

Sixth District Department of Correctional Services POLICY	Issue Date 01/18/02	Effective Date 07/01/22	Policy Number 147-22
Subject CLIENT ARREST WITHOUT WARRANT		Review Month December	Author 601 (GSC)
Rescinds 147-15	References Admin. Code 201-45.4(2); Iowa Code 801.4, 906.1, 906.5, 908.1; 908.11; Brown v. St., 297 N.W.2d 101 (Iowa, 1980); Rule 36 Iowa Rules of Criminal Procedure		

POLICY:

An arrest pursuant to a warrant is always preferred and a warrant is secured prior to arrest whenever possible; however, staff, with supervisory approval, may affect immediate arrest of a client released on parole or probation when probable cause exists to believe that conditions of parole or probation have been seriously violated and there is no opportunity to secure an arrest warrant prior to affecting the arrest.

PROCEDURE:

1. An arrest without a warrant may be made when:
 - A. Staff have probable cause to believe the client has violated the conditions of parole or probation; and;
 - B. There is no opportunity to prepare a Preliminary Parole or Probation Violation Information ("P.P.V.I.") (Policy 411 or Form 705B) or Report of Violation (Policy 410), and;
 - C. The client:
 - 1.) poses an immediate threat to the safety of others; or
 - 2.) poses an immediate threat to self and attempts to protect the client 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 parole or probation violation, is likely to be released before the initial appearance and staff believe the client may abscond or pose an immediate threat to the safety of others if released.

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PROCEDURE: (continued)

2. Staff obtains supervisory approval prior to initiating an arrest without a warrant if reasonably possible. If the staff making or authorizing the arrest is not the supervising officer for the client, the supervising officer is consulted prior to the arrest if feasible.
3. The arrest is made by a law enforcement officer or certified staff when feasible and practical and when the client poses a risk of harm to self, staff, or others.
4. While the physical arrest may be made by law enforcement officers, the legal authority to authorize an arrest without a warrant of an offender for parole or probation violation and file a Notice of Parole/Probation Violation form may not be delegated or otherwise given to any other agency. A Probation/Parole Officer or designee is personally required to authorize the arrest and complete the Notice of Parole/Probation Violation Form (147A).
5. After the arrest and the client is in custody, staff completes the Notice of Parole/Probation Violation form (unless it was completed prior to the arrest), gives the original Notice of Parole/Probation Violation form to the detaining authority and keeps a copy for the file.
6. When the Notice of Parole/Probation Violation form is used during normal working hours, staff immediately prepares a Report of Violation (Policy 410) or P.P.V.I. (Policy 411 or Form 705B) and files it with the court by the end of the day if feasible.
7. If the Notice of Parole/Probation Violation form is filed outside normal working hours or if it is filed so near the end of the day that preparation and filing of a Report of Violation or P.P.V.I. is not practical, staff prepares and submits the Report of Violation or P.P.V.I. prior to the offender's Initial Appearance. If the staff who prepares the Notice of Parole/Probation Violation form is not the supervising officer, the preparer of the Notice of Parole/Probation Violation form completes a P.P.V.I. and leaves it in a designated location.
8. Parolees or probationers arrested without a warrant must appear before a judge, associate judge or magistrate without unnecessary delay (within twenty-four [24] hours) for an Initial Appearance.
9. When the parolee or probationer has the Initial Appearance, the P.P.V.I. is taken to the judge, associate judge or magistrate and sworn to and subscribed to before the judge, associate judge or magistrate by the supervising officer or designated staff.
10. The determination of probable cause and decision as to bond is made by the judge, associate judge or magistrate at the Initial Appearance.

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PROCEDURE: (continued)

11. If the staff who effectuated or authorized the arrest or who filed the P.P.V.I. is not the supervising officer, the staff who effectuated the arrest or who filed the P.P.V.I. are required to notify the supervising officer or supervising officer's supervisor within twenty four (24) hours of the Initial Appearance.
12. Steps taken in accordance with this policy are thoroughly documented in ICON (generic notes) or, if the staff does not have access to these records, documented otherwise.

BY ORDER OF:

Bruce Vander Sanden, Director