is true of the 5-year minimum for all but Grade A(2), Category VI violations), the minimum term of imprisonment shall be substituted for the guideline range.

(f) Cases in Which the Original Offense Conduct Was Committed on or after April 30, 2003

These cases are subject to the provisions of the PROTECT Act. The maximum prison term that may be imposed at revocation is set forth at 18 U.S.C. § 3583(e)(3) and ranges from one year to five years, based on the class of the original offense. (Note: The offense classifications are set forth at 18 U.S.C. § 3559(a).) There is no adjustment for prison time imposed for any previous revocation of the term of supervised release.

(g) Under 18 U.S.C. § 3583(h), the re-imposition of supervised release may follow a period of incarceration. The permissible length of a new term of supervised release is the authorized term of supervised release for the original offense minus the prison term imposed for any revocation. No credit is given for street time. Under these provisions, no additional term of supervised release would be available in situations where the length of the term of supervised release authorized by statute is equal to the length of the prison term imposed in response to any revocation; however, the statute appears to preclude supervised release. (Note: This is possible only when the authorized term of supervised release is equal to the maximum authorized revocation prison time, i.e., when the original offense was a Class A felony, Class E felony, or non-petty misdemeanor. Even in these cases, however, supervised release may be re-imposed if the court does not actually impose the maximum authorized revocation prison time.) See also: Letter from Joe Gergits, AO Assistant General Counsel, to Terrence A. Smith, Sept. 28, 2010.
The “authorized term of supervised release” is that set forth at 18 U.S.C. § 3583(b) unless the penalty statute for the original offense specifies that a term of supervised release of “at least” a number of years is required (in which case the authorized term is life) or the original offense is covered by the provisions of § 3583(j) or (k), which authorize life terms of supervised release for offenders convicted under specified terrorism predicate and sex offense statutes.

Cases in Which the Original Offense Conduct Was Committed on or after September 13, 1994, but Before April 30, 2003

These cases are subject to the provisions of the VCCA, but not the PROTECT Act. The maximum prison term that may be imposed at revocation is the term authorized by 18 U.S.C. § 3583(e)(3) for the class of the original offense, minus any prison time imposed for a previous revocation of the term of supervised release.

Re-imposition of supervised release is limited to those cases for which the court has not imposed the maximum allowable revocation prison term. This limit applies to the cumulative revocation prison time imposed (i.e., the prison time imposed for the current violation plus any prison terms imposed for a prior revocation(s) of this term of supervised release).

To determine the permissible length of a new term of supervised release in those cases where the revocation prison limit has not been reached, subtract the cumulative revocation prison term(s) imposed from the maximum authorized term of supervised release for the original offense. Give no credit for street time.

Cases in Which the Original Offense Conduct Was Committed Before September 13, 1994

These cases are subject to neither the VCCA nor the PROTECT Act. The maximum prison time that may be imposed at revocation is the same as for those under the VCCA: the term authorized by 18 U.S.C. § 3583(e)(3) for the class of the original offense, minus the prison time imposed for any previous revocation of the term of supervised release.

Supervised release may be re-imposed if time remains on the term of supervised release that was previously imposed (as distinct from the term authorized by statute) after subtracting the cumulative revocation prison term(s) imposed. (Note: According to United States v. Johnson, 120 S.Ct. 1795 (2000), if the term of supervised release imposed is less
than what is statutorily authorized, the court could first extend the supervision to the full term if it wishes to re-impose the longest possible term of supervised release.) There is no credit for street time. The remaining time is the permissible term of supervised release that may be re-imposed regardless of whether the court has imposed the maximum allowable revocation prison term.

(n) In cases where the term of supervised release previously imposed exceeds the revocation prison limit at 18 U.S.C. § 3583(e)(3) — as can occur with Class B, C, and D felonies and the mandatory supervised release provisions of Title 21 — the court may re-impose a term of supervised release, e.g., to facilitate reintegration or correctional goals. Note, however, that imprisonment would not be available to the court as a sanction for any further misconduct. (Note: It is open to question whether options such as home confinement that serve only as an alternative to imprisonment may be imposed in a circumstance in which imprisonment itself is not available.)

§ 660 Tips for Managing Noncompliance

The following are tips for managing noncompliance:

(a) Manage noncompliance with a focus on desired outcomes and goals.

(b) While “deferred action” may sometimes be appropriate, never take “no action” in response to an established violation.

(c) Always consider the context of noncompliant acts.

(d) Always use a two-pronged approach (control and correct) to manage acts of noncompliance.

(e) Make sure that the offender understands both the adverse consequence of his misconduct and the correctional strategy to be employed.

(f) Utilize your supervisor to assist in the implementation of controlling and correctional strategies and to meet with the offender to redirect behavior.

(g) Utilize the expertise of staff specialists to help guide the implementation of controlling and correctional strategies.
(h) Remember to enter a summary of your case staffings (specialist and/or supervisor) in the chronological record.

(i) Thoroughly review and understand Rule 32.1(a) and (b) of the Federal Criminal Rules.

(j) Understand offender rights, due process, and waiver options.

(k) Read and comprehend the provisions of 18 U.S.C. §§ 3561-3566 and 3583-3586.

(l) Maintain a thorough understanding of sentencing options, as contained in the Criminal Code as well as Chapters Five and Seven of the United States Sentencing Commission Guidelines Manual.

(m) Utilize the United States Parole Commission Rules & Procedures Manual as a reference for all cases under the jurisdiction of the Parole Commission.

(n) Understand case law decisions that may affect options or procedures, particularly any decisions that are unique to your circuit.

(o) Make sure that your violation reports clearly, but generally, set forth the evidence that supports your allegations.

(p) Make sure that your violation reports clearly set forth the controlling and the correctional strategy you took or recommend.

(q) Work closely with the United States attorney’s office in preparing for evidentiary hearings.