

Sixth District Department of Correctional Services POLICY		Issue Date 01/19/01	Effective Date 05/10/19	Policy Number 410-19
Subject <b>PROBATION VIOLATION COMPLAINT</b>		Review Month March	Author 0118/0253 (LST/MST)	
Rescinds 410-15	References: Iowa Code 908.11, 6JDDCS Policy 1200 Interstate Compact			

**POLICY:**

When probable cause exists that conditions of probation have been violated, the agent may file a Probation Violation Complaint (Complaint) (formerly known as PPVI). When a Complaint is filed, the Agent can request a warrant be issued or request detention if the offender is already in custody. Staff, with supervisory approval, may affect immediate arrest of an offender when there is no opportunity to secure an arrest warrant prior to affecting the arrest (refer to Policy 0147).

**DEFINITION:**

1. Complaint (formerly known as PPVI) - A notarized document, referencing the violations of probation per Iowa Code 908.11.
2. Probable Cause – An Agent has a reasonable belief, based on reliable information, that an offender has violated the conditions of their probation and is to be arrested or detained for said violations.

**PROCEDURE:**

1. The Agent obtains supervisory approval prior to filing the Complaint. If a supervisor is not available and circumstances are consistent with the elements of this policy, the Agent may proceed with the Complaint and inform a supervisor within twenty four (24) hours.

NOTE: High Risk Unit officers are not required to have supervisory approval prior to arrest and detention of offenders. HRU officers ensure that arrest reports/Complaints are provided to the HRU supervisor, or designee, within twenty-four (24) hours. A copy of the Complaint is emailed to the supervising Agent when applicable. If offender is on for multiple charges/counties within the Sixth District, submit a Complaint in the county of supervision (i.e., on for Linn and Johnson, supervised in Linn - submit it in Linn).

NOTE: If on Parole and Probation, submit Complaint on the Parole and submit Report of Violation on the Probation.

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**PROCEDURE:** (continued)

2. During office hours and when possible:
  - A. The Agent files a Complaint when the Agent has probable cause to believe the offender has violated probation conditions and:
    - 1) The offender has not been arrested but the Agent reasonably believes the offender is likely to either:
      - a. Abscond; or
      - b. Pose an immediate danger to self or others; or
    - 2) The offender has been arrested and the Agent believes the offender should remain in custody due to any of the following:
      - a. The nature and circumstances of the new offense;
      - b. The crime charged is a forcible felony or carries a mandatory prison sentence; or
      - c. The Agent has reason to believe the offender may abscond as a result of the new arrest; or
      - d. The release of the offender may jeopardize the safety of another person; or
      - e. The offender has failed to maintain contact as required by the Agent or failed to maintain stable residence.
  - B. Agent completes the Complaint utilizing ICON template: PB-Probation Complaint. For step-by-step instructions on how to complete the Complaint, refer to ICON template: Instructions-Complaint – Form 0410A or follow the instructions listed below.
    - In ICON go to "Report"
    - Then to "Templates"
    - Then to "Report Template Generate"
    - Select the Region as "Sixth Judicial District" if not already selected
    - For Report Template scroll down to "Instructions"-Complaint (PPVI)
    - Then click the "generate" button to find the EDMS filing instructions
  - C. Once signed by the Agent and notarized, the Complaint is scanned and electronically filed via EDMS. For EDMS filing instructions, refer to ICON template: Instructions-Complaint – Form 0410A.
  - D. Once Complaint is filed, the judge has the discretion to order a warrant to be issued if the offender is not in custody, or to file an order for detention if offender is already in custody.

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**PROCEDURE:** (continued)

- E. When an offender is being supervised in a county other than the county of sentencing via an intra-district transfer (Policy 126):
  - 1) The Agent or designee files a Complaint via EDMS with the Court in the county of sentencing. A copy of the Complaint is faxed or delivered to the jail. NOTE: The Complaint process is only for use within the Sixth Judicial District and is not used for cases transferred in from other Districts. For cases outside the Sixth District you need to contact that District and follow their procedures.
- 3. Judicial approval is always the preferred method of proceeding with arrest or detention; however, if there is no opportunity to prepare a Complaint or Report of Violation, a Notice of Violation may be used (Policy 0147) when:
  - A. The Agent has probable cause to believe the offender has violated the conditions of probation; and
  - B. There is no opportunity to secure judicial approval or supervisory approval; and
  - C. The offender was placed on probation in the Sixth Judicial District; and
  - D. The arrest or detention occurs outside normal working hours or there is an emergency situation which dictates the necessity for such action; and the offender:
    - 1) Poses an immediate threat to the safety of others; or
    - 2) Poses an immediate threat to self and attempts to protect the offender have proven or are likely to prove ineffective; or
    - 3) Is committing or has recently committed a serious violation of probation which has not yet resulted in arrest; or
    - 4) Is in custody for a charge other than probation violation and is likely to be released before the initial appearance and staff believes the offender may abscond or pose an immediate threat to the safety of others if released.
- 4. A Complaint must be filed immediately or at least prior to the offender appearing in Court for his initial appearance if a Notice of Violation is used.
- 5. When a Complaint is filed, a Report of Violation (411A) is provided to the County Attorney within five (5) working days of the date the Complaint is filed.
- 6. All procedural steps taken by the Agent are entered into the offender Generic Notes (103).

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**PROCEDURE:** (continued)

7. The supervising agent retains the original Complaint in the offender file. If Complaint was prepared by anyone other than the supervising agent, the preparer is to email the supervising agent and provide that agent a copy of the Complaint.
8. Offenders transferred to the Sixth Judicial District under the Interstate Compact can be arrested and detained for failure to comply with conditions if such failure would have resulted in an arrest of a similarly situated Iowa offender. A complaint of Preliminary Violation is used (Refer to Policy 1200, Form 1200I) when a compact offender is arrested and taken into custody for violations. Compact offenders who are subject to retaking proceedings **have no right to bail.**

BY ORDER OF:

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Bruce Vander Sanden, District Director