

# **Sentencing Law for Superior Court Judges**

North Carolina Judicial College  
September 9, 2011

## **Probationary Sentences**

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Monthly Supervision Statistics						
Snapshot of Monthly Stats on last day of Month Jun-11			Occurrence during the Month Jun-11			
<b>Offenders Under DCC Supervision</b>			<b>Admissions</b>			
Probationers	104,273		Probation	4,739		
Parole	1,859		Parole	99		
Post Release	2,142		Post Release	205		
Dual	233		Dual	0		
Post Release/Probation	218		Post Release/Probation	0		
Unsupervised	11,633		<b>Total Admissions</b>	<b>5,043</b>		
<b>Total Population (Supv., Unsupv., Abs., &amp; Out of State)</b>	<b>120,358</b>		<b>Other Gains</b>			
<b>Absconders</b>			Cap. Fug Task Force			
Absconders w/ outstanding warrants in DCI	10,056		26			
<i>Absconders according to PP05(suspended)</i>	<i>9,946</i>		Cap. In County			
			633			
			Cap. Out of County			
			146			
			Cap. Out of State			
			24			
			Cap. Warrant Rescinded			
			14			
<b>ISC (included in total above)</b>			<b>Total Captures</b>			
ISC Sending State	1,119		<b>843</b>			
ISC Receiving State	4,567		Subsequent Cases			
			1,121			
<b>Sanctions</b>			<b>Exits</b>			
Continuous Split	1,176		Revocation New Crime			
Residential Community Corrections	240		325			
Dart 90-Day	256		Revocation Absconder			
Black Mountain	52		525			
EHA OPUS	452		Revocation Technical			
<b>EHA System Total</b>	<b>929</b>		<b>1,772</b> Rate 36.19%			
<i>EHA DCC</i>	<i>863</i>		Elect To Serve			
<i>EHA Outside Agencies</i>	<i>66</i>		87 Rate 1.78%			
Day Reporting Center	764		Completions			
Drug Treatment Court	594		800			
Intensive	5,768		Early Termination - Satisfactorily			
Non-Continuous Split	1,188		644			
<b>Special Programs/Special Population</b>			Early Termination - Unsatisfactorily Terminated			
Sex Offenders	3,153		337			
Sex Offender Control Program	459		Transfer to Unsupervised			
GPS	274		870			
GPS Conditional	115		Death			
GPS Mandatory	159		44			
Domestic Violence Court Ordered	2,975		Close Other State Case			
Deferred Prosecution	1,303		153			
Other CJP	392		Close Absconder Case			
School Partnership	290		140			
Electronic Monitoring	157		Failure to Comply			
DWI	18,672		49			
GHI	0		<b>Total Exits</b>			
CTG	201		<b>4,896</b>			
TASC	1,846		<b>Other Losses</b>			
DART 28-Day	4		Abscond			
Continuous Alcohol Monitoring	59		972			
<b>Community Service Work Program</b>			Moved to Other State			
Supervised	12,898		41			
Unsupervised	11,633		<b>Victim Notifications</b>			
Hours Completed	176,733		Total Notices Sent			
Total Value	\$1,290,709.35		2,425			
<b>Supervised Offender Demographics</b>			Registered Victims			
<b>Male Population</b>			5,035			
Black Males	38,368		Offenders w/Victims			
White Males	36,584		3,649			
Indian Male	1,910		Registered Victims of Sex Off.			
Asian/Oriental Male	293		496			
Other Male	4,615		Registered Victims of Domestic Violence Off.			
Unknown Male	285		88			
<b>Total Male</b>	<b>82,055</b>		<b>Drug Screening</b>			
<b>Supervision Levels(Excludes Absconders)</b>			Specimens Tested			
Level 1	4,940		21,753			
Level 2	21,439		Positive			
Level 3	25,908		5,936			
Level 4	25,046		% Positive			
Level 5	8,044		27.29%			
Level 0	13,340		<b>Warrantless Searches</b>			
			Total Conducted			
			18,191			
			<b>Tolled Offenders (Excluding Absconders)</b>			
			Total			
			20,233			
			<b>Violations</b>			
			Initiated			
			5,893			
			Completed			
			4,829			
			<b>Female Population</b>			
			<b>Age</b>			
			Black Females	11,001	15	4
			White Females	14,469	16	288
			Indian Females	591	17	1,329
			Asian/Oriental Fem	81	18	2,214
			Other Females	450	19	2,926
			Unknown Females	78	20-29	39,386
			<b>Total Female</b>	<b>26,670</b>	30-39	29,222
					40-49	20,881
					50-59	9,797
			<b>Remote Report Offenders</b>			
			Div 1	6,010	60-70	2,362
			Div 2	5,025	Over 70	316
			Div 3	7,207		
			Div 4	5,046		
			<b>Total</b>	<b>23,288</b>		



**OFFENDER TRAITS INVENTORY  
(Risk Assessment - OPUS Screen PP11)**

**Assessment Date:** \_\_\_\_\_

<b>Case Factor</b>	<b>Points</b>	<b>Case Factor</b>	<b>Points</b>
1. Conviction (0, 1, 2, 3) Select all applicable and add for score: <input type="checkbox"/> 1 - DWI <input type="checkbox"/> 2 - Housebreaking, B & E, Burglary, stolen property <input type="checkbox"/> 2 - Vehicle theft, all other larceny/thefts <input type="checkbox"/> 2 - Robbery <input type="checkbox"/> 3 - Forgery, worthless checks, fraud <input type="checkbox"/> 0 - Other	_____	2. Financial Status (0, 3, 6) Choose one: <input type="checkbox"/> 0 - Self-sufficient, capable of handling finances <input type="checkbox"/> 3 - No known difficulty <input type="checkbox"/> 6 - Some or severe difficulty in meeting court and other obligations	_____
3. Marital (0, 3, 5) <input type="checkbox"/> 0 - Married/Widowed <input type="checkbox"/> 3 - Separated/Divorced <input type="checkbox"/> 5 - Single	_____	4. Attitude (0, 6) <input type="checkbox"/> 0 - Motivated to change, receptive to assistance <input type="checkbox"/> 6 - Dependence or unwilling to accept responsibility, or rationalizes behavior, negative, not motivated to change	_____
5. Drug Addiction (0, 5) <input type="checkbox"/> 0 - No history of drug addiction <input type="checkbox"/> 5 - Has past history of drug addiction	_____	6. Employment 1 (0, 4) <input type="checkbox"/> 0 - Employed more than 7 months during the past 12 months <input type="checkbox"/> 4 - Employed less than 7 months during the past 12 months	_____
7. Employment (0, 4) <input type="checkbox"/> 0 - Employed, passing in school <input type="checkbox"/> 4 - Unemployed/Unstable employment, Problem student	_____	8. High School Dropout (0, 3) <input type="checkbox"/> 0 - Finished or in school <input type="checkbox"/> 3 - High School dropout	_____
9. Gender - OPUS scores	_____	10. Age - OPUS scores	_____

Assigned Supervision Level  
\_\_\_\_\_

PPO ID:  
\_\_\_\_\_

Assignment Reason(s)  
\_\_\_\_\_

## Offender Traits Inventory (OTI) Assessment Instructions

1. Convictions  
Count convictions only, not arrests. If an offender's offense cannot fit into any of these categories (for example, bribery), check the box marked "Other," and zero points will be assigned since it was not among the crimes determined to predict recidivism. Maximum points = 10.
2. Financial Situation
  - 0 Self Sufficient, Capable of Handling Finances. Earns enough income to meet obligations, maintain savings.
  - 3 No Known Difficulty - Can meet immediate expenses, but needs limited budgeting and counseling, including offenders where there is insufficient information to make a determination.
  - 6 Some/Severe Difficulty in Meeting Court and Other Obligations - Sufficient resources with poor management of money or insufficient financial resources; heavy debt, totally incapable of managing financial matters.
3. Marital
  - 0 Married/Widowed - Currently married and living with spouse or spouse deceased
  - 3 Separated/Divorced - Married at one time, currently separated from spouse or legally divorced
  - 5 Single - Never been married
4. Attitude  
This is a subjective question that is dependent on the officer's knowledge of the offender
5. Drug Addiction  
Serious Problems: Major abuse or addiction, needs treatment for heroin, cocaine, barbiturate or other drug dependence. (Do not include alcohol)
6. Employment during last 12 Months  
The issue here is not the number of jobs an offender may have had, but the actual length of time spent employed. In determining the score, consider the following:
  - The value is scored based on full-time employment (30 hours or more per week);
  - If part-time employment (less than 30 hours per week), give only half the value of full-time;
  - Students, homemakers, retired persons, or physically disabled persons are not considered part of the labor force; scoring is based on a percentage of time in the labor force.
7. Unstable Employment/Problem Student  
Concerns those offenders who have shown a tendency to work irregularly, lose jobs as a result of absenteeism, or in other ways there is an indication that continued employment is unlikely.
8. High School Dropout (Self Explanatory)
9. Male Gender is scored 7 points for male and 0 points for female
10. Age

AGE	POINTS	AGE	POINTS	AGE	POINTS
<19	8	41 – 42	2	53	-5
19 – 21	6	43 – 44	1	54 – 55	-6
22 – 24	7	45 – 46	0	56	-7
25 – 32	6	47 – 48	-1	57	-8
33 – 35	5	49	-2	58	-9
36 – 38	4	50 – 51	-3	59	-10
39 – 40	3	52	-4	60+	-11

# North Carolina Division of Community Corrections



## Offender Needs Assessment

### Self-Report Questionnaire

*Instructions:*

**Mark one box for each statement below that best shows what is true for you.**

		Never true	Rarely true	Sometimes true	Usually true	Always true
1	I am okay with my current work or school situation.	<input type="checkbox"/>				
2	I have the skills that I need to get a good job.	<input type="checkbox"/>				
3	I try to make my job or school situation better.	<input type="checkbox"/>				
4	I run out of money right before payday.	<input type="checkbox"/>				
5	I struggle to pay the rent or things like my light bill.	<input type="checkbox"/>				
6	I have to rely on others for money.	<input type="checkbox"/>				
7	I have a permanent place to live	<input type="checkbox"/>				
8	When I was in school I was in special education classes.	<input type="checkbox"/>				
9	I find it difficult to read.	<input type="checkbox"/>				
10	When I buy something with cash, I can figure out how much change I should get back.	<input type="checkbox"/>				
11	Because of my health, it's hard to do everyday tasks.	<input type="checkbox"/>				
12	It's hard for me to pay for my medical needs.	<input type="checkbox"/>				

**Think of a typical week in your life as you answer the questions below. Place a mark beside the box that best shows what is true for your life.**

13 In a typical week how many days a week do you drink alcohol or use drugs?

- 0
- 1-2 days
- 3-5 days
- 6-7 days

14 How many days in a typical week do you drink more than 5 drinks at one sitting?

\_\_\_\_\_days

15 At the time of the offense that I am on probation for happened, I was (mark all that apply):

- sober
- under the influence of just alcohol
- under the influence of just drugs
- under the influence of both alcohol and drugs

**Mark one box for each statement below that best shows what is true for you.**

	Never true	Rarely true	Sometimes true	Usually true	Always true
16 When I drink alcohol or use drugs I get in arguments with others.	<input type="checkbox"/>				
17 I feel "hung over" or sick when I wake up.	<input type="checkbox"/>				
18 When I drink or use drugs I get in trouble at work/school.	<input type="checkbox"/>				
19 I think about stopping drinking or doing drugs.	<input type="checkbox"/>				

**Think of times before you were 15 years old when you got in trouble.**

20 Before age 15, I got in trouble for (mark yes or no):

	Yes	No
Skipping School	<input type="checkbox"/>	<input type="checkbox"/>
Running Away	<input type="checkbox"/>	<input type="checkbox"/>
Fighting	<input type="checkbox"/>	<input type="checkbox"/>
Having Weapons	<input type="checkbox"/>	<input type="checkbox"/>
Forcing sexual activities on others	<input type="checkbox"/>	<input type="checkbox"/>
Hurting animals or people	<input type="checkbox"/>	<input type="checkbox"/>
Tearing up others' property	<input type="checkbox"/>	<input type="checkbox"/>
Starting fires	<input type="checkbox"/>	<input type="checkbox"/>
Lying	<input type="checkbox"/>	<input type="checkbox"/>
Stealing something from others	<input type="checkbox"/>	<input type="checkbox"/>

**Mark one box for each statement below that best shows what is true for what it was like in your family when you were growing up.**

	Never true	Rarely true	Sometimes true	Usually true	Always true
21 Family members were in trouble with the law.	<input type="checkbox"/>				
22 There were fights and arguments in my home.	<input type="checkbox"/>				
23 When I had a problem I knew someone in my family would help me solve it.	<input type="checkbox"/>				
24 I knew I would be punished if rules were broken.	<input type="checkbox"/>				
25 We didn't hold to any rules or standards	<input type="checkbox"/>				
26 Anything goes in our family	<input type="checkbox"/>				

**Mark one box for each statement below that best shows what is true for your current family situation.**

	Never true	Rarely true	Sometimes true	Usually true	Always true
27 I am happy with my current family life.	<input type="checkbox"/>				
28 My family understands my situation and problems.	<input type="checkbox"/>				

**Mark one box for each statement below that best shows what is true for you.**

	Never true	Rarely true	Sometimes true	Usually true	Always true
29 Sometimes I can't stop myself from doing something, even if I know it is wrong.	<input type="checkbox"/>				
30 People would describe me as impulsive.	<input type="checkbox"/>				
31 It's exciting to try something that might get me in trouble.	<input type="checkbox"/>				
32 I become angry when people try to tell me what to do.	<input type="checkbox"/>				

**Mark one box for each statement below that best shows what is true for you.**

	Never true	Rarely true	Sometimes true	Usually true	Always true
33 I try to stay out of situations that might get me in trouble.	<input type="checkbox"/>				
34 I think about what could happen before acting.	<input type="checkbox"/>				
35 I lose my temper easily.	<input type="checkbox"/>				
36 I apologize to others when I do wrong.	<input type="checkbox"/>				
37 I blurt out whatever is on my mind.	<input type="checkbox"/>				

Mark one box for each statement below that best shows what is true for times when you are not using alcohol or drugs.

	Never true	Rarely true	Some-times true	Usually true	Always true
38 I hear or see things that other people say they don't hear or see.	<input type="checkbox"/>				
39 I believe that other people can control my mind by putting thoughts into my head or taking thoughts out of my head.	<input type="checkbox"/>				
40 I have so much energy that I can go for days without sleep and thoughts just race through my head.	<input type="checkbox"/>				
41 I feel so bad that I think of taking my own life.	<input type="checkbox"/>				

Mark one box for each statement below that best shows what is true for you.

	Never true	Rarely true	Some-times true	Usually true	Always true
42 I think the world owes me a better life.	<input type="checkbox"/>				
43 I get even with people who mess with me.	<input type="checkbox"/>				
44 I get in trouble because I have bad luck.	<input type="checkbox"/>				
45 I think about how my actions will affect others.	<input type="checkbox"/>				
46 I can control the things I say.	<input type="checkbox"/>				
47 I do things I had not planned to do.	<input type="checkbox"/>				
48 Breaking the law is not big deal as long as you don't hurt someone.	<input type="checkbox"/>				

**Think about the friends you have now and keep them in mind when you answer questions 45 through 49. Please do NOT list any names.**

*Put number of friends here.*



49	How many friends do you have?	.....	
50	How many of those friends are on probation, parole or post release (like you are now)?	.....	
51	How many of those friends are members of a gang?	.....	
52	How many of those friends have ever committed a crime, whether or not they were arrested?	.....	
53	How many of those friends sell or use drugs (including pot)?	.....	
54	How many of those friends are involved in community or social organizations?	.....	
55	How many of those people are your close friends?	.....	

# North Carolina Division of Community Corrections



## Offender Needs Assessment

*Instructions:*

### SECTION 1: Interview Questions

	Yes	No
1 Do you have a valid driver's license?	<input type="checkbox"/>	<input type="checkbox"/>
2 Do you have a reliable method of transportation?	<input type="checkbox"/>	<input type="checkbox"/>
3 Are you currently enrolled in school?	<input type="checkbox"/>	<input type="checkbox"/>
4 Do you have a high school diploma/GED?	<input type="checkbox"/>	<input type="checkbox"/>
5 Are you currently employed?	<input type="checkbox"/>	<input type="checkbox"/>
6 Do you have a trade or other professional credentials?	<input type="checkbox"/>	<input type="checkbox"/>
7 Are you dependent upon public assistance or a limited pension for income?	<input type="checkbox"/>	<input type="checkbox"/>
8 Is anyone dependent on you for financial support?	<input type="checkbox"/>	<input type="checkbox"/>
9 Have you been homeless in the past year?	<input type="checkbox"/>	<input type="checkbox"/>
10 Are any other members of your family currently under supervision?	<input type="checkbox"/>	<input type="checkbox"/>
11 Are any other members of your family currently incarcerated or in jail?	<input type="checkbox"/>	<input type="checkbox"/>
12 Are there any minor children in your home?	<input type="checkbox"/>	<input type="checkbox"/>
13 Are you involved in any community or social organizations? (i.e., hobbies, church or religious organization, volunteer activities, sports)	<input type="checkbox"/>	<input type="checkbox"/>
14 Are you currently under a doctor's care or taking medications?	<input type="checkbox"/>	<input type="checkbox"/>

	Yes	No
15 Are you pregnant?	<input type="checkbox"/>	<input type="checkbox"/>
16 Do you have any chronic medical conditions that require frequent care?	<input type="checkbox"/>	<input type="checkbox"/>
17 Do you have health insurance?	<input type="checkbox"/>	<input type="checkbox"/>
18 Have you ever been hospitalized for emotional or mental health problems?	<input type="checkbox"/>	<input type="checkbox"/>
19 Have you ever taken medication for emotional or mental health problems?	<input type="checkbox"/>	<input type="checkbox"/>
20 Are you now on medication for emotional or mental health problems?	<input type="checkbox"/>	<input type="checkbox"/>
21 How many times have you changed residences in the past year?	<input style="width: 50px; height: 20px;" type="text"/>	

## SECTION 2: Officer Impressions

*Officers should ask probing questions as needed to be able to form an accurate impression for the questions below. Also consider information provided on the offender self report and observations you have from the initial home and collateral contacts. Record information that lead you to answer either 'yes' or 'no' in the justification section.*

### Offender's Employment History

*****INFORMATION TO CONSIDER*****		
<i>Has the offender ever been fired from a job?</i>		
<i>Has the offender ever been expelled from school?</i>		
<i>Has the offender ever been in the same job for an entire year, not counting being self-employed or a day-laborer?</i>		
<b>22.</b>	<b>Does the offender's work/school history show a pattern of instability?</b>	<b>N   Y</b>
JUSTIFICATION:		

### **Offender's Life Skills**

\*\*\*\*\* INFORMATION TO CONSIDER \*\*\*\*\*

*What activities does the offender like to do with his/her family – are these pro-social?  
(If the offender has children) Does the offender help his/her children with their school work?*

*(If the offender has children) Does the offender attend activities that his/her children are involved in at their school, such as sports, PTA, performances, etc.?*

23. →	<b>Is the offender involved in positive family activities?</b>	<b>N</b>	<b>Y</b>
	JUSTIFICATION:		

### **Offender's Childhood**

\*\*\*\*\* INFORMATION TO CONSIDER \*\*\*\*\*

*When growing up was the offender ever placed in protective custody?*

*When growing up does the offender indicate that neighbors or other relatives had to provide food or care because their parents (guardian) did not?*

*Did siblings or the offender take on age inappropriate parenting responsibilities?*

*Did adults in the offender's childhood home abuse drugs or alcohol?*

*Does the offender indicate that they were often punished for what appeared to be no reason?*

24. →	<b>Did the offender report experiences consistent with having a physically, emotionally or sexually abusive family as a child?</b>	<b>N</b>	<b>Y</b>
	JUSTIFICATION:		

### **Offender's Current Living Situation**

\*\*\*\*\* INFORMATION TO CONSIDER \*\*\*\*\*

*How does the offender think his/her family or roommate(s) can help him/her to complete supervision?*

*How willing does the offender think his/her family or roommate is to do these things to help him/her?*

*Does the offender report that there are frequent arguments/fighting in the household?*

*Do members of the offender's household use drugs or alcohol?*

*Is the offender in a physically or emotionally abusive relationship?*

25. →	<b>Is the offender's current family environment positive?</b>	<b>N</b>	<b>Y</b>
	JUSTIFICATION:		

### **Offender's Housing**

\*\*\*\*\* INFORMATION TO CONSIDER \*\*\*\*\*

*Is the home adequately cooled or heated?*

*Does the home have adequate sanitary facilities?*

*Does the home contain human or animal waste, dirty dishes, infested with bugs or bees?*

*Is there currently any involvement with Social Services?*

26. →			
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<b>Is the offender's current residence suitable?</b>	<b>N</b>	<b>Y</b>
JUSTIFICATION:		

**Offender's Mental Health**

***** INFORMATION TO CONSIDER *****		
<i>Does the offender present with disorganized speech?</i>		
<i>Have erratic physical movements?</i>		
<i>Seem unusually passive?</i>		
<i>Seem hostile or threatening?</i>		
<i>Express excessive paranoia?</i>		
<i>Expresses beliefs that are clearly implausible, not understandable, and not derived from ordinary life experiences?</i>		
<b>27. →</b>	<b>Does the offender need a mental health referral?</b>	<b>N</b> <b>Y</b>
JUSTIFICATION:		

**Offender's Substance Abuse**

***** INFORMATION TO CONSIDER *****		
<i>Does the offender appear to be under the influence?</i>		
<i>Does the offender smell of alcohol, marijuana or some other drug?</i>		
<i>Are there "track marks" or other visual signs of drug abuse on the offender's body?</i>		
<i>Is there drug paraphernalia in the home or auto?</i>		
<i>Has the offender had a positive drug screen?</i>		
<b>28. →</b>	<b>Does the offender present visual or behavioral signs of substance abuse?</b>	<b>N</b> <b>Y</b>
JUSTIFICATION:		

**Offender's Language Skills**

***** INFORMATION TO CONSIDER *****		
<i>Is English the language spoken in the home ?</i>		
<i>Is English the offender's primary language?</i>		
<i>Did the court require an interpreter for the trial?</i>		
<i>Is the offender enrolled in ESL classes?</i>		
<b>29. →</b>	<b>Does the offender speak English fluently?</b>	<b>N</b> <b>Y</b>
JUSTIFICATION:		
<b>30. →</b>	<b>Does the offender need assistance in reading the materials related to his supervision?</b>	<b>N</b> <b>Y</b>

### **Offender's Thinking, Behavior and Attitudes**

***** INFORMATION TO CONSIDER *****			
<i>Does the offender have a reputation for losing his/her temper?</i>			
<i>Does the offender have a reputation for taking action on the spur of the moment?</i>			
<i>Has the offender interrupted or argued with you?</i>			
<i>Is it difficult to communicate with the offender because he/she frequently loses his/her focus?</i>			
<b>31.</b>	<b>Does the offender exhibit impulsive behavior?</b>	<b>N</b>	<b>Y</b>
JUSTIFICATION:			
***** INFORMATION TO CONSIDER *****			
<i>Does the offender answer "I don't know" often?</i>			
<i>Do you sense that the offender is hiding his/her true feelings?</i>			
<i>Do you think the offender is giving you what you "want" to hear?</i>			
<i>Have you found evidence of lying by the offender?</i>			
<i>Is the offender evasive when answering questions?</i>			
<b>32.</b>	<b>Is the offender truthful in answering questions?</b>	<b>N</b>	<b>Y</b>
JUSTIFICATION:			
***** INFORMATION TO CONSIDER *****			
<i>Does the offender express no remorse for the crime(s) committed?</i>			
<i>Does the offender blame others for their criminal behavior?</i>			
<i>Does the offender blame the victim?</i>			
<i>Does the offender express the attitude that if something bad happens to people they get what they deserve?</i>			
<b>33.</b>	<b>Does the offender display a lack of remorse or guilt for his/her behavior?</b>	<b>N</b>	<b>Y</b>
JUSTIFICATION:			

### **Offender's Friends & Associates**

34	Does the offender have gang markings or gang tattoos?	N	Y
35	Did the offender commit the crime(s) with another person?	N	Y
36	Has the offender indicated that they have no friends?	N	Y

### **Offender's Legal Needs**

37	Does the offender have any pending charges or protective orders?	N	Y
38	Has the offender ever been arrested for assaultive behavior?	N	Y
39	Is the offender currently involved in civil, divorce, child custody or child support proceedings?	N	Y

### Offender's Outcomes

Select the value that best represents your impression of the offender at this assessment.

40.	Please rate the offender's attitude. -5=Offender has a very negative attitude. 0=Offender is indifferent. 5=Offender has a very positive attitude.										
-5	-4	-3	-2	-1	0	1	2	3	4	5	
41.	Please rate how the offender's attitude will affect their ability to complete the conditions of their release/supervision. -5=Extremely negative impact. 0=No impact. 5=Extremely positive impact.										
-5	-4	-3	-2	-1	0	1	2	3	4	5	
42.	Please rate the likelihood that the offender will successfully complete this period of supervision. 0=The offender will certainly be revoked. 5=The offender has a 50/50 chance of being revoked. 10=The offender will certainly complete the supervision period.										
0	1	2	3	4	5	6	7	8	9	10	
43.	Please rate the likelihood that the offender will be arrested for another crime after the period of supervision is complete. 0=The offender will certainly be rearrested after supervision is complete. 5=The offender has a 50/50 chance of being rearrested after supervision is complete. 10=The offender will not be rearrested after supervision is complete.										
0	1	2	3	4	5	6	7	8	9	10	

This document is intended to assist staff in understanding which statements or questions from the Offender Survey and Officer Interview and Impressions are used to flag the criminogenic need

## **Big Four Criminogenic Needs**

### **Anti-social values**

#### **Offender Self Report**

- I become angry when people try to tell me what to do
- I think the world owes me a better life
- I get even with people who mess with me
- I get in trouble because I have bad luck
- I think about how my actions will affect others
- Breaking the law is no big deal as long as you don't hurt someone

#### **Officer Interview and Impressions**

- Are you involved in any community or social organizations?
- Is the offender truthful in answering questions?
- Does the offender display a lack of remorse or guilt for his/her behavior?
- Has the offender indicated that they have no friends?

### **Criminal Peers**

#### **Offender Self Report**

- How many friends do you have?
- How many of those friends are on probation, parole, or post release?
- How many of those friends are members of a gang?
- How many of those friends have ever committed a crime, whether or not they were arrested?
- How many of those friends sell or use drugs (including pot)?
- How many of those friends are involved in community or social organizations?

#### **Officer Interview and Impressions**

- Does the offender have gang markings or gang
- Did the offender commit the crime(s) with another person?

### **Anti-social personality**

#### **Offender Self Report**

- Before age 15, I got in trouble for: Skipping school, Running away, Fighting, Having weapons, Forcing sexual activities on others, Hurting animals or people, Tearing up other property, Starting fires, Lying, Stealing something from others
- Sometimes I can't stop myself from doing something even if I know it is wrong
- It is exciting to try something that might get me in trouble
- I try to stay out of situations that might get me in trouble
- I apologize to others when I do wrong
- How many of the people are your close friends?

#### **Officer Interview and Impressions**

- Please rate the offender's attitude  
-5 = Offender has a negative attitude  
0 = Offender is indifferent  
5 = Offender has a very positive attitude

### **Dysfunctional Family**

#### **Offender Self Report**

- Family members were in trouble with the law
- There were fights and arguments in my home
- When I knew I had a problem I knew someone in my family would help me solve it
- I knew I would be punished if rules were broken
- We didn't hold to any rules or standards
- Anything goes in our family
- I am happy with my current family life
- My family understands my situation and problems

#### **Officer Interview and Impressions**

- Did the offender report experiences consistent with family as a child?
- Is anyone dependant on you for financial support?
- Are there other members of your family under supervision?
- Are any other members of your family currently incarcerated?
- Are there any minor children in your home?
- Is the offender's current family environment positive?

## Lesser Two

### Substance Abuse

#### Offender Self Report

- In a typical week how many days a week do you drink alcohol or use drugs?
  - 0
  - 1 - 2 days
  - 3 - 5 days
  - 6 - 7 days
- How many days in a typical week do you drink more than 5 drinks at one sitting? \_\_\_\_\_ days
- At the time of the offense that I am on probation for happened, I was (mark all that apply):
  - sober
  - under the influence of just alcohol
  - under the influence of just drugs
  - under the influence of both alcohol and drugs
- When I drink alcohol or use drugs I get in arguments with others
- I feel "hung over" or sick when I wake up
- When I drink or use drugs I get in trouble at work/school
- I think about stopping drinking or doing drugs

#### Officer Interview and Impressions

- Does the offender present visual or behavioral signs of substance abuse?

### Low Self Control

#### Offender Self Report

- People would describe me as impulsive
- I think about what could happen before acting
- I loose my temper easily
- I blurt out whatever is on my mind
- I can contol the things I say
- I do things I had not planned to do

#### Officer Interview and Impressions

- Does the offender exhibit impulsive behavior?

## Risk/Needs Summary Report

Offender: [REDACTED]

Period of Supv: 02/10/2011

# Assigned Supervision Level: L2

**Risk of Rearrest (from OTI): Moderate (L2)**

**Needs Level: High (L2)**

Type: Initial Assigned: 04/05/2011

Offender Traits Inventory (OTI)

Case Factor	Pts
1. Conviction (0-10) Robbery: 2 Other: 0	2
3. Marital (0, 3, 5) Single: 5	5
5. Drug Addiction (0, 5) Has past history of drug addiction: 5	5
7. Employment Status (0, 4) Employed, passing in school: 0	0
9. Gender OPUS Scored: 7	7
11. Punishment Type OPUS Scored: 6	6

Case Factor	Pts
2. Financial Status (0, 3, 6) No known difficulty: 3	3
4. Attitude (0, 6) Motivated to change, receptive to assistance: 0	0
6. Employment (0, 4) Employed more than 7 of the last 12 months: 0	0
8. High School Dropout Finished or in school: 0	0
10. Age OPUS Scored: -2	-2
<b>Total OTI Score: 26</b>	

### Risk of Rearrest (from OTI)

This offender scored in the moderate risk of re-arrest range. Research has shown that offenders who scored 26-35 points have an average of 23% probability of being re-arrested within the first year of supervision.

Criminogenic Needs	Life Area in the Case Plan
Criminal Peers	Friends & Associates
Anti-Social Personality	Mental Health
Substance Abuse	Substance Abuse

**Criminal Peers** is widely accepted as one of the criminogenic need factors. Associating with other criminals increases the likelihood of an offender will reoffend. If an offender is immersed in a group of peers who continue to commit unlawful acts, it will be more likely this offender will commit more crimes. The responses to the Offender Self Report give an indication there is a current association with peers who:

- are involved in the criminal justice system

**Anti-Social Personality** or behavior is very predictive as a criminogenic need factor. Offenders with anti-social personality traits often do not care about how their actions affect others or feel any remorse for their victims or what they have done. The questions on the DCC assessments reflect common symptoms of anti-social personality temperament. If Anti-Social personality is flagged it may be likely the offender is in need of mental health assessment. The responses to the Offender Self Report give an indication that the following symptoms:

- impulsiveness and behavior control
- recklessness/irresponsibility
- lack of empathy

are evident and it may be likely the offender is in need of a psychological/psychiatric assessment. The officer rated the offender's attitude neutral.

**Substance Abuse** behavior is widely accepted as one of the criminogenic need factors. Research has shown there is a relationship between substance abuse and criminal behavior. If substance abuse is flagged it is likely the offender is in need of a substance abuse assessment. The responses to the Offender Self Report give an indication that the following symptoms of substance abuse are present:

- increased tolerance or increased frequency of use
- life disruptions due to continued use
- the desire to stop using drugs or alcohol
- continued legal problems due to drugs and alcohol

The officer's observations indicate that the offender presents visual and behavioral signs of substance abuse.

Other Identified Needs or Barriers	Life Area in the Case Plan
Employment	Employment
Financial	Financial Situation
Legal	Legal
Transportation	Transportation

Offender Self-Reported Life Area Problems (from the DCC Self-Assessment Survey)

<b>Problem Life Area</b>	<b>Interest in Improving (out of 10)</b>	<b>Suggestions for Improvement</b>
Academic/Vocational	10	APPLY FOR ADDITIONAL EDUCATION
Employment	10	APPLY FOR ADDITIONAL JOBS
Financial Situation	10	SEEK JOBS
Legal	10	CURRENTLY DEALING WITH SITUATION
Substance Abuse	10	DEALING WITH ISSUES NOW
Transportation	10	TRYING TO GET MY LICENSE BACK NOW

## Academic/Vocational

I try to make my job or school situation better.	Always true
When I was in school I was in special education classes.	Never true
I find it difficult to read.	Never true
When I buy something with cash, I can figure out how much change I should get back.	Always true
Are you currently enrolled in school?	No
Do you have a high school diploma/GED?	Yes
Do you have a trade or other professional credentials?	Yes
Does the offender speak English fluently?	Yes ENGLISH IS NATIVE LANGUAGE.
Does the offender need assistance in reading the materials related to his supervision?	No

## Employment

I am okay with my current work or school situation.	Rarely true
I have the skills that I need to get a good job.	Always true
Are you currently employed?	No
Does the offender's work/school history show a pattern of instability?	No STATES HE HAS BEEN FIRED FROM A JOB AT IHOP AND WAS FIRED FOR EXCESSIVE TARDINESS. STATES HE WAS NEVER EXPELLED OR SUSPENDED FROM SCHOOL. STATES THE LONGEST JOB HE HAS EVER HELD WAS FOR 6 YEARS AT THE NEUROLOGY CENTER IN CHEVY CHASE, MD AS AN OFFICE CLERK. DEFENDANT IS CURRENTLY UNEMPLOYED AND HAS NOT WORKED SINCE CHRISTMAS 2010 WHEN HE WORKED FOR SALVATION ARMY.

## Family Situation

(Some items are used to flag the Criminogenic Need: Dysfunctional Family)

Family members were in trouble with the law.	Never true
There were fights and arguments in my home.	Rarely true
When I had a problem I knew someone in my family would help me solve it.	Always true
I knew I would be punished if rules were broken.	Always true
We didn't hold to any rules or standards.	Never true
Anything goes in our family.	Never true
Did the offender report experiences consistent with having a physically, emotionally or sexually abusive family as a child?	No DEFENDANT STATES HE GREW UP IN WASHINGTON DC. STATES HE WAS NEVER PLACED IN PROTECTIVE CUSTODY OR FOSTER CARE. REPORTS NO DRUG OR ALCOHOL ABUSE IN THE CHILDHOOD HOME AND REPORTS NO INSTANCES OF PHYSICAL, EMOTIONAL, OR SEXUAL ABUSE AS A CHILD.
I am happy with my current family life.	Sometimes true
My family understands my situation and problems.	Always true
Is anyone dependent on you for financial support?	No
Are any other members of your family currently under supervision?	No
Are any other members of your family currently incarcerated or in jail?	Yes
Are there any minor children in your home?	No
Is the offender's current family environment positive?	Yes DEFENDANT STATES HIS FAMILY CAN HELP HIM BE SUCCESSFUL BY BEING SUPPORTIVE WHICH THEY CONTINUE TO DO. REPORTS NO ARGUMENTS OR FIGHTING IN THE HOME AND REPORTS NO DRUG OR ALCOHOL USE IN THE HOME.

## Financial Situation

I run out of money right before payday.	Sometimes true
I struggle to pay the rent or things like my light bill.	Usually true
I have to rely on others for money.	Usually true
It's hard for me to pay for my medical needs.	Always true
Are you dependent upon public assistance or a limited pension for income?	No
Have you been homeless in the past year?	Yes

## Friends & Associates

(Some items are used to flag the Criminogenic Need: Criminal Peers)

How many friends do you have?	1
How many of those friends are on probation, parole or post release (like you are now)?	0
How many of those friends are members of a gang?	0
How many of those friends have ever committed a crime, whether or not they were arrested?	1
How many of those friends sell or use drugs (including pot)?	0
How many of those friends are involved in community or social organizations?	0
How many of those people are your close friends?	1
Does the offender have gang markings or gang tattoos?	No
Did the offender commit the crime(s) with another person?	No

## Housing/Current Living Situation

I have a permanent place to live.	Always true
How many times have you changed residences in the past year?	0
Is the offender's current residence suitable?	Yes DEFENDANT'S HOME IS ADEQUATELY COOLED AND HEATED WITH ADEQUATE SANITARY FACILITIES AND NO WASTE OR BUG INFESTATION.

## Legal

Does the offender have any pending charges or protective orders?	No
Has the offender ever been arrested for assaultive behavior?	Yes
Is the offender currently involved in civil, divorce, child custody or child support proceedings?	Yes
Please rate how the offender's attitude will affect their ability to complete the conditions of their release/supervision.	1 on a scale of -5 to 5
Please rate the likelihood that the offender will successfully complete this period of supervision.	5 on a scale of 0 to 10
Please rate the likelihood that the offender will be arrested for another crime after the period of supervision is complete.	5 on a scale of 0 to 10

# Mental Health

(Some items are used to flag the Criminogenic Need: Anti-Social Personality)

In trouble before age 15 for Skipping school	Yes
In trouble before age 15 for Running away	No
In trouble before age 15 for Fighting	Yes
In trouble before age 15 for Having weapons	No
In trouble before age 15 for Forcing sexual activities on others	No
In trouble before age 15 for Hurting animals or people	No
In trouble before age 15 for Tearing up others' property	No
In trouble before age 15 for Starting fires	No
In trouble before age 15 for Lying	No
In trouble before age 15 for Stealing something from others	No
Sometimes I can't stop myself from doing something, even if I know it is wrong.	Sometimes true
It's exciting to try something that might get me in trouble.	Never true
I try to stay out of situations that might get me in trouble.	Rarely true
I apologize to others when I do wrong.	Usually true
I get in trouble because I have bad luck.	Sometimes true
Breaking the law is not a big deal as long as you don't hurt someone.	Rarely true
I hear or see things that other people say they don't hear or see.	Never true
I believe that other people can control my mind by putting thoughts into my head or taking thoughts out of my head.	Never true
I have so much energy that I can go for days without sleep and thoughts just race through my head.	Never true
I feel so bad that I think of taking my own life.	Never true
Have you ever been hospitalized for emotional or mental health problems?	No
Have you ever taken medication for emotional or mental health problems?	No
Are you now on medication for emotional or mental health problems?	No
Does the offender need a mental health referral?	No DEFENDANT PRESENTS HIMSELF WITH CLEAR SPEECH AND ORGANIZED THOUGHTS. HE DOES NOT APPEAR TO BE THREATENING, BUT DOES NOT TALK MUCH TO P/O SINCE SHE ARRESTED HIM EARLY ON IN HIS PROBATION. HE SOMETIMES HAS A HOSTILE ATTITUDE TOWARDS P/O, BUT OTHER TIMES WILL BE VERY CORDIAL AND TALK A LOT.
Please rate the offender's attitude.	0 on a scale of -5 to 5

# Physical Health

Because of my health, it's hard to do everyday tasks.	Never true
Are you currently under a doctor's care or taking medications?	No
Are you pregnant?	No
Do you have any chronic medical conditions that require frequent care?	No
Do you have health insurance?	No

# Pro-Social Behavior

(Some items are used to flag the Criminogenic Needs: Anti-Social Values and Low Self-Control)

People would describe me as impulsive.	Never true
I become angry when people try to tell me what to do.	Never true
I think about what could happen before acting.	Rarely true
I lose my temper easily.	Rarely true
I blurt out whatever is on my mind.	Sometimes true
I think the world owes me a better life.	Never true
I get even with people who mess with me.	Rarely true
I think about how my actions will affect others.	Usually true
I can control the things I say.	Always true
I do things I had not planned to do.	Sometimes true
Are you involved in any community or social organizations? (i.e., hobbies, church or religious organization, volunteer activities, sports)	No
Is the offender involved in positive family activities?	Yes DEFENDANT STATES THAT HE AND HIS FAMILY ENJOY GOING TO MOVIES, BOWLING, PICNICS. STATES HE HAS 3 CHILDREN, AGES 26, 17, AND 13 AND ALL OF THEM LIVE HERE IN GREENVILLE. STATES HE SEES HIS OLDEST DAUGHTER EVERY DAY, BUT HIS 17-YEAR-OLD SON IS LOCKED UP AT PCDC FOR B&E MOTOR VEHICLE. STATES HE DOES NOT HAVE A RELATIONSHIP WITH HIS YOUNGEST CHILD DUE TO PROBLEMS WITH THE MOTHER, AND IS GOING THROUGH CHILD SUPPORT ISSUES AT THIS TIME OVER THIS CHILD.
Does the offender exhibit impulsive behavior?	No DEFENDANT STATES HE DOES NOT HAVE A REPUTATION FOR LOSING HIS TEMPER OR TAKING ACTION ON THE SPUR OF THE MOMENT. HE HAS NOT INTERRUPTED OR ARGUED WITH P/O AND HAS MAINTAINED FOCUS THROUGHOUT INTERVIEW.
Is the offender truthful in answering questions?	Yes DEFENDANT DOES NOT APPEAR TO BE LYING BUT DOES NOT HAVE MUCH TO SAY TO P/O. HE DOES NOT ELABORATE MUCH WITH ANSWERS.
Does the offender display a lack of remorse or guilt for his/her behavior?	Yes DEFENDANT STATES HE DOES NOT FEEL ANY GUILT OR REMORSE FOR BEING CHARGED WITH HEROIN POSSESSION.
Has the offender indicated that they have no friends?	No

# Sex Offender

## Substance Abuse

(Some items are used to flag the Criminogenic Need: Substance Abuse)

How many days in a typical week do you drink alcohol or use drugs?	6-7 days
How many days in a typical week do you drink more than 5 drinks at one sitting?	0
At the time of the offense that I am on probation for happened, I was...	under the influence of just drugs
When I drink alcohol or use drugs I get in arguments with others.	Rarely true
I feel 'hung over' or sick when I wake up.	Usually true
When I drink or use drugs I get in trouble at work/school.	Rarely true
I think about stopping drinking or doing drugs.	Usually true
Does the offender present visual or behavioral signs of substance abuse?	Yes DEFENDANT DOES NOT APPEAR TO BE UNDER THE INFLUENCE OF ANY DRUGS OR ALCOHOL AT THIS TIME. HE DOES NOT SMELL OF ANY SUBSTANCES, BUT HAS A LONG HISTORY OF HEROIN ABUSE. HE IS CURRENTLY IN DRUG TREATMENT COURT PROGRAM.

## Transportation

Do you have a valid driver's license?	No
Do you have a reliable method of transportation?	Yes

## Victims

# Open/Ongoing Special Conditions/Sanctions

Sent	Condition/Sanction	Qualifier	Length	Effective
04-001	SUBSTANCE ABUSE TREATMENT	COURT ORDERED	24 mth	02/10/2011
04-001	PAY SUPERVISION FEES	COURT ORDERED	24 mth	02/10/2011
04-001	PAY COSTS OF COURT	COURT ORDERED	24 mth	02/10/2011
04-001	POSS/USE CONTROLLED SUBSTANCE	COURT ORDERED	24 mth	02/10/2011
04-001	SUB TO DRUG SCREENING	COURT ORDERED	24 mth	02/10/2011
04-001	SUBMIT TO WARRANTLESS SEARCH	COURT ORDERED	24 mth	02/10/2011
04-001	DRUG TREATMENT COURT PROG	COURT ORDERED	24 mth	02/10/2011
04-001	OTHER SANCTIONS, SEE COMMENTS	COURT ORDERED	24 mth	02/10/2011
	Comments	MONIES DUE DIR PO		
		ASSESSMENT @ DIR PO		
		FAILURE TO PROVIDE DNA A VIOLATION - TEST DATE 03/01/2011 @		
		1:00 PCDC		
		SHOULD DEFT. TEST POSITIVE, FAIL TO PROVIDE SAMPLE, POSSESS		
		ANY CS, CONTRABAND, DRUG PARA., CELLULAR PHONE, THEN DEFT.		
		TO BE IMMED. ARRESTED AND PLACED UNDER A \$ 50,000.00 SEC.		
		BOND		
		NOT DT FOR 30 DAYS		
		**** CELL PHONE CONDITION STRICKEN ON 03-08-11 BY JUDGE		
		DUKE.		

Case Plan for: [REDACTED]

OPUS ID: [REDACTED]

Officer: [REDACTED]

Last Revised: 08/11/2011

Current Address: [REDACTED]

GREENVILLE, NC [REDACTED]

Financial Situation		Goal: Review/Monitor financial status.			
Personal Statement: SEEK JOBS					
Action Step	Ordered* / Created	Status	Responsible Party	Start Date	End Date
Pay supervision fees	02/10/2011*	Ongoing	OFFENDER		
Pay costs of court	02/10/2011*	Ongoing	OFFENDER		
PAY PLAN SET AT \$90/MONTH BEGINNING IN MARCH 2011.	05/02/2011	Ongoing	OFFENDER		

Legal		Goal: Satisfy all pending legal matters and refrain from further criminal activities.			
Personal Statement: CURRENTLY DEALING WITH SITUATION					
Action Step	Ordered* / Created	Status	Responsible Party	Start Date	End Date
Submit to warrantless searches	02/10/2011*	Ongoing	OFFENDER		
Other Sanctions, see comments	02/10/2011*	Ongoing	OFFENDER		
COMPLETE 6 MONTHS ELECTRONIC HOUSE ARREST.	04/04/2011	Ongoing	OFFENDER		

Substance Abuse		Goal: Remain alcohol and drug free. Learn techniques to avoid use.			
Personal Statement: DEALING WITH ISSUES NOW					
Action Step	Ordered* / Created	Status	Responsible Party	Start Date	End Date
Participate in Substance Abuse Treatment.	02/10/2011*	Ongoing	OFFENDER		
Do not possess/use controlled substances	02/10/2011*	Ongoing	OFFENDER		
Submit to Drug Screening.	02/10/2011*	Ongoing	OFFENDER		
Participate in and complete Drug Treatment Court Program.	02/10/2011*	Ongoing	OFFENDER		
COMPLETE CJPP PROGRAM.	04/04/2011	Ongoing	OFFENDER		
COMPLETE PHASE II OF DRUG TREATMENT COURT.	05/01/2011	New	OFFENDER		

I have had input into this Case Plan and I agree with this Case Plan

Date

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Offender

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Probation Officer

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Note: Signatures should be obtained for the initial Case Plan and any revisions to the Case Plan.

Next Office Appointment

Date

Time

---

**Chapter E     Noncompliance**

**Section .0200   THE NONCOMPLIANCE GRID AND RESPONSES TO NONCOMPLIANCE**

**Issue Date:     July 1, 2011**

**Supersedes:     March 1, 2011**

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**.0201   PURPOSE**

This section sets out the minimum response to offender noncompliance. The chart establishes which actions should be taken at a minimum and can be elevated upon proper review with the chief probation parole officer.

**.0202   THE NONCOMPLIANCE GRID**

The authorized response to offender noncompliance by offenders of each supervision level is set out in the chart below. The five types of noncompliance (S1 being the most severe, S5 being the least severe, as further discussed below) are placed vertically on the left side of the chart. The five supervision levels are placed horizontally on the top of the chart. Knowing an offender's supervision level and the type of violation(s) he or she has committed, an officer can use the grid to determine the appropriate class of response.

The three classes of officer response, A, B, and C, are set out to the right of the grid. Particular responses within a response class are listed from highest to lowest in terms of seriousness. Each type of response is discussed below in [§E.0205, Descriptions of Responses to Noncompliance](#).

When an offender's supervision level and type of noncompliance direct a class A response, the officer will file a violation report with the controlling authority and obtain an order for the offender's arrest or arrest the offender using form [DCC-12, Authority to Arrest](#). When an offender's supervision level and type of noncompliance direct a class B or class C response, the officer will choose the appropriate response from the options set out to the right of the grid, taking into account the particular facts associated with the noncompliance, the case plan, the need for control versus the need for treatment, and responses to prior noncompliance.

For all noncompliance by L1 offenders, the supervising officer will, except for emergencies, make a recommendation to the chief probation/parole officer and obtain prior approval before responding. For all other offenders, the supervising officer will obtain prior approval from the CPPO only if the response requires court involvement (or, in the case of delegated authority, potential court involvement). Those responses are marked with an asterisk on the grid.

**Noncompliance by an offender whose supervision level has not yet been established will be addressed on a case-by-case basis through coordination between the supervising officer and the chief probation/parole officer.**

		SUPERVISION LEVEL					MINIMUM RESPONSE HEIRARCHY
		L1*	L2	L3	L4	L5	
<b>TYPE OF NONCOMPLIANCE</b>	<b>S1</b> (public safety)	A	A	A	A	A	<b>A</b> PVR + arrest* <hr/> <b>B</b> PVR + cite* Contempt* Modify/extend* Delegated authority* Increase searches Increase drug screens Increase contacts <hr/> <b>C</b> Refer treatment/services Reprimand by CPPO Modify payment schedule Initiate contact Reprimand by PPO
	<b>S2</b> (new crime)	A or B	A or B	B	B	B	
	<b>S3</b> (reoccur/multiple)	A or B	B	B	C	C	
	<b>S4</b> (nonrecurring)	B	B	C	C	C	
	<b>S5</b> (non-willful)	C	C	C	C	C	
<p><b>* CPPO approval required for responses marked (*) and all responses to violations by L1 offenders</b></p>							

**.0203 TYPES OF NONCOMPLIANCE DEFINED**

Offender noncompliance is any behavior contrary to the offender’s conditions of supervision. The Division categorizes noncompliance into five types, S1 through S5, from most to least severe. Categorizing violations is not an exact science; officers are expected to use their professional judgment in determining, for example, when a new criminal act or a combination of a new criminal act and technical violations constitute imminent threat to public safety and should thus be categorized as S1 instead of S2.

- (a) **Severity 1 (S1) noncompliance.** Offender behavior that causes a current or imminent threat to public safety, including actions that cause actual or threatened physical or mental harm.
- (b) **Severity 2 (S2) noncompliance.** Offender behavior that constitutes a new crime (other than a Class 3 misdemeanor), but falls short of actual or threatened physical or mental harm.
- (c) **Severity 3 (S3) noncompliance.** Recurring or multiple violations of supervision conditions or program rules and regulations.

- (d) **Severity 4 (S4) noncompliance.** Isolated or non-recurring violations of supervision conditions or program rules and regulations, or behavior that constitutes a Class 3 misdemeanor.
- (e) **Severity 5 (S5) noncompliance.** Noncompliance with supervision conditions or program rules and regulations attributable to circumstances beyond the offender's control.

#### **.0204 SPECIAL RULES FOR CERTAIN VIOLATIONS**

- (a) **New crimes only.** When an offender has been charged with committing a new crime other than a Class 3 misdemeanor, and no other conditions of probation have been violated, the supervising officer will discuss the case with the CPPO and consult the district attorney as soon as possible. The district attorney will decide whether to proceed with a violation hearing before the new criminal case is heard, or decide whether the State will wait to see if the offender is convicted of the new criminal charge before using it as the basis for a probation violation. If the district attorney decides to proceed with the violation, the officer will write on the DCC-10, "The offender willfully violated the regular condition that he or she commit no criminal offense in any jurisdiction by committing the crime of [insert name of crime] on [date of offense]. The staffing and consultation should also include a decision on whether to arrest or cite the offender to court.

*Note: The bare fact that a new criminal charge has been filed against an offender does not amount to a violation of this condition. Rather, the offender must (a) have been convicted of the new offense, State v. Guffey, 253 N.C. 43 (1960), or (b) the court holding the violation hearing must make an independent finding that the offender violated probation by committing a new criminal act, State v. Monroe, 83 N.C. App. 143 (1986). Probation should not be revoked based on a criminal charge of which the probationer has been acquitted. State v. Hardin, 183 N.C. 815 (1922). By statute, probation may not be revoked solely for conviction of a Class 3 misdemeanor. G.S. 15A-1344(d).*

When consulting with the district attorney, the consultation should include discussion to determine if the elements of the pending charge violate any other conditions of supervision. Document consultation in narratives and adjust supervision as appropriate.

*Note: Sometimes an offending behavior is both the basis for a new criminal offense and a violation of another condition of probation. For example, an offender's act of having a gun might constitute both the crime of possession of a firearm by a felon and a violation of the condition that he or she possess no firearm without the written permission of the court. The fact that an act is also a crime does not bar the officer from alleging it as a violation of some other condition of probation. State v. Causby, 269 N.C. 747 (1967).*

- (b) **Failure to comply with monetary obligations.** An offender's failure to pay monetary obligations is not a willful violation of probation if the offender made a good faith effort to obtain the necessary funds for payment.

*At a violation hearing, the burden is on the probationer to show that he or she could not pay despite an effort made in good faith. G.S. 15A-1364(b); State v. Jones, 78 N.C. App. 507 (1985).*

- (c) **Positive drug screens.** When an offender is subject to a condition of supervision (either from the judgment or through an officer's exercise of delegated authority) allowing drug screening, a supervising officer should conduct a drug screen when the officer has reason to believe that the offender is currently under the influence of or has recently used illegal drugs; or the offender is observed in possession of drugs or in an area where illegal drugs are found or observed. An officer must confront an offender within 10 days of a positive substance abuse screening test. Officers should perform more frequent random screens on offenders who have previously tested positive on multiple occasions.

*Note: The following responses do not include baseline assessment information.*

- (d) **Positive Substance Abuse Screening Guidelines.** Following confirmation of the first positive screen result, the Probation/Parole Officer will confront the offender with the positive screen result within 10 days:

**(1) First Positive Drug Screen Result - Offender Admits Illegal Drug Use**

- a. If the offender agrees to seek treatment, make a referral to TASC on a DCC-27 DCC TASC Referral and Report Form for assessment and referral to treatment or to any licensed treatment program where TASC is unavailable. Provide a copy of the short summary report from the RNA if or when available. Follow up with TASC for results and needed treatment.
- b. If the offender refuses to submit to assessment and/or treatment, the officer will staff the case with the Chief Probation/Parole Officer and will use delegated authority to have the offender submit to assessment and treatment. If delegated authority is not available issue a DCC-10 Violation Report or PC-10 Non-Compliance Report and recommend a modification to the conditions of supervision requiring substance abuse assessment and compliance with the results.

**(2) First Positive Drug Screen Result - Offender Denies Illegal Drug Use**

- a. If the offender refuses to submit to a treatment assessment, using the DCC-26B obtain a confirmation test of the positive drug screen from the substance abuse screening lab and forward with a DCC-10 Violation Report to the court of conviction or PC 10 to the Post-Release Supervision and Parole Commission; and,
- b. During the violation hearing, recommend a modification to the conditions of supervision requiring substance abuse assessment and compliance with the results.

**(3) Second or Subsequent Positive Result.**

Following receipt of the second or subsequent positive screen result, the Probation/Parole Officer will review the case with the Chief Probation/Parole Officer and treatment provider, if applicable, to evaluate the offender's treatment needs and determine an appropriate course of action, including but not limited to therapeutic sanctions.

**(e) Interference or tampering with an electronic device.** When an offender is being monitored by an electronic device (because he or she is subject to house arrest, a curfew, or special conditions for sex offenders) and the officer receives an equipment alert notification from the DCC Command Center, the officer will:

(1) Investigate the alert notification to determine whether any potential tampering or interference was intentional or accidental;

- a. The officer will respond to the following notification codes for EHA and SBM offenders immediately: failure to charge; tampering; exclusion zone violations. When these alert codes arise outside of regular business hours, the Command Center will direct them to the on-call response officer for immediate response;
- b. The officer will investigate and respond to EM noncompliance and other alert notifications by the end of the next business day;
- c. If the alert was caused by an unintentional act, the officer will either make or arrange for any necessary technical repairs;
- d. If the alert was caused by an intentional act, the officer will complete the following steps.

(2) Consider whether a new criminal charge is appropriate:

- a. If, in the case of an offender subject to electronic house arrest or electronic monitoring as a condition of probation, the officer determines that the offender knowingly removed, destroyed, or circumvented the operation of the device or solicited any other person to do so, the officer will consult with local law enforcement or the district attorney about bringing a criminal charge under [G.S. 14-226.3](#);
- b. If, in the case of an offender subject to satellite-based monitoring as a sex offender, the officer determines that the offender intentionally tampered with, removed, vandalized, or otherwise interfered with the proper functioning of the device, the officer will consult with local law enforcement or the district attorney about bringing a criminal charge under [G.S. 14-208.44](#);

- c. If a criminal charge is brought, the officer will give the district attorney information about the cost of any damage the offender did to the monitoring equipment and recommend that the offender be required to make restitution in that amount.
- (3) If the tampering or interference amounts to a willful violation of the offender's probation (either as a new criminal offense, or as a technical violation of the offender's house arrest, curfew, or sex offender conditions), the officer will respond to the noncompliance according to the noncompliance grid. If the noncompliance grid directs a class B response and the officer chooses to *increase contacts*, the officer may, when applicable, do so by asking the Command Center to change the offender from *passive* to *hybrid* monitoring, as described in [Chapter H, Technology](#).
- (f) **Address offender accountability (remote) check-in failures as outlined below:**
- (1) If the offender fails to submit the accountability (remote) check-in within 30 days, the officer will call or contact the offender to discuss why it was not submitted.
  - (2) Instruct the offender to submit within an agreed upon time frame, barring other obstacles to reporting remotely and, explain that if it is not submitted, the offender will have to report in person.
  - (3) Failure to report remotely is not a "Failure to Report" probation violation; only failure to report in person will be considered probation violations.
  - (4) If the offender continues not to follow reporting guidelines, the officer will disable the accountability report PIN, consider the reasons for offender noncompliance, and reassess if necessary. The offender may need to be seen in the office to complete the [DCC-118, Mail-in Report](#) or supervised by the new assessed supervision level.
  - (5) If an offender participating in offender accountability reporting is placed in tolled status, staff with the chief probation/parole officer to determine if accountability (remote) reporting is still appropriate. Offenders charged with a crime that will not lead to revocation of probation may still be eligible for offender accountability (remote) reporting.

#### **.0205 DESCRIPTIONS OF RESPONSES TO NONCOMPLIANCE**

- (a) **Probation violation report (PVR) and arrest.** If the noncompliance grid directs a class A response, the officer will:
- (1) Review the case with the chief probation/parole officer;
  - (2) Complete form DCC-10, *Violation Report*, being sure to provide specific details about the violations alleged;
  - (3) Swear to the violation report before a magistrate, notary public, or clerk of court;

- (4) File the original violation report and a copy of all applicable forms DCC-2 and DCC-10B with the clerk of court of the county of hearing; obtain a certified copy;

*Note: It is essential that the violation report be file stamped when it is filed with the clerk. In the absence of a file stamped motion, dated before the period of probation expires, the trial court is without jurisdiction to revoke probation after the end of the probationary period. State v. Hicks, 148 N.C. App. 203 (2001), State v. Moore, 148 N.C. App. 568 (2002).*

- (5) Obtain an order for arrest or draft a DCC-12, *Authority to Arrest*, following the procedure set out in [§ E.0404\(b\), Authority to Arrest](#).
- (6) Serve the offender with the violation report, the order for arrest or Authority to Arrest form; provide a copy to the offender; [[See arrests](#)]
- (7) Take the offender to a magistrate for an initial appearance;
- (8) Document any conditions of release set by the magistrate in OPUS;
- (9) If additional violations are discovered before a scheduled violation hearing and before the period of probation has expired, the officer may issue an addendum to the violation report. All notice and procedural provisions applicable to probation violation reports apply with equal force to addendum violation reports.

- (b) **PVR and citation.** If the noncompliance grid directs a class B response, the officer may, under the following procedure, file a probation violation report and cite the offender to court in lieu of making an arrest. The officer will:

- (1) Review the case with the chief probation/parole officer;
- (2) Complete form DCC-10, *Violation Report*, being sure to provide specific details about the violations alleged;
- (3) Swear to the violation report before a magistrate, notary public, or clerk of court;
- (4) File the original violation report and a copy of all applicable forms DCC-2 and DCC-10B with the clerk of court of the county of hearing; obtain a certified copy;
- (5) At least 24 hours before the scheduled hearing the officer will:
  - a. Read the violation report to the offender;
  - b. Give a copy of the violation report to the offender;

- c. Instruct the offender on when and where to come to court;
  - d. Have the offender sign the violation report, acknowledging receipt;
  - e. Note: the offender may waive his or her entitlement to notice by signing form [DCC-11, \*Waiver upon Violation\*](#).
- (6) Arrange for a violation hearing to be scheduled according to local requirements;
- (7) If additional violations are discovered before a scheduled violation hearing and before the period of probation has expired, the officer may issue an addendum to the violation report. All notice and procedural provisions applicable to probation violation reports apply with equal force to addendum violation reports.
- (c) **Contempt of court.** If the noncompliance grid directs a class B response, the officer may, under the following procedure, seek to have the offender held in contempt of court in response to a violation under [G.S. 15A-1344\(e1\)](#). The officer will:
- (1) Review the case with the chief probation/parole officer;
  - (2) Prepare a DCC-10C, *Criminal Contempt Violation Report* in OPUS. The DCC-10C is a violation report that includes language indicating that the probation officer recommends that the offender be held in contempt; set the method of service as *cite*;
  - (3) Swear to the violation report before a magistrate, notary public, or clerk of court;
  - (4) Present the DCC-10C to a judge of the court having jurisdiction over the case for signature; the judge will decide whether to issue an order for the offender to show cause why he should not be held in contempt of court (the DCC-10C itself may serve as the show cause order);
  - (5) If the judge enters a show cause order, the officer will file the original (and a copy of all applicable DCC-2 and DCC-70 forms) with the clerk of court in the county of hearing. The officer will also give a copy to the offender and place a copy in the file.
  - (6) If the judge decides not to enter a show cause order, the supervising officer will confer with the chief probation/parole officer to determine an appropriate course of action.
- (d) **Modify conditions of supervision or extend probation.** If the noncompliance grid directs a class B response, the officer may seek to have the offender's conditions of probation modified under the procedure set out in [§D.0608, \*Modifications\*](#) or to have probation extended under the procedures set out in [§D.0609, \*Extensions\*](#). Upon a finding that an offender sentenced to community punishment has violated one or more conditions of probation, the court may add

conditions of probation that would otherwise make the sentence an intermediate punishment. [G.S. 15A-1344\(a\)](#).

- (e) **Delegated authority.** If the noncompliance grid directs a class B response, the officer may, in Structured Sentencing cases, exercise his or her delegated authority to add certain conditions without prior judicial approval. Unless the presiding judge specifically found at sentencing that delegation was inappropriate, the supervising officer may, after first determining that the offender has failed to comply with one or more conditions of probation imposed by the court, impose any of the following conditions in intermediate and community cases, respectively.

(1) **Intermediate punishment cases.** [G.S. 15A-1343.2\(f\)](#).

- a. *Community service.* Perform up to 50 hours of community service.
- b. *Submit to a curfew.* An officer may require an offender to remain in a specified place for a specified period each day. The curfew may be enforced using electronic monitoring, as described in *Chapter H, Technology*.
- c. *Submit to a substance abuse assessment, monitoring, or treatment.*
- d. *Participate in an education or vocational skills development program.*
- e. *SBM.* Submit to satellite-based monitoring, if the offender committed an [offense involving the mental, physical, or sexual abuse of a minor](#) and he or she requires the highest possible level of supervision and monitoring. (L1 and L2) See [§ H.0403\(c\), Satellite Based Monitoring](#). The CPPO will contact the Special Operations Office for consultation prior to proceeding with the SBM recommendation via delegated authority.

(2) **Community cases.** [G.S. 15A-1343.2\(e\)](#).

- a. *Community service.* Require the offender to perform up to 20 hours of community service.
- b. *Reporting.* Require the offender to report to the supervising officer at a frequency to be determined by the officer.
- c. *Submit to a substance abuse assessment, monitoring, or treatment.*

If the officer imposes any of these conditions, he or she may also reduce or remove them. When exercising delegated authority, the officer must give to the offender a written copy of the conditions and a notice of the right to seek court review of the conditions imposed by the officer.

(3) **Procedure.** When adding conditions through delegated authority, the officer will:

- a. Review the case with the chief probation/parole officer;
  - b. Complete form DCC-10B, *Delegated Authority Violation Report*, in OPUS;
  - c. Swear to the violation before a magistrate, notary public, or clerk of court;
  - d. Present the DCC-10B to the offender for signature, informing the offender of the right to file a motion with the appropriate court to review any conditions added by the officer;
  - e. Give the offender a copy of the violation report;
  - f. File the original DCC-10B with the clerk of court in the county of origin. If a hearing is held, file the original with the county of hearing and send a copy to the county of origin. Place a copy in the file.
  - g. Update the case plan to reflect that delegated authority was exercised.
- (f) **Other class B responses.** If the noncompliance grid directs a class B response, the supervising officer may, in his or her discretion, take the following actions. If the officer takes any of these actions, he or she will document the response in the case plan:
- (1) **Search** the offender more frequently;
  - (2) Conduct more frequent **substance abuse screening**; the officer will coordinate the timing and frequency of the screens with the treatment provider;
  - (3) **Contact** the offender more frequently.
- (g) **Class C responses.** If the noncompliance grid directs a class C response, the supervising officer may, in his or her discretion, take any of the following actions. In every case, the officer will first inform the offender of the specific noncompliance that gave rise to the officer's response. Every response must be documented in the case plan.
- (1) **Refer to treatment or services.** The officer may, in his or her discretion, refer the offender to treatment or other service providers in the community. If the offender is subject to intermediate punishment for an offense committed on or after December 1, 2009, the officer may, as a condition of probation, require the offender to participate in any evaluation, counseling, treatment, or educational program under [G.S. 15A-1343\(b4\)](#).
  - (2) **Reprimand by chief probation/parole officer.** The supervising officer may inform the chief probation/parole officer of the offender's noncompliance and ask the CPPO to issue a written or verbal reprimand.

- (3) **Modify payment schedule.** If the court has delegated to the officer the authority to determine an offender's payment schedule under [G.S. 15A-1343\(g\)](#), the officer may, in his or her discretion, modify the payment schedule in response to a violation.
- (4) **Reprimand by supervising officer.** The officer may issue a written or verbal reprimand to the offender in response to the offender's noncompliance.
- (5) **Initiate contact.** The supervising officer may simply contact the offender, in person or through other means, to inform the offender of the specific noncompliance.

#### **.0206 DEFERRED PROSECUTION AND G.S. 90-96 CASES**

- (a) **Deferred prosecution cases.** Violations of the terms of a deferred prosecution agreement entered into under [G.S. 15A-1341\(a1\)](#) will be reported to the court as in any other case, and to the district attorney in the district in which the agreement was entered. [G.S. 15A-1342\(a1\)](#).  
*Note: [Advisory Letter from Attorney General's Office – November 1, 2010](#)*
- (b) **G.S. 90-96 cases.** Violations by offenders on probation under [G.S. 90-96](#) will be reported to the court as in any other case. The hearing for violations can be held in the county of supervision; however sentencing must occur in the county of origin where the 90-96 agreement was accepted.

#### **.0207 RETURNING INCARCERATED OFFENDERS**

If the noncompliance grid directs arrest or citation for an offender who is already in confinement serving another active sentence, the supervising officer will:

- (a) Report the offender's noncompliance to the court; be prepared to provide information about the crime for which the offender is already serving an active sentence;
- (b) If the court elects to have the offender returned for a violation hearing, prepare a violation report according to ordinary procedures;
- (c) Forward the violation report to the chief probation/parole officer in the district where the offender is incarcerated; the CPPO will arrange for immediate service of the violation report;
- (d) In consultation with the district attorney, schedule a hearing and prepare form [AOC-CR-223, Writ of Habeas Corpus Ad Prosequendum](#) for the court's signature
- (e) Have the writ delivered to offender's custodian. If the offender is housed in a DOC facility, follow the procedure set out in [DOP Policy and Procedure § G.0100](#).

#### **.0208 SERIOUS CRIME REPORTS**

When an offender is arrested for a serious crime alleged to have been committed while under our supervision or named a suspect by the law enforcement agency investigating a crime of murder, rape,

kidnapping, offenses against a minor under 18 years of age, or any other crime resulting in serious injury to a victim, the supervising officer will immediately notify the chief probation/parole officer, who will notify the judicial district manager. The supervising officer will prepare a [DCC-106](#), *Serious Crime Report*, and submit it and the file for review to the CPPO and JDM.

APPROVED.



07/01/2011

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Director of Community Corrections

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Date

## **Sentencing Law for Superior Court Judges**

North Carolina Judicial College  
September 9, 2011

### **Residential Substance Abuse Treatment Programs for Probationers**

#### **1. Generally**

**Intermediate condition.** For offenders on probation for offenses that occurred before December 1, 2011, residential substance abuse treatment is an intermediate condition under G.S. 15A-1340.11(6). For offenders on probation for offenses that occur on or after December 1, 2011, a residential program is no longer an intermediate condition and may thus be ordered for any probationer. S.L. 2011-192 (Justice Reinvestment Act).

**Screening and assessment required.** Under G.S. 15A-1343(b3), a defendant ordered to submit to a period of residential treatment in the Drug Alcohol Recovery Treatment program (DART) or Black Mountain Substance Abuse Treatment Center for Women operated by the Department of Correction must undergo screening to determine chemical dependency. If the screening indicates the defendant is chemically dependent, the court shall order an assessment to determine the appropriate level of treatment. The assessment may be conducted either before or after the court imposes the condition, but participation in the program shall be based on the results of the assessment.

**Length of program.** Both DART–Cherry and Black Mountain are 90-day programs. The former 28-day program at DART–Cherry has been discontinued.

**Credit.** Time spent at DART–Cherry as a condition of probation counts for credit against a suspended sentence. *State v. Lutz*, 177 N.C. App. 140 (2006).

#### **2. DART–Cherry (Goldsboro)**

**Waiting list.** New classes start at DART–Cherry approximately every 5 weeks. At present, there is no waiting list and offenders are generally able to begin the program when the next class begins. There are 300 beds at DART–Cherry. Over 2,000 offenders enrolled in the program in Fiscal Year 2009/10.

**Eligibility considerations.** DART–Cherry is not equipped to provide services to offenders who:

- Require intensive detoxification;
- Have a pre-existing condition that severely limit minimal participation in program activities or requires intense, personal, “around the clock” care or assistance;

- Require narcotics to control chronic pain (DART–Cherry is an abstinence based substance abuse treatment program). Substitute, non-narcotic pain relievers may be provided;
- Have medical conditions requiring hospital care or immediate medical care outside the scope of services provided by DART–Cherry (e.g., injuries requiring x-ray, critically high blood pressure, or heart conditions);
- Require methadone maintenance. Offenders on methadone maintenance will be medically managed with alternative medicines;

**Accessibility.** DART–Cherry is a handicapped accessible facility. Individuals in wheelchairs who are otherwise able to participate in treatment activities are appropriate for the DART–Cherry Program. Individuals with known HIV/AIDS are treated with universal precaution and are appropriate for DART–Cherry Programs when in a stabilized condition.

### **3. Black Mountain Substance Abuse Treatment Center for Women**

**Waiting list.** Intake occurs on a monthly basis. At present, the longest waiting list reported by staff has been approximately 45 days. There are 50 beds at Black Mountain, with plans to increase to 60 by November 2011.

#### **Eligibility requirements.**

- Women age 18 and over;
- TASC assessment indicating American Society of Addiction Medicine (ASAM) Level III;
- Detoxification complete;
- Able to function independently;
- Stable medical and mental health;
- No medical conditions requiring high degree of medical management, including but not limited to seizures, brittle diabetes, uncontrolled hypertension, dementia, schizophrenia, severe migraines, dialysis, or chemotherapy/radiation;
- IQ of 70 or above;
- Not pregnant;
- No narcotics or highly abused medications;
- Prior clearance from Black Mountain program staff.