

Effective Date
03/01/01

CHAPTER 8

VIOLATIONS

TABLE OF CONTENTS

	<u>Chapter/Subject/Item</u>
Investigations	08.01
General Statement aa	08.01.01
Investigative Procedures ab	08.01.02
Release From Custody ac	08.01.03
Violation Report ad	08.01.04
WI Offenders in Custody on Out-of-State Violations	08.02
Authority ba	08.02.01
General Statement bb	08.02.02
Detainers/Warrants bc	08.02.03
Investigating the Violation bd	08.02.04
Preliminary Revocation Hearing be	08.02.05
Preliminary Revocation Hearing Not Required bf	08.02.06
Returning Offender to WI bg	08.02.07
Custody/Revocation Time Frame bi	08.02.08
Custody Credit bj	08.02.09
Repayment of Transportation Costs bk	08.02.10
Search	08.03
Authority ae	08.03.01
Policy af	08.03.02
Decision to Search Criteria ag	08.03.03
Living Quarters and Property Search ah	08.03.04
Personal Search ai	08.03.05
Requirements of Search aj	08.03.06
Use of Law Enforcement ak	08.03.07
Human Dignity al	08.03.08
Forced Entry am	08.03.09
Vehicle Searches an	08.03.10
Search Kits ao	08.03.11
Reporting Requirements ap	08.03.12
Out-of-State Searches aq	08.03.13
Evidence and Contraband ar	08.03.14

Effective Date
03/01/01

CHAPTER 8

VIOLATIONS

TABLE OF CONTENTS

	<u>Chapter/Subject/Item</u>
Contraband	08.04
Authority <u>as</u>	08.04.01
Seizure <u>at</u>	08.04.02
Disposal <u>au</u>	08.04.03
Disposal of Seized Firearms or Ammunition <u>av</u>	08.04.04
Offender's Right to Appeal <u>aw</u>	08.04.05
Evidence Handling	08.05
Authority <u>ax</u>	08.05.01
General Statement <u>ay</u>	08.05.02
Securing Evidence <u>az</u>	08.05.03
Documentation Required <u>ba</u>	08.05.04
Staffing Responses to Violations	08.06
Functional Responses to Violations <u>#bb</u>	08.06.01
Process <u>#bc</u>	08.06.02

Division of
Community Corrections

Chapter: Violations
Subject: Investigations
Date: 03/01/01 Page 1 of 4

.01 GENERAL STATEMENT

When an agent discovers evidence of possible violations of supervision by an offender, the agent must investigate the facts underlying the alleged violations.

If the alleged violation is assaultive or threatening in nature, the offender must be placed in custody. (See Chapter 07.01.05).

The agent must meet with the offender in a timely manner (within 72 hours if in custody) to get the offender's statement regarding the allegation(s).

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

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

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

In gathering physical evidence, any search and seizure by the agent must comply with Operations Manual Section 08.02.

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

Division of
Community Corrections

Chapter: Violations

Subject: Investigations

Date: 03/01/01 Page 2 of 4

.02 INVESTIGATIVE PROCEDURES

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

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

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

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

An agent must interview the offender. If possible, secure a written statement using a [DOC-1305](#). If a verbal statement is given, the agent must take careful notes. The agent must advise the offender in advance that any written statements given in regard to the violation(s) may not be used in State or Federal Court

If the offender refuses to give a statement regarding a violation, he/she shall be advised that he/she is obligated by the rules to do so. The offender shall also be advised that the refusal itself is a violation of supervision serious enough for the DCC to recommend revocation.

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

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

Division of
Community Corrections

Chapter: Violations
Subject: Investigations
Date: 03/01/01 Page 3 of 4

.02 INVESTIGATIVE PROCEDURES (continued)

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

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

If the alleged violation occurred outside the supervising agent's area, the agent should contact the DCC office in the area where the violation occurred. The agent from that area should assist in the investigation. For out-of-state violations, the agent should consult Manual Chapter 12.

When the investigation has been completed, an agent must decide whether to:

- 1) Continue the offender under supervision because the allegation is unfounded;
- 2) Resolve alleged violations by:
 - a) A formal or informal counseling session with the offender to re-emphasize the necessity of compliance with the rules or conditions; or
 - b) An informal or formal warning that further violation may result in a recommendation for revocation; or
 - c) A review of the rules of supervision, followed by changes in them where necessary or desirable, possibly including a return to court for a case review; or
 - d) Consider alternatives to revocation,
 - e) Recommend revocation for the alleged violation.

The agent shall then review the facts in the case and alternatives available with the supervisor.

The agent must notify the victim(s) of any violation(s) as to the disposition of the alleged violation(s). If the offender is in custody, the victim(s) must be notified before the offender is released.

Division of
Community Corrections

Chapter: Violations

Subject: Investigations

Date: 10/13/08 Page 4 of 4

.03 RELEASE FROM CUSTODY

The agent must secure advance approval from a supervisor to release a mandatory detention offender. Authorization of the Regional Chief or their designee is required to release a mandatory detention offender prior to completion of the investigation. (See 07.01.05).

.04 VIOLATION REPORT

The agent shall document all alleged offender violations in the Chronological Log (in red ink or highlighted in red), as well as the disposition. The Violation Report (DOC-5) may, at the agent's discretion, be prepared in any situation where a violation occurs. However, the DOC-5 must be prepared in any of the following circumstances:

- 1) The offender was held in detention.
- 2) The offender has been charged with a new offense in State or Federal court.
- 3) The violation results in a significant change in the case plan.

The Violation Report shall include:

- 1) A statement of the allegation.
- 2) A detailed description of the allegation.
- 3) Identification of persons interviewed and information sources.
- 4) A statement as to custody status of the offender and the status or disposition of any pending criminal charges for the conduct underlying the alleged violation.
- 5) A disposition.

Violation reports must be submitted to your supervisor within five days of the case review/supervisory conference. If the offender is not in custody, violation reports must be completed as soon as possible.

If the violation is serious enough to consider or to pursue revocation, the DOC-1950 Revocation Summary should be completed.

Division of
Community Corrections

Chapter: Violations

Subject: WI Offenders in Custody on
Out-of-State Violations

Date: 09/03/03 Page 1 of 4

.01 AUTHORITY

Wisconsin Administrative Code 328, 331
Wisconsin Statutes 973.155
State v. Rohl, 160 Wis.2d 325 (1991)
Morrisey v. Brewer, 408 U.S. 471, 92 S.Ct 2593 (1972)

.02 GENERAL STATEMENT

When offenders on supervision for felony or misdemeanor Wisconsin convictions (but not under Interstate Compact) violate their supervision in another state, it may result in the offender being placed in a detention facility in the other state. Certain procedures must be followed in these cases to return the offender to Wisconsin and resolve the violations.

.03 DETAINERS/WARRANTS

When the agent is notified the offender is in custody, the agent may fax an Order to Detain (DOC-212) to the detaining facility and shall notify the DCC Extradition Office at DOC Central Office in Madison. If there is an active Apprehension Request at the time the offender is arrested in the other state, DOC Warrants Section will place the initial detainer via administrative message. The agent shall then cancel any active Apprehension Request (DOC-58).

The DCC Extradition Office will issue a Violation Warrant (DOC-95) to the detaining facility to hold the offender for Wisconsin.

.04 INVESTIGATING THE VIOLATION

The agent shall obtain a copy of the arresting agency's incident report and check with the detaining county's District Attorney's Office for information on any pending charges.

Agents shall attempt to contact any victims and/or witnesses for a verbal or written statement. If available, Victim/Witness Services in the detaining county should be utilized for contacting victims in sensitive crime cases and may be used for all other cases as well.

.05 PRELIMINARY REVOCATION HEARING

An offender who has alleged to have committed a new crime or other rule violation(s) in another state, and whose behavior may result in a recommendation for revocation, is entitled to a Preliminary Revocation Hearing within a reasonable period of time at a location near where the violation(s) occurred.

Division of
Community Corrections

Chapter: Violations

Subject: WI Offenders in Custody on
Out-of-State Violations

Date: 09/03/03 Page 2 of 4

.06 PRELIMINARY REVOCATION HEARING NOT REQUIRED

A Preliminary Revocation Hearing is not required when:

- the offender is not being held in custody;
- it is waived by the offender in writing;
- the offender has given and signed a written statement, which admits the violation;
- there has been a finding of probable cause and the offender is bound over for trial in the other state for the same or similar conduct; or
- there has been an adjudication of guilt by a court in the other state for the same conduct that is alleged to be a violation of supervision.

.07 RETURNING OFFENDER TO WI

At such time that the offender is being held in the other state on the WI detainer only, the offender will be given the option by the detaining county to waive or contest extradition.

If the offender signed a Travel Permit (DOC-50) and the violation(s) occurred during that travel, the form includes a waiver of extradition. The agent should fax a copy of the signed Travel Permit to the DCC Extradition Office.

If the offender contests extradition, a Governor's Warrant will be issued to maintain the offender's custody until the disposition of the extradition hearing.

If the offender contests extradition and the court in the detaining county orders the offender extradited, the DCC Extradition Office will arrange for the offender to be returned to a Wisconsin detention facility.

If the offender contests extradition and the court in the detaining county orders the offender released, the agent will be notified and must reissue an Apprehension Request (DOC-58) after staffing with the supervisor.

If the offender waives extradition, the agent shall, after consulting the supervisor, notify the DCC Extradition Office personnel as to:

- Whether the offender will be transported to Wisconsin through a local agreement between the area office and the other state, OR
- If the DCC Extradition Office needs to arrange for the offender's return to a Wisconsin facility.

Division of
Community Corrections

Chapter: Violations

Subject: WI Offenders in Custody on
Out-of-State Violations

Date: 09/03/03 Page 3 of 4

.07 RETURNING OFFENDER TO WI (continued)

If the DCC Extradition Office arranges transport, the agent must designate whether the offender should be transported to the Dodge Correctional Institution or the detention facility in the Wisconsin county of supervision. Offenders on probation will only be transported to the detention facility in the Wisconsin county of supervision.

The DCC Extradition Office will give the agent written transport information. The "Return of Parole Violator to Wisconsin" memo will include the deadline date for the offender to be picked up from the detaining agency, the transport number, as well as the cost of the transport. This information is always available by contacting DCC Extradition Office personnel.

The agent should make contact with designated detention facility to advise them of the offenders pending arrival, and to verify that the offender has been returned to Wisconsin.

.08 CUSTODY/REVOCAION TIME FRAME

The same custody and/or revocation time frames apply in these cases, however the time frame begins on the date the offender arrived in a Wisconsin facility.

.09 CUSTODY CREDIT

The offender is given custody credit from the date they were being held in the other state on the Wisconsin detainer only, regardless of any extradition issues yet to be resolved.

.10 REPAYMENT OF TRANSPORTATION COSTS

An extradited offender may be given a formal Alternative to Revocation that includes the repayment of contracted transportation costs.

Repayment by the offender must be voluntary. In probation cases only, the agent may request an amendment of the conditions of supervision to include repayment of extradition costs.

Payments must be made with a money order or cashier's check made payable to the "Department of Corrections."

Division of
Community Corrections

Chapter: Violations

Subject: WI Offenders in Custody on
Out-of-State Violations

Date: 09/03/03 Page 4 of 4

.10 REPAYMENT OF TRANSPORTATION COSTS (continued)

The offender submits these payments to the agent who routes them to:

DCC Business Office
3099 E. Washington Avenue
P.O. Box 7925
Madison, WI 53707-7925

A note must accompany the payment and should include:

- Offender's name
- Offender's DOC number
- The month and year of the transport
- Vendor transport number (optional)
- Indication that the funds are to cover vendor transportation costs.

If conditions of probation are amended by the court to include repayment of transportation costs, the payments can be receipted and sent to the DOC Cashier by DCC area office staff, like other court-ordered financial obligations, noting that the funds are to cover vendor transportation costs. The DOC Cashier will then route the payment to the DCC Business Office.

It is the agent's responsibility to record these payments. This may be done via a Payment Ledger (DOC-150).

Division of
Community Corrections

Chapter: Violations

Subject: Search

Date: 03/01/01 Page 1 of 6

.01 AUTHORITY

Wisconsin Administrative Code DOC 328.21

.02 POLICY

A home search is a room-by-room search of an offender's residence which follows Division guidelines and which has the Regional Chief or designee's prior approval.

Contraband is any item the offender may not possess under the rules or conditions of supervision. An agent may search an offender's residence or personal property only when there are reasonable grounds to believe the offender is in possession of contraband.

As searches by agents do not require a warrant, all home or property searches are prohibited unless previously approved by the Regional Chief or designee.

Field staff should evaluate information received from all sources when deciding whether a search under this section is to be conducted. Requests by law enforcement agencies to use our authority to search are illegal. However, information gained from law enforcement agencies should be evaluated on its merits according to 08.02.03.

In most cases, the agent should utilize and coordinate with law enforcement to assist in securing the residence prior to the search, as well as monitoring the offender and any other occupants of the residence for the agents' safety.

Prior to searching for an offender in violation of supervision at the offender's residence, the following shall be verified and/or in place. The address at which the search is being conducted is an address used by the offender for whom the search is being conducted or an address of another offender currently on probation or parole supervision. A search for an offender shall not occur until the residence being searched has been secured by law enforcement. The search report shall include a statement of how the address was verified, as well as a statement that the residence had been secured by law enforcement prior to the search.

Strip searches or body cavity searches are prohibited.

Police dogs may be used during home searches when there is reason to suspect drugs in the home with the following conditions:

- The Regional Chief shall approve all searches involving the use of police dogs.
- DCC staff are to conduct the search; therefore, staff should direct law enforcement on the usage/placement of the dogs.
- The results of the search shall be reported to the Regional Chief.

The agent can use any seized contraband in a revocation

proceeding.

Division of
Community Corrections

Chapter: Violations

Subject: Search

Date: 03/01/01 Page 2 of 6

.03 DECISION TO SEARCH CRITERIA

In deciding whether there are reasonable grounds to search, staff shall consider:

- 1) Observation by a staff member.
- 2) Information provided by an informant.
 - a) The reliability of what the informant said. In evaluating reliability, attention shall be given to whether the information is detailed and consistent and whether it is corroborated, whether the informant has supplied reliable information in the past, and whether the informant has reason to supply inaccurate information.
 - b) The reliability of the informant. In evaluating reliability, attention shall be given to whether the informant has supplied reliable information in the past and whether the informant has reason to supply inaccurate information.
- 3) The activity of the offender that relates to whether the offender might possess contraband or might have used or be under the influence of an intoxicating substance.
- 4) Information provided by the offender that is relevant to whether the offender possesses contraband.
- 5) The experience of DOC staff with the offender or the agent's experience in any similar circumstances.
- 6) Any prior seizure of contraband from the offender or their property.
- 7) The need to verify compliance with the rules of supervision and state and federal law.

.04 LIVING QUARTERS AND PROPERTY SEARCH

If there are reasonable grounds to believe the offender's residence or property contains contraband, agents may search an offender's:

- living quarters
- property
- motor vehicles

Approval of the Regional Chief or designee must be obtained prior to conducting any search. No unapproved searches may be conducted. The Regional Chief will be advised of all home search planning.

Searches of living quarters and property will be confined to areas actually occupied by the offender, which would include common areas such as kitchen, bathroom, living room, etc. While conducting a search, care must be taken to prevent infringement on the rights of other occupants of the dwelling.

When law enforcement has a warrant to search an offender's residence or vehicle, agents are prohibited from participating in or observing that search.

Division of
Community Corrections

Chapter: Violations

Subject: Search

Date: 03/01/01 Page 3 of 6

.05 PERSONAL SEARCH

A personal search is a search of an offender's person, including but not limited to, the offender's pockets, "patting down" the offender's body, examination of the offender's shoes and hat, and inspection of the offender's mouth. Strip searches are prohibited.

An agent may conduct a personal search under any of the following circumstances:

- If the agent has reasonable grounds to believe the offender possesses contraband.
- At the direction of a supervisor.
- Before an offender enters or after an offender leaves the secure enclosure of a correctional institution, jail, or detention facility. If law enforcement is present they should be utilized to conduct the personal search.
- Before an offender enters the agent's office.
- When an offender is taken into custody.

.06 REQUIREMENTS OF SEARCH

In all cases, prior to conducting a search, the agent and supervisor must prepare a search plan and discuss it with all participants, including law enforcement. The Home Search Plan (DOC-2221) may be used as a guideline in developing the plan. When law enforcement is present they should be advised that the agent is in charge of the search and that their role is to provide protection and to assist. The plan should include a discussion of the following factors:

1. Is there any other means available to handle the situation short of conducting a home search (i.e., have offender report to the office to discuss the matter first?) Is a search absolutely necessary in this case?
2. What are the dynamics of the situation?
 - a) Who resides with the offender and who is likely to be present during the search?
 - b) What is the layout of the residence and the most effective and safest way to search it?
 - c) What are the offender's/other resident's response to the search likely to be? Does the offender or other residents have a history of assaultive/dangerous behavior? Are they likely to become hostile?
 - d) What emotional state might the offender or other residents present be in during the search?
 - e) Any specific information about the current situation that was obtained from the complaining source. The agent should find out as much as possible about the situation prior to conducting the search.
3. When and where will the agent meet law enforcement and what is their role?

Division of
Community Corrections

Chapter: Violations

Subject: Search

Date: 03/01/01 Page 4 of 6

.06 REQUIREMENTS OF SEARCH (continued)

4. How will the safety of staff conducting the search be maintained? (In all cases, the safety of our employees must be our number one concern. It will always take priority over any interest in discovering contraband or documenting a violation as a result of the search.)
5. In order to assure safety, should the offender be placed in custody prior to the search? What is the agent's plan should an unexpected or dangerous situation arise?
6. How extensive does the search need to be?
7. Who will accompany the agent on the search? Where possible, searches should be conducted by a team of two agents or an agent and supervisor trained in home search techniques. Law enforcement should be present whenever possible. For liability reasons, students/interns are not allowed on home searches.
8. What roles will the various participants play in the search?
 - a) Who will be in charge; be the spokesperson?
 - b) Who will be the inventory person?
 - c) How will the agent use law enforcement?
9. What items will the agent take along to assist in the search?
10. Inform the offender of the consequences of not complying with the search

.07 USE OF LAW ENFORCEMENT

Law enforcement should be utilized in home searches whenever possible. Law enforcement's primary role is to secure the residence and give expert advice to agents as to where, what, and how to search. It must be made clear to law enforcement that the agent is in charge of the search and that law enforcement is present to advise and provide protection.

Each office should develop home search guidelines with local law enforcement agencies in order to enhance efficient working relationships. Regional Chiefs will provide direction in this effort.

.08 HUMAN DIGNITY

Field staff will strive to preserve the dignity of offenders in all searches conducted.

Whenever possible, before a search is conducted the offender will be informed that a search is about to occur, the nature of the search, and the place where the search is to occur.

Division of
Community Corrections

Chapter: Violations

Subject: Search

Date: 03/01/01 Page 5 of 6

.08 HUMAN DIGNITY (continued)

When conducting searches, field staff will disturb the effects of the offender as little as possible, consistent with thoroughness.

During the search, staff will not read any legal materials, communication between the offender and an attorney, or materials prepared in anticipation of a lawsuit. This does not include business records.

.09 FORCED ENTRY

Under no circumstances is forced entry by DCC staff permitted. If the offender or others are present but are refusing entry, agents should issue an Apprehension Request (DOC-58) and/or inform the occupant of possible prosecution under Wisconsin Statute 946.46. Offenders refusing entry should be detained when apprehended. Law enforcement personnel have their own guidelines regarding forced entry that may not be altered by DCC direction.

.10 VEHICLE SEARCHES

Any vehicle driven by an offender should be considered under their control and therefore subject to search. All home search policies and procedures apply to search of vehicles. Vehicles driven to the agent's office can be searched without law enforcement being present if reasonable grounds exist and with Regional Chief or designee approval.

.11 SEARCH KITS

Each office will maintain and utilize a home search kit. Guidelines for items to include in the kits are:

- various sizes of zip lock bags
- garbage bags
- several sizes of paper bags
- self-adhesive I.D. stickers with room for
- date
- time
- location
- person searching
- evidentiary escort
- flashlight
- tongs
- mirror
- plastic/rubber gloves
- leather work gloves
- pen and pad of paper
- camera and film
- Statement Of Property Obtained Or Received (DOC-1165) forms
- first aid kit

Division of
Community Corrections

Chapter: Violations

Subject: Search

Date: 03/01/01 Page 6 of 6

.12 REPORTING REQUIREMENTS

All searches must be documented in the case record. The agent conducting the search must complete a Chronological Log (DOC-90) entry or Violation Report, a copy of which must be submitted to the supervisor. The report shall contain:

1. Identity of the offender whose living quarters or property was searched;
2. The identity of the staff member(s) who conducted the search, and the supervisor who approved it;
3. The date, time, and place of the search;
4. The reason for conducting the search
5. Any item(s) seized during the search; and
6. Whether any damage was done to the premises or property during the search.

Personal Search

If a personal search is conducted when transporting or taking an offender into custody, no report is necessary unless contraband or evidence related to other violations is discovered. If contraband or evidence is discovered, a Violation Investigation Report (DOC-5) shall be prepared.

Property Damage

If any items are damaged during the search of the offender's living quarters or property, those items will be identified in writing and a copy shall be given to the offender.

.13 OUT-OF-STATE SEARCHES

Agents are prohibited from conducting residence or property searches in another state.

.14 EVIDENCE AND CONTRABAND

Agents may seize any item that they reasonably believe is contraband; whether or not they believe a violation of supervision occurred.

- The offender shall be issued a copy of the DOC-1165.
- The supervisor shall be given a copy of the DOC-1165.
- All seized contraband shall be kept in a designated locked storage until properly disposed of.

See section 08.03 for further procedures relating to the seizure and disposal of contraband.

Division of
Community Corrections

Chapter: Violations

Subject: Contraband Seizure and
Disposal

Date: 10/30/09 Page 1 of 2

.01 AUTHORITY

Wisconsin Statute Section 968.20
Wisconsin Administrative Code, Section DOC 328.16

.02 SEIZURE

Field staff who reasonably believe an item is contraband may seize it whether or not they believe a violation of supervision occurred.

It may be necessary to confiscate contraband from an offender to prevent a crime, for evidence in revocation proceedings, or for rules violations. Any item that is illegal to possess shall be turned over to law enforcement.

Property that is not determined to be contraband shall be returned to the owner if feasible. A receipt shall be obtained from the owner indicating the return of the property; otherwise, it shall be disposed of in accordance 08.03.03.

.03 DISPOSAL

The Supervisor or designee shall dispose of seized contraband after all proceedings in which it may be required have been completed. A written record of all items disposed of, including the reason for their disposal, shall be kept in the case file.

- Money whose true owner cannot be determined shall go to the general fund.
- Checks and negotiable instruments shall be returned to the maker. If unable to determine the address of the maker of a check, it shall be destroyed.
- US bonds and other securities shall be forwarded and held in the department cashier's office.
- Property shall be sent to the owner, if known, or sent, at offender expense, to another.
- Items of inherent value are to be sold through the department purchasing officer.
- Intoxicating substances shall be disposed of by the offender's agent, after obtaining supervisory approval, or given to a law enforcement agency for evidence or disposal.
- Firearms shall be disposed of in accordance with 08.03.04.
- State property shall be returned to the issuing agency.

.04 DISPOSAL OF SEIZED FIREARMS OR AMMUNITION

Seized firearms or ammunition shall not be returned to any person who is prohibited from possessing a firearm (See 06.20.03).

Firearms or ammunition may be returned to the rightful, documented owner if the owner had no prior knowledge of, and gave no consent to, the commission of the crime.

Firearms or ammunition that may not be returned shall be

disposed of.

Division of
Community Corrections

Chapter: Violations

Subject: Contraband Seizure and
Disposal

Date: 03/01/01 Page 2 of 2

.04 DISPOSAL OF SEIZED FIREARMS OR AMMUNITION (continued)

PROCEDURE

1. Any and all seized firearms or ammunition will be listed by make, serial number, and type (including number of rounds if ammunition) on the DOC-1165 a copy of which will be provided to the offender as a receipt.
2. Firearms will be unloaded and ammunition handled in a safe manner. A Violation Investigation Report (DOC-5) will be prepared and the DOC-1165 will be attached. This report will be provided to the supervisor within five working days of the seizure. A copy will be provided to the Regional Chief and to the municipal police department or county sheriff's department.
3. Seized firearms or ammunition shall be kept in a locked container until properly disposed of.
4. When no longer needed for investigation or evidence, the agent, with supervisory approval, shall return the property to its rightful owner. In attempting to determine the rightful owner, the agent shall make reasonable efforts to notify all persons who have, or may have, an authorized rightful interest in the firearm or ammunition of the requirements to petition the court for a hearing on ownership claims.
5. Thirty days after all persons who have, or may have, an authorized interest in the firearm or ammunition have been notified, the agent and supervisor will determine whether application has been made to the court for a hearing on the matter. If no such hearing has been requested the agent will deliver the firearm or ammunition to the State Crime Laboratory. A receipt from the Crime Lab will be obtained. The receipt will be attached to the Violation Investigation Report and maintained in the regional office.

.05 OFFENDER'S RIGHT TO APPEAL

If a decision has been made to dispose of contraband seized, the offender may appeal the decision by completing and submitting to the agent's supervisor an Offender Request for Administrative Review (DOC-127). Property shall not be disposed of until the appeal is resolved.

Division of
Community Corrections

Chapter:	Violations	
Subject:	Evidence Handling	
Date:	03/01/01	Page 1 of 1

.01 AUTHORITY

Wisconsin Administrative Code DOC 328.16
DOC 328.21

.02 GENERAL STATEMENT

While investigating alleged violations or offender activities, an agent may seize any physical evidence that may be needed for revocation proceedings. This evidence must be documented on a [DOC-1165](#), handled, and secured properly to preserve its value as evidence in future proceedings.

.03 SECURING EVIDENCE

Law enforcement agencies may agree to store evidence for the DCC. If this service is not available, staff must ensure that the evidence is placed in a locked storage area with proper identification and documentation.

.04 DOCUMENTATION REQUIRED

All evidence must be inventoried on, as indicated by the [DOC-1165](#). If possible, evidence should be bagged and sealed with a copy of the [DOC-1165](#) inside. A copy of the [DOC-1165](#) should be securely attached to the outside as well. All non-bagged evidence must have a copy of the [DOC-1165](#) securely attached to it. The keeper of the secure area where the evidence is kept shall develop an on-site chain of evidence system for all evidence to be secured there.

The offender shall be issued a copy of the [DOC-1165](#).

Division of
Community Corrections

Chapter: Violations

Subject: Staffing Responses to
Violations

Date: 03/01/08 Page 1 of 5

.01 FUNCTIONAL RESPONSES TO VIOLATIONS

Violation of a condition of supervision can be both a necessary and a sufficient ground for revocation. However, every decision about how to respond to a violation should consider the objective(s) to be accomplished by the disposition, the level of intensity necessary to achieve the objective, and the extent to which the specific disposition is likely to accomplish the objective. *Functional responses* to violations focus consideration of how particular dispositions will achieve the department's goals. When more than one objective is involved, a functional analysis of the potential dispositions may increase the likelihood that a disposition can be crafted to address more than one objective. Without consideration of "function", dispositions may ignore or impede legitimate correctional objectives.

Responses to violations should accomplish one or more of the following objectives:

1. Control the offender (protect the public).
2. Correct the behavior contributing to the violation (counseling, education, treatment).
3. Hold the offender to account (not depreciate the seriousness of violation or pattern of violations).

Effective responses may occur along a continuum of intensity. Individual case circumstances will dictate the required level of intensity. Generally, the lowest level of intensity likely to accomplish an objective is the most desirable disposition. Revocation will be necessary and appropriate when:

1. The case circumstances require the highest level of response intensity to achieve one or more functional objectives, and
2. No response is available in the community or in an institutional ATR which is sufficient to accomplish the identified objective.

.02 PROCESS

1. Complete violation investigation to establish:
 - a. Objective, factual description of offender's behavior;
 - b. Circumstances contributing to offender's behavior; and
 - c. Offender's attitude about the violation.
2. Review relevant facts about the offender, including the offender's:
 - a. current risk/needs profile,
 - b. current and prior criminal history,
 - c. current and prior supervision history.

Division of
Community Corrections

Chapter: Violations

Subject: Staffing Responses to
Violations

Date: 10/06/08 Page 2 of 5

.02 PROCESS (continued)

3. Identify relevant correctional objective(s).
4. Identify intensity of response necessary to achieve relevant correctional objective(s).
5. Select appropriate disposition. When more than one objective is identified, attempt to develop a disposition, or sequence of dispositions, that accomplishes each objective.

FUNCTIONAL OBJECTIVE: Control the offender (protect the public)

Factors to consider:

Current violation:	Assaultive/dangerous behavior? Criminal or technical violation? Felony or misdemeanor? Similar to previous violations or convictions? Demonstrates intent to evade supervision?
Current adjustment:	Previous violations during this supervision; responses to previous corrective actions; pattern of compliance with rules/conditions?
Current offense(s):	Assaultive/dangerous behavior? Serious sex offense? Felony or misdemeanor?
Prior supervision:	Previous supervision history; revocations; criminal or other dangerous behavior during supervision?
Attitude:	Demonstrates willingness and ability to comply with conditions?
Time to serve:	For how long is High level control necessary? How does that compare to time to serve if revoked?
Intangibles:	High profile; great community/court concerns; physical/mental incapacity limits ability to abscond or violate conditions, etc.
Risk:	Risk levels, based on valid assessment instrument(s).

Division of
Community Corrections

Chapter: Violations

Subject: Staffing Responses to
Violations

Date: 06/07/06 Page 3 of 5

.02 PROCESS (continued)

Disposition Options:

Response Intensity	Description	Examples*
High	Offender's freedom of movement and activity is subject to external control	Revocation (long term control) DAI - ATR (intermediate term control) Court review - Jail (probation, only) Sanction, up to 90 days (ES, only)
Medium	Offender's freedom of movement and activity is restricted, but not eliminated Subject to increased monitoring	Halfway House/TLP EMP, with schedule for work, treatment, etc. Sobriety Curfew Court review - modify conditions Day reporting Compliance contract HR or INT-SO supervision level Chaperone
Low	Does not call for additional formal restrictions; May include increased reporting, reclassification	Review supervision level Modify rules Verbal/written warnings Increase collateral contacts

* May include any responses in less intensive levels

FUNCTIONAL OBJECTIVE: Correct the behavior contributing to the violation (treatment, education, or counseling)

Factors to consider:

Treatable issue: An identified problem exists, which may be controlled or corrected through a recognized intervention.

Availability: Recognized intervention exists and offender could participate, if department allows.

Prior treatment: History, frequency, and previous responses to treatment.

Readiness: Attitude toward problem, motivation for change.

Capacity for benefit: Do physical/mental/emotional limitations prevent offender from benefiting, in available time frame?

Division of
Community Corrections

Chapter: Violations

Subject: Staffing Responses to
Violations

Date: 06/07/06 Page 4 of 5

.02 PROCESS (continued)

Community support: Offender's community environment likely to support or inhibit positive change?

Relationship to Criminal behavior: Will addressing the identified issue affect the likelihood of future criminal behavior?

Disposition Options:

Response Intensity	Description	Examples*
High	Intensive, formal intervention is required to address an identifiable issue	In-patient/residential treatment DAI Program-ATR Medication compliance order (court order or Felce)
Medium	Short term, less intensive intervention should be sufficient to address identifiable issue	Outpatient treatment; Cognitive Interventions; Short-term violators' groups; Regular UA monitoring; Sobriator; Behavioral Contract
Low	Does not call for a formal intervention; informal counseling or education should be sufficient	Counseling by agent; Random UA monitoring; Support groups; Education program; Involve collaterals

* May include any responses in less intensive levels

FUNCTIONAL OBJECTIVE: Hold the offender to account (not depreciate the seriousness of the violation or pattern of violations)

Factors to consider:

Seriousness: Criminal or technical violation?
Felony or misdemeanor?

Victim impact: Physical, psychological, or economic harm to a victim?

Attitude toward Violation: Does offender acknowledge behavior and accept responsibility?
Or, does offender deny or defend non-compliant behavior?

Pattern of Violations: How chronic or frequent are the violations? Previous efforts to correct behavior?

Division of
Community Corrections

Chapter: Violations

Subject: Staffing Responses to
Violations

Date: 06/07/06 Page 5 of 5

.02 PROCESS (continued)

Adjustment history: Is there a pattern of problems throughout supervision? Does the offender demonstrate motivation to make a successful adjustment in the community?

Intangibles: Community/court expectations; consequences of revocation.

Disposition Options:

Response Intensity	Description	Examples*
High	A significant response, perhaps including revocation, is necessary to avoid depreciating seriousness of violation(s).	Revocation DAI - ATR Court review - Jail (probation, only) Sanction, up to 90 days (ES, only) EMP home confinement
Medium	Some penalty is necessary to impress on offender the need to avoid behavior	Halfway house/TLP; EMP (short term); Sobriator; Court review; Curfew; Day reporting; Behavioral Contract Community service
Low	Sufficient response to assure that offender is aware that behavior is a violation; Acknowledges responsibility	Counsel and warn; Modify rules; Letter of apology; Involve collaterals

* May include any responses in less intensive levels