



## STATE OF WASHINGTON

### **MISDEMEANANT CORRECTIONS ASSOCIATION**

### **CORE PROBATION GUIDELINES**



April 2011

1<sup>st</sup> Edition



## A Note from the Misdemeanant Corrections Association

Misdemeanant probation plays a key role in public safety in local jurisdictions across the State of Washington. Misdemeanant Corrections Association is committed to increasing professionalism, consistency, and the competent supervision of offenders throughout the state.

State of Washington, Misdemeanant Corrections Association, Core Probation Guidelines, April, 2011, 1<sup>st</sup> Edition, has been developed to provide guidance in probation services. It is not intended to be a document that is *mandatory* for use in all jurisdictions, but rather is intended to be a set of general *guidelines*, broad enough to be used by agencies of various size and capacity to *assist* in providing services in a uniform way.

This document follows formatting established by American Correctional Association, but tailored to misdemeanor probation work in Washington.

It is the hope of the current Misdemeanant Corrections Association Executive Board that all probation departments across the state will consider utilizing this tool when establishing agency policy and procedure. We trust that our commitment to misdemeanor probation services will be ensured by consistent application from one jurisdiction to the next.

The Misdemeanant Corrections Association, Executive Board

## Acknowledgements

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This set of guidelines would not have been accomplished without the support of many people around the State of Washington. In 2010, Rick Bomar, Probation Officer (formerly of Grant County, now of Snohomish County District Court Probation), sought funding through the Washington Traffic Safety Commission (WTSC) for several projects, including misdemeanor guidelines. His efforts were rewarded as Misdemeanant Corrections Association (MCA) was awarded a grant of \$100,000.00 to work on projects related to, “Fostering Leadership to Facilitate Impaired Driving System Improvement,” a project through the Washington Impaired Driving Advisory Council (WIDAC) and WTSC.

In August, 2010 the MCA Executive Board voted to act as lead agency on the WIDAC grant that would fund the guidelines project. Linda Shaw, MCA President (Clark County District Court Corrections) wrote the project description for the WIDAC funding as well as the contract for consulting services. In January, 2011, MCA contracted with Billy Wasson, Consultant, to draft guidelines and work with a committee of probation directors and officers from around the state to refine and finalize them.

We would be remiss if we didn’t credit individuals who have worked over the last decade to focus on developing standards or guidelines. Pam Clark, (formerly of Clark County, now of Criminal Justice Training Commission) was instrumental in motivating the association toward organizing a committee to work on the project and contributed much to the content. Initial contributors were:

Rick Bomar, Bruce Van Glubt, Todd Anderson, Ian Coen, Susan Fraser, Sue White, Larry Barker, Tom Ball, Ron Krebs, Anita Pederson, Patti Roadhouse, Peggy Miller, Jeanette Matthews, Pam Clark, Lisa Biffle, Julie Driscoll, Serina Tregellas, Jennifer Kennedy, Josh Smith and Kevin Grandy.

After we hired our consultant there were many that helped refine the draft and offered their expertise:

Judge Doug Robinson, Pam Clark, Mindy Breiner, Susan Fraser, Patrick Gigstead, Debbie Noland, Bernita Brumbaugh, Linda Eiford, Linda Shaw, Rick Bomar, Tandra Schwamberg, Janene Johnstone, Gregory Bockh, Doral Radauceanu, Peggy Miller, Melanie Schwankl, Debbie Noland, and thanks to Pat Gigstead for handling all logistics for director’s and committee meetings, in addition to adding his expert opinion on the draft.

We apologize for individuals not named here. There were many others around the State of Washington who also supported in a valuable way the development of Misdemeanant Corrections Association Core Probation Guidelines, April, 2011 1<sup>st</sup> Edition.



This project was made possible with grant funding from the Washington Traffic Safety Commission.

## FORWARD

### **Purpose**

These guidelines are recommendations for the general operation of misdemeanor probation programs in the State of Washington. They are not binding unless the operating jurisdiction identifies them as mandatory for their operation. Local circumstances may justify different practices than these non-binding guidelines.

It is the goal of the Misdemeanant Corrections Association (MCA) that the guidelines will lead to a more consistent program state wide and provide the leadership for the overall improvement and credibility of the misdemeanor system in the state.

### **Format of the Guidelines**

The American Corrections Association Standards (ACA) format is used for this document. This document is intended to be a set of “Core” Guidelines, i.e. a subset of ACA Probation Standards that have been edited so that they apply to the wide array and diversity of the misdemeanor corrections agencies in the State of Washington.

In many cases Washington statute and/or administrative rules may be paraphrased or in some other way referenced (see the appendix of this document). Where possible the specific guideline will include the ACA Standard number and any other statute or rule numeration. “MCA” indicates this is the Misdemeanant Corrections Association number.

It is the intent that the jurisdiction that adopts these guidelines as their standard for their program will follow each guideline with a more detailed policy and procedure for their operation.

### **History of Misdemeanant Corrections Association (MCA):**

The Misdemeanant Corrections Association was organized in 1971 by misdemeanor probation directors to increase the quality, continuity, and effectiveness of misdemeanor probation services within Washington State.

Goals of the association include:

- Enhancement of professional excellence in misdemeanor corrections;
- Coordination of misdemeanor services statewide;
- Collecting data for evaluation and informational purposes;
- Development and support of legislation pertaining to misdemeanor corrections;
- Promoting the development of new misdemeanor corrections programs;
- Establishing guidelines for misdemeanor corrections services;
- Providing information to the community about misdemeanor probation services and encouraging the utilization of community resources for offenders;

- Working in cooperation with government and private organizations involved in corrections services.

The Misdemeanant Corrections Association promotes the use of community supervision for medium to high risk misdemeanor offenders. Leaders in communities across the state are making decisions to reduce and even cut some services. Probation is one of the services that may be at risk in some communities in Washington. Before making decisions of this magnitude, officials must consider public safety and offender accountability, clear goals of community supervision; our leaders must take a serious look at each decision they make.

One of the long term goals of these guidelines is to ensure availability of approved misdemeanor probation guidelines to jurisdictions around the State of Washington.

Misdemeanant Corrections Association is committed to the development of basic guidelines for probation services that would serve as a tool for multiple jurisdictions under various branches of local government. This tool can assist departments in delivering a high level of professional services to the court, the offender and the community. Although the Association does not directly serve the crime victim they are benefited by having a voice in the presentence investigation and supervision phases of the association members' work.

Historical information:

2007-Pam Clark, formerly of Clark County Corrections, introduced the idea of guidelines to MCA.

The Guidelines Committee was established following the successful passing of SHB 1669 (2007) which gave misdemeanor probation liability protection through a gross negligence standard. A consistent concern addressed in the Legislative hearings has been the lack of "probation standards" for misdemeanor probation. Since public safety is paramount, the proactive approach of providing a means of reducing or mitigating the tort liability risk associated with misdemeanor probation supervision, probation standards, is considered by the Misdemeanant Corrections Association (MCA) and Probation Directors across the state to be the responsible course of action.

- In the past the State Legislature has inquired about MCA Probation Guidelines.
- 2008-Formation of original guidelines committee. Drafting of basic structure began.
- 2009-MCA Conference, status request from the general membership.
- 2010-Decision of the MCA board to fund or seek funding for a consultant to develop guidelines with MCA committee to review and approve any draft.

## **MCA encourages Evidence Based Practices:**

Over the last 20 years many studies have been done to prove the effectiveness of probation. The use of evidence based practices such as targeting risk and needs through effective offender classification is common practice in misdemeanor probation departments across the state. An Elected Official's Guide to Community Correctional Options outlines community supervision and the research supporting both cost effectiveness and efficacy:

"Without the benefit of education, prevention, and treatment, the hallmarks of evidence-based community corrections that are related to behavior change, recidivism rates for those inmates released into the community can be as high as 40%. As stated earlier, when viewed through the local and state funding lens, incarcerating an individual because they committed a serious felony crime is not debated here. Incarcerating a lower level or misdemeanor offender simply because they committed a crime is misguided when community corrections can provide sound public safety and sound fiscal decisions.

When officials consider balancing public safety with public spending, community corrections is a public safety asset that is worth the investment. The least expensive alternative to prisons, adult probation and parole supervision and programming is one of the promising methods of controlling crime. Further, when designed with evidence-based practices, adult and juvenile probation, parole, and other community-based programs, can prevent crime, increase offender accountability and competencies, and repair harm to both victims and neighborhoods."

An Elected Official's Guide to Community Correctional Options, (Layton, McFarland, Kincaid 2<sup>nd</sup> edition. Pg. 12)

## **Comments and questions:**

Please address comments or questions about this document to:

Misdemeanant Corrections Association

[www.wamca.net](http://www.wamca.net)

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## STATUTORY AUTHORITY

The authority of district and municipal courts to suspend or defer sentences and impose probation terms and supervision is found in Revised Code Washington (RCW) 3.66.067 and RCW 3.50.320. Continuing jurisdiction over suspended or deferred sentences for two years for most offenders and for five years for those convicted of Driving Under the Influence and Domestic Violence, RCW 3.66.068 and RCW 3.50.330, pursuant to RCW 9.94A.535.

### **ARLJ 11 Misdemeanant Probation Departments**

#### **RULE 11 PROBATION DEPARTMENT**

##### **RULE 11.1 DEFINITION**

A misdemeanor probation department, if a court elects to establish one, is an entity that provides services designed to assist the court in the management of criminal justice and thereby aid in the preservation of public order and safety. This entity may consist of probation officers and probation clerks. The method of providing these services shall be established by the presiding judge of the local court to meet the specific needs of the court.

##### **RULE 11.2 QUALIFICATIONS AND CORE SERVICES OF PROBATION DEPARTMENT PERSONNEL**

###### **(a) Probation Officer Qualifications.**

(1) A minimum of a bachelor of arts or bachelor of science degree that provides the necessary education and skills in dealing with complex legal and human issues, as well as competence in making decisions and using discretionary judgment. A course of study in sociology, psychology, or criminal justice is preferred.

(2) Counseling skills necessary to evaluate and act on offender crisis, assess offender needs, motivate offenders, and make recommendations to the court.

(3) Education and training necessary to communicate effectively, both orally and in writing, to interview and counsel offenders with a wide variety of offender problems, including but not limited to alcoholism, domestic violence, mental illness, sexual deviancy; to testify in court, to communicate with referral resources, and to prepare legal documents and reports.



(4) Anyone not meeting the above qualifications and having competently held the position of probation officer for the past two years shall be deemed to have met the qualifications.

(b) Probation Officer - Core Services.

(1) Conduct pre/post-sentence investigations with face to face interviews and extensive research that includes but is not limited to criminal history, contact with victims, personal history, social and economic needs, community resource needs, counseling/treatment needs, work history, family and employer support, and complete written pre/post-sentence reports, which includes sentencing recommendations to the court.

(2) For offenders referred to the misdemeanor probation department, determine their risk to the community using a standardized classification system with a minimum of monthly face to face interviews for offenders classified at the highest level.

(3) Evaluate offenders' social problems, amenability to different types of treatment programs, and determine appropriate referral.

(4) Supervise offenders with face to face interviews depending on risk classification system.

(5) Oversee community agencies providing services required of offenders with input to the judicial officer (e.g. alcohol/drug, domestic violence, sexual deviancy, and mental illness).

(6) Other Duties. The core services listed under both probation officer and probation clerk are not meant to exclude other duties that may be performed by either classification of employee or other court clerical staff, such as record checks, calendaring court proceedings, and accounting of fees.

(c) Probation Clerk Qualifications.

(1) High school or equivalent diploma.

(2) Efficient in all facets of basic clerical skills including but not limited to keyboarding, computer familiarity and competence, filing, and positive public interaction.

(3) Above average ability in dealing with stress and difficult clients.

(4) Ability to complete and perform multi-task assignments.

(d) Probation Clerk - Core Services.

(1) Monitor compliance of treatment obligations with professional treatment providers.

(2) Report offender non-compliance with conditions of sentence to the court.

(3) Coordinate treatment referral information, and monitor community agencies for statutory reporting compliance.

(4) Anyone not meeting the above qualifications and having

held the position of probation clerk for the past two years shall be deemed to have met the qualifications.

(5) Other Duties. The core services listed under both probation officer and probation clerk are not meant to exclude other duties that may be performed by either classification of employee or other court clerical staff, such as record checks, calendaring court proceedings, and accounting of fees.

#### **RULE 11.3 STATUTORY PROBATION SERVICE FEES TO BE USED FOR PROBATION SERVICES**

All positions, which are funded by statutory probation service fees, shall be limited to working with individuals or cases who are on probation. Any additional funds raised from statutory probation services fees beyond what is necessary to fund the positions in the probation department shall be used to provide additional levels of probation services.[Adopted effective September 1, 2001.]

## GENERAL ADMINISTRATION

**Principle:** *The statutory authorization, mission and operational procedures that guide the Director/Court Administrator must be clear, concise, and reflect how the organization should operate.*

### **Purpose and Mission**

#### **MCA 100 (3-3001)**

**The assignment of organizational responsibility for misdemeanor supervision within the governmental structure is specified by statute, by the parental government organization\* and/or by court order.**

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*COMMENT:*

Statutory specification provides an unquestionable definition of the role of misdemeanor supervision services within the governmental structure.

\*relative to the MCA a parental government organization would be the City or County that hosts the program and is the fiscal agent for probation department resources.

#### **MCA 105 (3-3003)**

**The authority, responsibility, and function of the position of Director/Court administrator of misdemeanor services are specified by statute or administratively defined by the parent governmental organization.**

---

*COMMENT:*

To have effective leadership, a clear definition of the authority and responsibilities of the director/court administrator should be maintained. The functions specified by statute should include planning, organizing, staffing, coordinating, directing, and controlling the services.

#### **MCA 110 (3-3004)**

**Office and other facility locations are in areas that are optimally accessible to offenders' places of residence and employment, to transportation networks, and to other community agencies.**

---

*COMMENT:*

The strategic location and appropriate design of facilities maximize staff performance and service delivery.

## **Policy and Goal Formulation**

### **MCA 200 (3-3005)**

**The Director/Court administrator is responsible for formulating goals, establishing policies and priorities related to them, and translating the goals into measureable objectives for accomplishment by the probation staff.**

---

*COMMENT:*

Articulated goals and objectives provide a uniform basis to guide the activities of the agency, such as, planning, budgeting, prioritizing the commitment of resources, and the measuring of performance. Goals and objectives are essential in contributing to an understanding of the agency's mission and the goal-directed behavior necessary to accomplish this mission.

### **MCA 205 (3-3008)**

**Written policy, procedure, and practice provide for a written statement that describes the philosophy and long-range goals of the agency, which is prepared by the agency administrator, reviewed at least annually and updated, if needed.**

---

*COMMENT:*

The efforts of the probation agency should not be characterized by situational reactions to crises. Agencies should articulate goals, objectives, and policies for at least two years. These goals and policies may be developed alone or jointly with the parent agency. The probation agency should document practical and specific plans to achieve its long-range goals.

### **MCA 210 (3-3010)**

**Written policy, procedure, and practice provide that requests from federal, state, and local legislative and executive bodies for information concerning programs and specific cases are responded to promptly and fully by agency staff, in accordance with provisions relevant to the right to privacy.**

---

*COMMENT:*

To maintain the integrity and credibility of the probation agency with other elements of the governmental structure, full and immediate cooperation should occur with judicial, legislative and executive offices of government.

## **Appointed Personnel**

### **MCA 300 (3-3012)**

**The Judge and/or governing board of the level of government at which the services are constituted has the responsibility for appointing the Director/Court Administrator of misdemeanor correction services.**

---

*COMMENT:*

Since the judge and/or governing board of the agency parent governmental organization is responsible for the overall functioning of the correctional agency, that individual or group should select the administrator of misdemeanor services. (refer to General Rule 29 and Rule 11)

## **Qualifications**

### **MCA 305 (3-3014)**

**The educational, operational, and administrative qualifications of the administrator of misdemeanor services are specified in writing by the appointing authority. It is preferred that they include, at a minimum, a bachelor's degree, five years of related administrative experience, demonstrated administrative ability and leadership skills.**

---

*COMMENT:*

To ensure that only qualified persons are recruited and apply for the position of administrator, the appointing authority should establish high qualifications, and disseminate the vacancy announcement widely, and then recruit and hire on the basis of the qualifications listed on the announcement.

## **Table of Organization**

### **MCA 310 (3-3016)**

**There is a written description and/or organizational chart that reflect the current structure of authority, responsibility, and accountability within the agency. These documents are reviewed at least annually and are updated, as needed.**

---

*COMMENT:*

A current organizational chart is necessary for providing a clear administrative picture. The chart should reflect the grouping of similar functions, the effective span of control, lines of authority, and an orderly channel of communication.

## **ROLE OF OUTSIDE AGENCIES**

### **MCA 315 (3-3017)**

**Written policy, procedure, and practice provide for collaboration and consultation with other criminal justice agencies, community interest groups, and service agencies on a continuing basis by the Director/Court Administrator for the purpose of enhancing the formulation and evaluation of organizational policies, procedures, rules, and regulations.**

---

*COMMENT:*

Collaboration with criminal justice and private agencies and members of the community is the responsibility of the administrator of probation services. The process may vary by location. The local manager should have discretion to develop procedures to provide a joint working relationship that will provide equitable treatment for the offender.

## **POLICY AND PROCEDURE MANUALS**

#### **MCA 320 (3-3019)**

**An agency manual, including policies, procedures, rules, and regulations of the agency, is developed and maintained by the agency. The manual is reviewed annually, updated as procedures change, and is available to all staff.**

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#### *COMMENT:*

The agency should have a single source for its established policies and procedures, which is available to all personnel to ensure consistency in organizational operations. Efficient management of resources and supervision are facilitated when all personnel understand how operations are conducted, and have available to them expectations and definitions of organizational activities, and personnel behavior. The manual should be well organized and include a statement of purpose, table of contents, and an open-ended numbering system.

#### **MCA 325 (3-3020)**

**New or revised policies and procedures are disseminated to designated staff and volunteers.**

---

#### *COMMENT:*

Rapid dissemination of policies and procedures increases the effectiveness of the agency's communication system. In the case of some policy and procedures it may be appropriate to share with probationers prior to implementation.

### **Monitoring and Assessing**

#### **MCA 330 (3-3024)**

**Written policy, procedure, and practice require the leadership of the agency to submit a report to the parent agency, at least biennially, that includes objectives, programs, budget, major developments, problems and plans, as well as services furnished to the courts and offenders.**

---

#### *COMMENT:*

The publication of a comprehensive report at least every two years serves several important functions: it helps to inform the general public, elected and appointed officials, criminal justice administrators, and others about the agency's programs, services, policies, and accomplishments.

#### **MCA 335 (3-3026)**

**There is a space management program which provides for safe and adequate facilities for all agency operations. The program is reviewed continually and requests to meet space requirements are made to the parent governmental agency.**

---

*COMMENT:*

Space management programs should provide for sufficient space and the efficient use of space. The facility should have attractive, clean, well-lighted, and related accommodations, appropriate locations, and adequate maintenance. Continuous review of the space management program takes into account client population shifts, changes in property values, changes in public transportation, and so forth, and will facilitate planning for an optimum arrangement of space to serve the needs of offenders, their families, and agency employees.

## **PUBLIC INFORMATION**

### **MCA 340 (3-3027)**

**Written policy, procedure, and practice provide for a public information program that encourages contacts with the public and communication media; the policy and procedure are disseminated to employees and media representatives.**

---

*COMMENT:*

The agency also should direct its activities to include labor and management groups, service organizations, allied criminal justice forces, churches, and fraternal and other civic organizations. The written policy should specify the agency's statutory basis, types of information that can be released, persons authorized to release information, rights of offenders with regard to publicity, and a clear statement of the agency's intent to provide the media with accurate and timely information. (See General Rule 31 in the appendix)

### **MCA 345 (3-3029)**



**Written policy, procedure, and practice govern the dissemination of case information to the public, address confidentiality requirements and the designation of who provides such information.**

---

*COMMENT:*

Probation authorities often are requested to provide information about cases under supervision, and it is important that policies exist within the agency to specify who should provide such information and how it should be provided. Procedures regarding the confidentiality of case records should be observed at all times. Both state and federal laws restrict dissemination of case specific information to the general public and other non-criminal justice agencies.

**MCA 350 (3-3030)**

**Written policy, procedure, and practice provide for the investigation of citizen complaints about the agency and/or staff member.**

---

*COMMENT:*

To maintain credibility with the public, the agency must investigate and respond to complaints registered by citizens. For the protection of the officer, as well as because it is in the public interest, a copy of the complaint, the findings from the investigation, and the action taken should be placed on file. The complainant should be advised of the outcome of the investigation and the response of the agency.

<b>LEGAL COUNSEL</b>
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**MCA 355 (3-3031)**

**Legal assistance is available to the agency for the purposes of drafting agency policy, advising on individual cases, interpreting case law, and representing the agency, as required, before courts and other appropriate bodies.**

---

*COMMENT:*

Continuing availability of legal counsel ensures that the public, the agency, and the offender are afforded the legal protection to which they are entitled. For MCA organizations the assistance will come from a designated attorney general, local prosecutor or city attorney.

**Political Practices**

### **MCA 360 (3-3032)**

**Written policy, procedure, ethical guidelines and practice provide for agency compliance with statutes and county or city regulations relating to campaigning, lobbying, and political practices.**

---

*COMMENT:*

MCA has an ethics policy (page 60 in this document) and the reader is encouraged to review it at the website of the organization. [www.wamca.net](http://www.wamca.net)

## **PRETRIAL SERVICES**

### **MCA 400 (3-3033)**

**When the agency is designated to operate a pretrial services program, such as monitoring offenders, its authority and responsibility is stated by statute, administrative regulation, or court order.**

---

*COMMENT:*

The authority and responsibility for such programs should be stated clearly to ensure the cooperation and participation of judges, attorneys, law enforcement, correctional officials, community leaders, and the participants, and to facilitate the successful operation of the program.

### **MCA 405 (3-3035)**

**When the agency operates pretrial services, written policy, procedure, and practice provide that it does so with an active plan to solicit and maintain the cooperation of other criminal justice authorities.**

---

*COMMENT:*

Successful development and operation of pretrial services is dependent upon the cooperation of judges, attorneys, law enforcement officials, correctional officials and legislative bodies. They should be involved in these programs from initial planning through implementation.

## **FISCAL MANAGEMENT**

**Principle:** *The fiscal management of the organization should reflect the importance of being the steward of taxpayer money and should follow commonly accepted accounting procedures that have been developed by the organization and any oversight agencies.*

## **Fiscal Control**

### **MCA 500 (3-3037)**

**The agency's budget process is in accordance with the policies, procedures and instructions of the jurisdiction of which it is a part.**

---

*COMMENT:*

Although it may be a distinct organization within the governmental structure, the agency should comply with the policies, procedures, and instructions of the parent governmental jurisdiction. The budget should make adequate provision for the costs of personnel, operations, and travel.

### **MCA 505 (3-3038)**

**The Director/Court Administrator is responsible for preparing and controlling the budget, including tracking expenditures and monitoring what occurs.**

---

*COMMENT:*

Leadership is responsible for the preparation and presentation of a detailed budget request and justification. Although budget specialists may be required, the administrator is ultimately responsible for the total budget process.

### **MCA 510 (3-3039)**

**The agency has written fiscal policies and procedures, adopted by the governing authority, which include, at a minimum: internal controls, petty cash, indemnification, signature control for checks, and employee expense reimbursement.**

---

*COMMENT:*

Written fiscal policies and procedures are essential, and make a significant contribution to the agency's fiscal integrity and compliance with fiduciary responsibilities.

## **Budget Preparation**

### **MCA 515 (3-3040)**

**The Director/Court Administrator participates in budget hearings conducted by the parent agency or the next higher level of government, and presents justification to support the budget request.**

---

#### *COMMENT:*

As requested by the parent agency or the next higher level of government, the administrator should prepare for the hearing and be ready to justify requests. The administrator's participation in budget hearings can promote more interest in the agency and its programs.

## **Cash Management**

### **MCA 520 (3-3043)**

**When required by law or other regulations to collect funds from offenders, the agency is responsible for collecting, safeguarding, and disbursing all monies in accordance with the parent agencies' policies and audit requirements. Written policy, procedure, and practice regarding the collecting, safeguarding, and disbursing of these monies are made known to staff (i.e. staff are trained) and reviewed annually.**

---

#### *COMMENT:*

Where it is necessary for the agency to receive monies from offenders, the agency leadership ultimately is responsible for them, even though other personnel may be assigned collection and disbursement duties. An effective collection and disbursement system requires the development and promulgation of written procedures necessary for the uniform and orderly performance of tasks. Such procedures should include, but not be limited to, a clear statement of duties and responsibilities of each staff member, maintenance of accounting records, preparation of fiscal reports, administrative review of fiscal policies, and cooperation with auditors.

## Independent Audit

### MCA 525 (3-3044)

Written policy, procedure, and practice provide for both ongoing internal and independent audits of the agency's fiscal activities, which are conducted annually, or at the time period stipulated by applicable statute or regulation, but not to exceed three years.

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#### COMMENT:

Internal audits should be conducted on a continuing basis to determine whether established internal control procedures are being followed, to strengthen internal control, to provide management with periodic information on the performance of its staff responsible for financial activities, and to provide management with information on which to base important decisions.

## PERSONNEL

**Principle:** Personnel practices, while usually dictated by the hiring agency, should reflect nondiscriminatory and acceptable personnel practices.

## Personnel Policy Manual

### MCA 530 (3-3047)

There is a personnel policy manual which covers the following subjects:

- organization chart
- recruitment procedures
- equal employment opportunity provisions
- job qualification, descriptions, and responsibilities
- basis for determining salaries
- benefits, holidays, leave, and work hours
- personnel records
- employee evaluation
- staff development, including in-service training
- promotion
- retirement, resignation, and termination
- statutes relating to political activities
- employee-management relations
- disciplinary procedures
- grievance procedures
- insurance and professional liability requirements

A copy of this manual is available to all employees.

*COMMENT:*

The agency's personnel policy should reflect its operational philosophy, and this should be expressed in writing so that it is available to all employees. At the time of employment, each employee should have the opportunity to review a copy of the agency's personnel policy manual. Employees should be encouraged to ask questions about the policies. Copies of this manual should be available for employee reference.

## **Staffing Requirements**

### **MCA 535 (3-3049)**

**An entry-level probation officer possesses a minimum of a bachelor's degree.**

---

*COMMENT:*

Specifically defined qualifications are stipulated to ensure that minimum standards are met and that only qualified persons are recruited and apply for the position. The degree should provide for the education and skills in dealing with complex legal and human issues, as well as competence in making decisions and using discretionary judgment. A course of study in Sociology, Psychology and/or Criminal Justice is preferred. The school of higher education must be accredited by the U.S. Secretary of Education and the course of study incorporate the requirements in Rule 11 (see appendix).

### **MCA 540 (3-3050)**

**The agency provides the clerical support needed to accomplish its stated goals.**

---

*COMMENT:*

Provision of adequate presentence investigation and/or monitoring of offenders should not be hampered by a lack of clerical support. There should be sufficient clerical personnel so that officers can devote the majority of their time to their workload.

## Equal Employment Opportunity

### MCA 545 (3-3051)

**Written policy, procedure, and practice provide a mechanism to process requests for reasonable accommodation to the known physical and/or mental impairments of a qualified individual with a disability, either an applicant or an employee. The accommodation need not be granted if it would impose an undue hardship or direct threat.**

---

#### *COMMENT:*

Reasonable accommodation refers to modifications or adjustments, which enable qualified applicants with disabilities to access the job application process or which enable qualified employees with disabilities to perform the essential functions of the job and to enjoy the same terms, conditions, and privileges of employment that are available to persons without disabilities. Further information on this topic can be found at [www.ada.com](http://www.ada.com)

### MCA 550 (3-3052)

**Written policy specifies that equal employment opportunities exist for all positions. When deficiencies exist regarding the employment of minority groups and women, the institution can document the implementation of a program that is approved by the appropriate government agency and can document annual reviews and the changes needed to keep the program current.**

---

#### *COMMENT:*

Equal opportunity is a public policy goal. All qualified persons should be able to compete equally for entry into and promotion within the institution, and the equal employment opportunity program should actively encourage the participation of members of minority groups, individuals with disability, and women in the institution's staff development program. The equal employment opportunity program also should include corrective actions, when needed, in policies regarding pay rate, demotion, transfer, layoff, termination, and upgrades.

## **MCA 555 (3-3053)**

**Written policy, procedure, and practice prohibit sexual harassment.**

---

*COMMENT:*

Agency administrators should have as their objective the creation of a workplace that is free from all forms of discrimination, including sexual harassment. Agency policy clearly indicates that sexual harassment, either explicit or implicit, is strictly prohibited. Employees and agents of the agency, including volunteers, contractors, and vendors, must be advised that they are subject to disciplinary action, including dismissal and termination of contracts and/or services, if found guilty of sexual harassment charges brought by employees or offenders.

## **Selection and Promotion**

### **MCA 560 (3-3055)**

**Written personnel policy, procedure, and practice govern the selection, retention and promotion of all personnel.**

---

*COMMENT:*

The selection, retention, and promotion of agency personnel should be based on merit, specified qualifications, and competitive oral and/or written examinations. All job qualifications and hiring policies should be examined with the assistance of equal employment specialists from outside the agency. Employment qualifications should be demonstrably related to the skills required to perform the work. Tests should not be culturally biased. To permit selection from a larger pool of applicants, every effort should be made to remove artificial barriers to employment with the agency. The parental organization human resources policies should guide the probation staff in this area.

## **Probationary Term**

### **MCA 565 (3-3057)**

**Written policy, procedure, and practice provide that employees are appointed initially for a probationary term of not less than six months, but no longer than 18 months.**

---

*COMMENT:*

Employee performance during the probationary period should be evaluated at least every two months, and the employee should be given the opportunity to discuss the evaluation. Forms for evaluation of employee performance should be developed and used. Persons not performing satisfactorily should be terminated during the probationary period. This also applies to employees promoted to



another position within the county/city who must successfully pass the probationary period for the new position. The parental organization human resources policies should guide the probation staff in this area.

## **Criminal Record Check**

### **MCA 570 (3-3058)**

**In accordance with state and federal statutes, a criminal record check is conducted on all new or prospective employees, contract personnel, interns, and volunteers to ascertain whether there may be criminal convictions which would affect job performance or delivery of services.**

---

#### *COMMENT:*

While policy may permit the hiring of ex-offenders, the administration always should be aware of any such criminal history in order to safeguard the agency's reputation and effectiveness, and to evaluate the effect of the criminal record on the prospective employee's performance.

## **Drug-free Workplace**

### **MCA 575 (3-3060)**

**Written policy, procedure, and practice specify support for a drug-free workplace for all employees. This policy, which is reviewed at least annually, includes at a minimum the following:**

- **prohibition of the use of illegal drugs**
- **prohibition of possession of any illegal drug except in the performance of official duties**
- **the procedures to be used to ensure compliance**
- **the opportunities available for treatment and/or counseling for drug abuse**
- **the penalties for violation of the policy**

---

#### *COMMENT:*

Substance abuse is a major contributor to criminal activity and is particularly detrimental to the correctional mission in providing for the safety of employees and public. Staff who engage in substance abuse are less likely to enforce policies and procedures. Increased employee awareness of substance abuse policies will help achieve and maintain a workplace free of alcohol and drugs. It should be noted that there are a number of cases pending in the courts about the use of medical marijuana and probation agencies need to monitor those cases for any impacts to the drug free workplace topic.

## Performance Reviews

### MCA 580 (3-3061)

**Written policy, procedure, and practice provide for a written annual performance review of all employees, which is based upon defined criteria and is reviewed and discussed with the employee.**

---

#### *COMMENT:*

Effective performance review should be a continuous and ongoing process. To be effective, reviews should be objective and based on specific job criteria and explicit performance standards. Clearly developed criteria and performance standards provide a basis for consistent and unbiased evaluation reports of an employee's work. A written evaluation should be completed, at least annually. The results of the evaluation should be discussed with the employee. (See related standard 3-3057).

## Personnel Files

### MCA 590 (3-3066)

**The agency maintains a current, accurate, confidential personnel record on each employee.**

---

#### *COMMENT:*

The personnel record should contain the following: initial application; reference letters; results of the employment investigation; verification of training and experience; wage and salary information; job performance evaluations; incident reports, if any; and commendations and disciplinary actions, if any.

### MCA 595 (3-3067)

**Written policy, procedure, and practice permit employees to challenge information in their personnel file and have it corrected or removed if it is proven inaccurate.**

---

#### *COMMENT:*

This policy contributes to positive employee morale and contributes to trust between the agency and its employees. This policy also ensures that personnel actions and decisions are based on accurate information, which protects both the interests of the agency and its employees.

## Code of Ethics

### MCA 600 (3-3068)

**The agency makes available to all employees a written code of ethics that prohibits employees from using their official positions to secure privileges for themselves or others and from engaging in activities that constitute a conflict of interest.**

---

#### *COMMENT:*

To protect the integrity of the probation agency, its staff, and the parent agency, all personnel must be made thoroughly familiar with a code of ethics, which is established and enforced by the agency. The code should be available for employee reference and should be reviewed as part of each new employee's orientation. The MCA Code of ethics is included in the appendix, (page 49) as a reference. The State of Washington's Ethics Advisory Committee has also issued an Opinion 90-08 concerning political activity related to a judge's direction of his/her staff, the reader is encouraged to refer to this opinion if needed. MCA's Code of Ethics is in the appendix of this document.

### MCA 605 (3-3069)

**Written policy prohibits personnel from accepting any gift or gratuity from an offender or an offender's immediate family or from engaging in personal business transactions with the offender or the offender's immediate family.**

---

#### *COMMENT:*

The potential conflict of interest is obvious and potentially harmful to the agency, its personnel, and the offender, and such activities should be unequivocally prohibited.

## Confidentiality of Information

### MCA 610 (3-3070)

**Written policy, procedure, and practice provide that consultants and contract personnel who work with clients are informed in writing about the probation agency's policies on confidentiality of information and agree to abide by them.**

---

#### *COMMENT:*

The agency should specify in writing what types of information are confidential between worker and client, what types of information should be shared with other agency personnel, and what types of information properly can be communicated

to other agencies or to the public. Outside workers should agree in writing to respect these policies.

## TRAINING AND STAFF DEVELOPMENT

In Washington State those working for City or County authorities involved in the training, treatment, education, supervision or counseling of offenders are required to attend the Misdemeanant Probation Counselor Academy (MPCA) within the first six months of employment (RCW 43.101.220, RCW 43.101.01). The training is delivered by the Washington State Criminal Justice Training Commission.

**Principle:** *Training and its delivery and implementation are one of the major forces that affect employee performance. Its consistency, relevance, and impact should be of major concern to an agency.*

### MCA 615 (3-3072)

**Written policy, procedure, and practice provide that the agency's training program for all employees is specifically planned, coordinated, supervised by a qualified employee at the supervisory level, and reviewed annually.**

---

#### COMMENT:

Staff development should be an integral part of the management and operation of the agency. The training program must be responsive to the needs of a target audience and relevant to the employee's job requirements or professional development. Needs assessments should include the identification of the gap between what the employee knows and what the employee needs to know to be competent in his job.

### Training Requirements

### MCA 635 (3-3082)

**Written policy, procedure, and practice provide that all new full-time employees receive orientation training before undertaking their assignments. Orientation training includes, at a minimum, the following: orientation to the purpose, goals, policies, and procedures of the institution and parent agency; working conditions and regulations; employee's rights and responsibilities; and an overview of the correctional field. Depending on the employee(s) and the particular job requirements, orientation training may include preparatory instruction related to the particular job.**

---

*COMMENT:*

This is in addition to the state training academy requirement.

## **Administrative Staff**

### **MCA 670 (3-3083)**

**Written policy, procedure, and practice provide that all administrative and managerial staff receive training in addition to orientation training during their first year of employment and training each year thereafter. This training covers, at a minimum, the following areas: general management, labor law, employee-management relations, the criminal justice system, and relationships with other service agencies.**

---

*COMMENT:*

To keep current with changing laws, trends, and issues in corrections, training is also essential in reinforcing methods of using effective management skills, employee issues/relations, elements of supervision, and provides a vehicle for strategic planning. The reader is referred to reference WAC 139-10-320 First Level Supervision.

## **Support Staff**

### **MCA 675 (3-3084)**

**Written policy, procedure, and practice provide that all clerical/support employees who have minimal contact with probationers receive training in addition to orientation training.**

---

*COMMENT:*

Clerical and support personnel who are not in continuous contact with probationers should receive training relevant to their particular job assignments.

## **Specialist Employees**

### **MCA 680 (3-3085)**

**Written policy, procedure, and practice provide that all professional specialist employees receive training in addition to orientation training during their first year of employment.**

---

*COMMENT:*

Probation officers and other specialists whose backgrounds include considerable training for their positions should receive specific training in their field.

## **Critical Incident Protocol**

### **MCA 685 (3-3098)**

**Written policy, procedure, and practice govern critical-incident protocol.**

---

*COMMENT:*

In the event of a critical incident involving any staff member keep the requirement for a written incident report, access to post-critical incident resources, access to workers' compensation benefits, recovery time off with pay, and assurance of competent, well-structured investigation.

## **Continuing Education**

### **MCA 690 (3-3099)**

**Written policy, procedure, and practice encourage and provide for employees to continue their education.**

---

*COMMENT:*

The agency should support its employees continuing their education. An educated work force is a value to the agency and the individual.

### **MCA 700 (3-3100)**

**The agency encourages employees to attend professional meetings, seminars, and similar work-related activities, and provides administrative leave and/or reimburses employees for expenses connected with these activities.**

---

*COMMENT:*

Outside training and educational programs may provide new ideas and insight into probation, and related activities. Participation in these activities should be encouraged, and the budget, when possible, should include support for staff participation.

## CASE RECORDS

Washington State Archives (DM52-06H-01), Office of Secretary of State rules require that probation case files be retained for a minimum of 3 years after completion or termination of probation. This rule includes reports and correspondence regarding the progress and status of individuals on probation. Also includes copies of the Court's orders related to probation.

**Principle:** *The importance of documenting events that occur with offenders becomes painfully obvious when an incident occurs. There should be minimum guidelines on what and how to document events in a case file.*

### Case Record Management

#### MCA 705 (3-3111)

**Written policy, procedure, and practice govern the security of the information and data collection system, including verification, and access to and protection of the data. The plan must provide for routine data protection, as well as protection of data in the case of disasters. Reasonable protection of the privacy of offenders, subject to the public's right to know, and laws must be incorporated.**

---

#### COMMENT:

Procedures should be specified not only for verifying data before they are entered into the system, but also for determining what data are required. Case files and records access should be limited to persons and public agencies that have both a "need to know" and a "right to know," and that can demonstrate that access to such information will serve a criminal justice purpose.

#### MCA 710 (3-3101)

**Written policy, procedure, and practice govern case record management and include, but are not limited to: the establishment, utilization, content, privacy, security, preservation, and a schedule for retiring or destroying inactive case records. These policies and procedures are reviewed annually.**

---

#### COMMENT:

The orderly recording, management, and maintenance of data increase the efficiency and effectiveness of service delivery to the courts, release authorities, and offenders. Case records facilitate the planning, implementing, and evaluating of programs.

### **MCA 715 (3-3102)**

**Written policy, procedure, and practice provide that the agency maintains written and/or electronic records of case plan decisions and events regarding probationers.**

---

*COMMENT:*

Such records should include reasons for the offender's entry into the system, actions taken by offender and officer, and rationales for significant decisions from entry until termination of supervision. Comprehensive case records expedite case reviews and conserve resources.

### **MCA 720 (3-3103)**

**The contents of case records are organized and identified according to an established format.**

---

*COMMENT:*

Standardization of case records promotes efficiency and effectiveness. Washington has a Public Records Act and it can be found at:  
<http://apps.leg.wa.gov/RCW/default.aspx?cite=42.56&full=true>

## **INFORMATION SYSTEMS AND RESEARCH**

**Principle:** *If an organization cannot demonstrate its effectiveness, it is unlikely it will get adequate support from its funding sources. The collection, evaluation, and dissemination of this data should have parameters that are consistent with good research methods and show outcome measures.*

### **Information Systems**

### **MCA 725 (3-3104)**

**Written policy, procedure, and practice provide that the agency has access to and uses an organized system of information retrieval and review that is part of the agencies overall management and planning process.**

---

*COMMENT:*

Management information systems facilitate decision making, and timely responses both to offender needs and outside inquiries.



## Sharing of Information

### MCA 735 (3-3107)

**The agency or parent governmental organization collaborates with other criminal justice systems and human service agencies in information gathering, exchanging, and standardizing.**

---

#### *COMMENT:*

System wide collaboration is critical to efficient and effective management. The key to effective collaboration is standardizing and sharing of information. The needs of probation agencies are very similar, particularly with respect to the type and capabilities of services available in the community. Duplication of effort and costs often can be avoided or reduced by exchange of information. While it is important that probation agencies share information, it is also vital that they respect the confidentiality and privacy of client records.

## Research Activities

### MCA 745 (3-3109)

**The agency supports and engages in internal research relevant to its programs, as well as research conducted by outside professionals.**

---

#### *COMMENT:*

Research can assist the agency in establishing goals, objectives, and plans for the future and can contribute to more efficient and effective supervision, conservation of resources, and increased public safety.

### MCA 755 (3-3112)

**The Director/Court Administrator reviews and approves all research projects prior to their implementation.**

---

#### *COMMENT:*

Research should not be permitted to proceed until the research design and the requirements of probation agency staff are understood fully and agreed upon.

#### **MCA 760 (3-3114)**

**There exists a written definition of recidivism, which is understood and used by all agency personnel using recidivism data.**

---

*COMMENT:*

Recidivism is a useful measure for evaluating probation agencies and offender performance.

#### **Privacy**

#### **MCA 765 (3-3116)**

**Written policy, procedure, and practice exist to ensure that the privacy of offenders and other parties will be maintained during all research.**

---

*COMMENT:*

Although it is important that agencies facilitate research, it is essential that they safeguard the privacy and interests of offenders, offenders' families, and other persons.

### **CITIZEN INVOLVEMENT**

**Principle:** *Developing partnerships with the community enhances the delivery of services. Guiding principles should exist on how citizens and volunteers should be screened and utilized.*

#### **Program Coordination**

#### **MCA 770 (3-3117)**

**Written policy, procedure, and practice provide for securing volunteer citizen involvement in the programs, including roles as mentors, interpreters between the program and the public, in direct service roles, and in cooperative endeavors with offenders.**

---

*COMMENT:*

Probation agencies should assign staff responsibility for promoting and maintaining volunteer citizen involvement in their programs. Citizen advisory committees may be formed to assist with various programs.

### **MCA 775 (3-3118)**

**Written policy, procedure, and practice for volunteer citizen involvement includes a system for selecting, training, deciding on a term of service, terminating service, and defining tasks, responsibilities, and authority of volunteers.**

---

#### *COMMENT:*

The structure and goals of the volunteer program should be stated clearly so that the volunteer's experience will be productive and satisfying and that problems and misunderstandings will be minimized. A period of orientation and training should be provided, followed by continuing supervision and guidance from designated staff.

### **MCA 780 (3-3119)**

**Written policy, procedure, and practice specify the lines of authority, responsibility, and accountability for the program's citizen involvement and volunteer services program.**

---

#### *COMMENT:*

Written policy should provide direction for the program, listing the goals and objectives, types of services offered, population served, and so forth. Clear lines of accountability and authority should be established and communicated to staff and volunteers. Any volunteer activity that is shown to threaten the agency's order and security or the safety of a volunteer should be limited or discontinued until the problem is resolved.

## **Orientation and Training**

### **MCA 785 (3-3122)**

**Written policy, procedure, and practice provide that each volunteer completes a documented orientation and/or training program prior to placement.**

---

#### *COMMENT:*

An initial orientation session for volunteers should address the history, policies, and regulations of the agency and should include an overview of the program so that the volunteers may develop a sense of their role in the program. The curriculum should include a description of the volunteers' duties, as well as a review of the needs, attitudes, and lifestyles of the offender population. All volunteers should agree to and receive a copy of the agency's code of ethics.

### **MCA 790 (3-3123)**

**Written policy, procedure, and practice specify that volunteers agree in writing to abide by all agency policies, particularly those relating to the security and confidentiality of information.**

---

*COMMENT:*

Volunteers will be exposed to information about offenders and their background and, at times, to information about the agency and its operation. It is important that volunteers respect the confidentiality of offender information and other privileged information.

## **PROBATION MONITORING**

**Principle:** *Guidelines should exist for the monitoring of probationers in the community. Many of the standards relate to requirements on how to handle potential life-threatening situations. Without guidelines, probation agencies can differ substantially on monitoring protocols and techniques.*

**Principle:** *Because of unique jurisdictional issues and the way courts view probationers, it is necessary to have guidelines regarding the monitoring of probationers in the community.*

### **MCA 800 (3-3125)**

**The agency's statement of purpose affirms that the monitoring program is to provide necessary services to the offender with the goal of reducing the probability of continued criminal behavior on the part of the offender.**

---

*COMMENT:*

Monitoring should be intended for the protection of the community and for the provision of services to the offender to reduce the probability of continued criminal behavior.

#### **MCA 805 (3-3128)**

**Staff that has caseloads report to a designated supervisor who is trained in the supervisory function (applies only to agencies that have a designated supervisor).**

---

#### *COMMENT:*

Regular case conferences between staff and their supervisors (in agencies where a supervisor exists) can provide training and improve professional development. Such contacts also can help to ensure maximum effectiveness and efficiency in job performance.

#### **MCA 810 (3-3130)**

**Written policy, procedure, and practice govern assessment and/or classification and supervision of offenders in order to safeguard the community and meet the program needs of the offender. Offenders should be placed in the appropriate supervision category and classified in a time period specified by the agency.**

---

#### *COMMENT:*

Classification should be consistent with individual dignity and basic concepts of fairness, provide for maximum involvement of the offender, and include the concept of diminishing field supervision. Agency procedures should require that the initial classification using a standardized classification system be recorded and justified in the records. (per Rule 11)

#### **MCA 815 (3-3132)**

**The officer and offender jointly review the court order. Based on the initial risk assessment, the individual plan includes the appropriate level of monitoring as indicated by the offender's risk and/or court order.**

---

#### *COMMENT:*

An individual monitoring plan provides each offender with a clear set of expectations to use during the probation period.

#### **MCA 820 (3-3133)**

**Agency staff may request the court to add, remove, or modify any of the conditions, including early termination of probation.**

---

#### *COMMENT:*

Enabling agency staff to request changes in an offender's supervision can provide benefits to the public and to the offenders in the outcome of his or her supervision.

#### **MCA 825 (3-3134)**

**The conditions of probation are furnished in writing to the offender and interpreted into those languages spoken by the offender. The offender acknowledges in writing that he or she has received and understands the conditions or there is certification to that effect.**

---

#### *COMMENT:*

Conditions of probation must be in writing so that there is no uncertainty as to the expected standards of behavior or requirements imposed. Because the conditions of probation may serve as the basis for violation hearings, it is essential that they be stated clearly and recorded by the staff and that the conditions are understood by the offender; when necessary foreign language interpreters and/or ASL may be necessary.

---

#### **MCA 845 (3-3141)**

**Written policy, procedure, and practice provide that the confidentiality of the offender's probation status is maintained.**

---

#### *COMMENT:*

Policies and guidelines relating to disclosure should be developed collaboratively by the agency with its parent agency and other criminal justice agencies. Unless public safety is threatened, and within statutorily defined limits, the agency should keep the offender's probation status confidential.

#### **MCA 850 (3-3210)**

**Written policy, procedure, and practice provide that a probation officer conducts an intake interview with the probationer as soon as possible after the individual is placed on probation.**

---

*COMMENT:*

The conditions of probation and the monitoring plan are explained to new probationers as soon as possible, or as directed by the court, because they will guide the probationer's continued freedom in the community. The first interview should emphasize that monitoring is a condition of probation.

#### **MCA 860 (3-3144)**

**Written policy, procedure, and practice provide that a closing summary is prepared that summarizes the performance of the offender during the entire period of supervision.**

---

*COMMENT:*

At the conclusion of probation monitoring, a "summary of monitoring" report should be prepared that indicates what occurred during the probationary period.

#### **MCA 865 (3-3147)**

**Male and female offenders under supervision have equal access to all agency programs and activities.**

---

*COMMENT:*

Male and female offenders should be encouraged to participate equally in all programs and activities available through the agency unless restricted because of the funding/grant requirements in the agency.

#### **MCA 870 (3-3148)**

**The agency supports efforts to develop community resources, which can provide services to offenders; staff actively supports community efforts on behalf of offenders.**

---

*COMMENT:*

Probation services are community-oriented and community-centered. The agency should be a mobilizing force in the community to encourage the development of community resources, so that offenders can benefit from a wide variety of these resources.

#### **MCA 875 (3-3149)**

**The staff maintains a cooperative working relationship with public and private service agencies.**

---

*COMMENT:*

The agency should maintain a list of the services that are available from public and private service agencies. This document should be distributed to all staff.

#### **MCA 880 (3-3150)**

**Written policy, procedure, and practice require that a current inventory of functioning community agencies be maintained, which is readily available to the staff.**

---

*COMMENT:*

To ensure that probationers are receiving the help for which they are referred to community service agencies, the probation agency should review these resources periodically, and maintain and distribute to all probation officers a current inventory of effective agencies.

#### **MCA 910 (3-3156)**

**Written policy, procedure, and practice define, in accordance with the courts' direction or other legislative requirement, the types of violations that must be submitted to the court.**

---

*COMMENT:*

Although all major probation violations are reported and final resolution is determined by the sentencing court; many minor violations can be handled satisfactorily by agency staff. Written policy and procedure should be provided to permit probation staff to resolve minor probation violations. Records of all minor violations and their resolution should be maintained and be available to the court whenever a change is being considered in the legal status of that case.



### **MCA 925 (3-3159)**

**Written policy, procedure, and practice provide that all probation violations are investigated as soon as possible; all serious arrests and major probation violations are reported promptly in writing to the court within time deadlines previously defined in writing by the court.**

---

#### *COMMENT:*

All arrests and alleged probation violations that come to the attention of the staff should be investigated promptly and thoroughly and documented in complete written reports for the case record.

### **MCA 930 (3-3168)**

**When considering violations, recommendations for alternatives to revocation and incarceration may be made to the extent that public safety is not endangered and the possibility of successful community adjustment exists.**

---

#### *COMMENT:*

Alternatives to incarceration include: the imposition of special conditions on future probation, increasing the intensity of supervision, enrollment in local detoxification facility and involvement with a community or self-help organization.

### **MCA 935 (3-3169)**

**Written policy, procedure, and practice govern, in conformance with prevailing law, cooperation with law enforcement agencies in efforts to apprehend offenders known to be or suspected of being involved in criminal activities.**

---

#### *COMMENT:*

When police are trying to detect and apprehend offenders known to be or suspected of being involved in new crimes, probation staff should cooperate by furnishing photographs, descriptions, and all other information requested by police officers. If probation officers have definite information that might assist in effecting a proper disposition, they should submit such facts immediately to the appropriate authorities. Probation officers should establish and maintain effective communication with local police units for the exchange of information relative to offenders' activities.

#### **MCA 950 (3-3177)**

**When probation search authority is granted, written policy, procedure, and practice govern searches of offenders by staff and ensure the proper disposition of all confiscated items.**

---

*COMMENT:*

When allowed, searches of offenders should comply with legal requirements. Written regulation should detail how such searches are to be conducted and under what circumstances and require a stated reason for the search. Whenever circumstances permit, officers should seek concurrence from their supervisors on the possible need for a search. The supervisor should conduct a post-search review to ensure that the search was conducted properly. To prevent accusations, the officer who confiscates any property should, for his or her own protection, report the incident to his or her supervisor as soon as possible and should promptly deposit the property with the appropriate law enforcement office.

#### **MCA 960 (3-3179)**

**Written policy, procedure, and practice require that all probationers are informed of the grievance program available to them.**

---

*COMMENT:*

Specific procedures should be defined so that all offenders who believe their rights have been or are about to be violated by administrative actions can file complaints.

### **INTERSTATE COMPACT**

#### **MCA 1000 (3-3180)**

**Written policy, procedure, and practice govern the transfer of supervision of offenders to and from other states. Transfer policies are in accordance with the Interstate Compact for Adult Offender Supervision (ICAOS) and other interstate agreements.**

---

*COMMENT:*

Supervision of offenders is transferred when offenders move into other jurisdictions (on qualifying charges). The new probation agency is notified so as to permit continuing supervision and to preclude uncontrolled and unauthorized relocation of offenders outside the area of their original jurisdiction. Although the Interstate Compact provides considerable detail on the transfer process, it is important that these policies be localized and supplemented, as necessary.

## PRESENTENCE INVESTIGATIONS (PSI)

**Principle:** *The presentence investigation report is the basic working document on which the courts and supervision staff must rely. Guidelines are necessary to ensure that the report contains relevant information.*

### Policy

#### MCA 1200 (3-3211)

**Written policy, procedure, and practice specify that the primary purpose of the presentence report is to provide the sentencing court with timely, relevant, and accurate data so that it may select the most appropriate sentencing alternative and court disposition.**

---

*COMMENT:*

The needs of the sentencing court must have first priority in preparing the format and content of the presentence report. Other requests for copies of the PSI must be authorized by the court or by other agency policy.

#### MCA 1205 (3-3212)

**Written policy, procedure, and practice provide that the agency assigns the resources required to ensure the submission of investigative reports within the time frame ordered by the sentencing court.**

---

*COMMENT:*

Sufficient staff, time, space, and equipment should be assigned to all presentence functions.

#### MCA 1210 (3-3214)

**Written policy, procedure, and practice provide for interviewing the victim when appropriate or possible.**

### **MCA 1225 (3-3221)**

**Written policy, procedure, and practice govern the use of different presentence report formats to meet the specific needs of the court.**

---

#### *COMMENT:*

The establishment of standard formats to be used without deviation is an important contribution to quality control and efficiency in presentence report production. However, there may be proper reason to have more than one standard format to adapt efficiently to different types of cases while still avoiding uncontrolled variations from case to case. To this end, the agency should collaborate with the courts to design a standard report format to be used for particular types of cases. As a basic principle, enough data should be collected and analyzed so that the most appropriate sentencing alternative may be selected to protect the community and serve the needs of the offender.

### **MCA 1230 (3-3222)**

**If probation is one of the sentencing alternatives, the probation officer identifies the need for special conditions of probation, if any, and recommends that these special conditions be appended to the general conditions of probation.**

---

#### *COMMENT:*

In addition to those general conditions of probation, which are applicable to all probationers, possible special conditions should be identified during the presentence investigation, recommended to the court, and appended to the general conditions by the court if it appears that these additional conditions will enhance public safety or increase the probability of a successful community adjustment.

### **MCA 1235 (3-3225)**

**All presentence reports and recommendations are subject to review by a supervisor prior to submission to the court (applies only to those offices with a supervisor).**

---

#### *COMMENT:*

Supervisory review of presentence reports and recommendations serves several purposes including the following; ensures that functions are being properly implemented in accordance with policies, objectives, and procedures; helps to determine that the court will get the needed information in the correct format; ensures that each recommendation is reasonable and supported by the information provided; and, contributes to the training of personnel and the developing of skills and knowledge.

## **MCA 1240 (3-3226)**

**Written policy, procedure, and practice protect the confidentiality of presentence reports and case records.**

---

*COMMENT:*

The issue of confidentiality extends beyond the courtroom and should permeate the entire investigation and report process from receipt of the case for investigation through final destruction of documents. Information about cases should not be discussed openly, and files and records should not be left unattended or given to persons who do not have a proper and legitimate interest in the case.

## **ALTERNATIVE PROGRAMS AND SANCTIONS**

### *Principle:*

*Techniques and strategies to monitor offenders are developed as tools to carry out the court's directives. The court chooses multiple sentencing alternatives to accomplish the goals of protecting the community and holding offenders accountable on the community's behalf. Some programs are derived from Evidence Based Principles and target the reduction of repeat criminal conduct and others are meant as a punishment and/or deterrent strategy. The agency is encouraged to adhere to some key components in the operation of these alternatives/sanctions. Examples of these programs/services are (not all inclusive) specialty courts; community service (individual and work crew); electronic supervision/home detention; drug and alcohol treatment; victim panels and any other intervention ordered by the court of jurisdiction.*

**MCA 1300    Sanctions and/or interventions are applied in adherence to a court order/rule of the responsible court of jurisdiction.**

---

*Comment:*

The application of sanctions and/or treatment interventions can only be applied by a judicial process.

**MCA 1305** The working conditions in community service programs, operated by the agency, must comply with all applicable federal, state, or local work safety laws (OSHA) and regulations.

---

Comment:

The agency should insure that offenders are safe in placements and that the liability of the agency is minimized. The agency should have a plan on how to handle “workers comp” claims generated by the offender.

**MCA 1310** Interventions that are based on specialized equipment (electronic supervision is an example) the agency must determine that the equipment is regularly tested calibrated to see that it performs to manufacturer’s specifications. If this service is provided by another agency/company then the contract should require proof of testing and equipment conditions.

---

Comment:

Community safety and the reputation of the probation agency are at risk and dependent on the functioning of specialized equipment and the agency that operates that equipment. It is in the probation agency’s interest and the integrity of the court that the equipment be used properly.

**MCA 1315** When an offender is placed on ESP, they are screened/assessed to determine that they are appropriate candidates for placement based on agency policy.

**MCA 1325 (1-EM-4A-08)**

Written policy, procedure and practice provide that offenders receive program orientation on or before the first day of program participation. Completion of orientation is documented by either a signed statement by the offender (preferred) or signed note in the case file.

**MCA 1330 (1-EM-4A-10)**

**Written policy and procedure provide that if fees are collected that there is documentation that the offender has been informed of the fee policy and practice and the consequences regarding non-payment of these fees.**

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Comment:

At the time of orientation to the program/alternative the offender reads, discusses and acknowledges the rules of the program and any disciplinary consequences for non-compliance.

## **RESOURCES USED IN THE PREPARATION OF THESE GUIDELINES**

1. Standards for Adult Probation and Parole Services, 3<sup>rd</sup> Edition, American Corrections Association, August 1998.
2. 2010 Standards Supplement, American Corrections Association, January 2010.
3. Performance-Based Standards for Adult Probation and Parole Field Services, Fourth Edition, American Corrections Association, 2010.
4. Standards for Electronic Monitoring Programs, American Corrections Association, 1995.
5. Oregon Juvenile Detention Facility Guidelines, 3<sup>rd</sup> Edition, October 2001.
6. Policy Directive, Electronic Monitoring of Offenders, Michigan Department of Corrections, August 2005.
7. Policy and Procedures from the following Washington jurisdictions: Clark County, and Cities of Bellevue, Auburn, Kent, and Tukwila.



## APPENDIX

### General Rule 29

#### **PRESIDING JUDGE IN SUPERIOR COURT DISTRICT AND LIMITED JURISDICTION COURT DISTRICT**

(a) Election, Term, Vacancies, Removal and Selection Criteria -  
Multiple Judge Courts.

(1) Election. Each superior court district and each limited jurisdiction court district (including municipalities operating municipal courts) having more than one judge shall establish a procedure, by local court rule, for election, by the judges of the district, of a Presiding Judge, who shall supervise the judicial business of the district. In the same manner, the judges shall elect an Assistant Presiding Judge of the district who shall serve as Acting Presiding Judge during the absence or upon the request of the Presiding Judge and who shall perform such further duties as the Presiding Judge, the Executive Committee, if any, or the majority of the judges shall direct. If the judges of a district fail or refuse to elect a Presiding Judge, the Supreme Court shall appoint the Presiding Judge and Assistant Presiding Judge.

(2) Term. The Presiding Judge shall be elected for a term of not less than two years, subject to reelection. The term of the Presiding Judge shall commence on January 1 of the year in which the Presiding Judge's term begins.

(3) Vacancies. Interim vacancies of the office of Presiding Judge or Acting Presiding Judge shall be filled as provided in the local court rule in (a)(1).

(4) Removal. The Presiding Judge may be removed by a majority vote of the judges of the district unless otherwise provided by local court rule.

(5) Selection Criteria. Selection of a Presiding Judge should be based on the judge's 1) management and administrative ability, 2) interest in serving in the position, 3) experience and familiarity with a variety of trial court assignments, and 4) ability to motivate and educate other judicial officers and court personnel. A Presiding Judge must have at least four years of experience as a judge, unless this requirement is waived by a majority vote of the judges of the court.

#### Commentary

It is the view of the committee that the selection and duties of a presiding judge should be enumerated in a court rule rather than in a statute. It is also our view that one rule should apply to all levels of court and include single judge courts. Therefore, the rule

should be a GR (General Rule). The proposed rule addresses the process of selection/removal of a presiding judge and an executive committee.

It was the intent of the committee to provide some flexibility to local courts wherein they could establish, by local rule, a removal process. Additionally, by delineating the selection criteria for the presiding judge, the committee intends that a rotational system of selecting a presiding judge is not advisable.

(b) Selection and Term - Single Judge Courts. In court districts or municipalities having only one judge, that judge shall serve as the Presiding Judge for the judge's term of office.

(c) Notification of Chief Justice. The Presiding Judge so elected shall send notice of the election of the Presiding Judge and Assistant Presiding Judge to the Chief Justice of the Supreme Court within 30 days of election.

(d) Caseload Adjustment. To the extent possible, the judicial caseload should be adjusted to provide the Presiding Judge with sufficient time and resources to devote to the management and administrative duties of the office.

#### Commentary

Whether caseload adjustments need to be made depends on the size and workload of the court; a recognition of the additional duties of the Presiding Judge by some workload adjustment should be made by larger courts. For example, the Presiding Judge could be assigned a smaller share of civil cases or a block of time every week could be set aside with no cases scheduled so the Presiding Judge could attend to administrative matters.

(e) General Responsibilities. The Presiding Judge is responsible for leading the management and administration of the court's business, recommending policies and procedures that improve the court's effectiveness, and allocating resources in a way that maximizes the court's ability to resolve disputes fairly and expeditiously.

(f) Duties and Authority. The judicial and administrative duties set forth in this rule cannot be delegated to persons in either the legislative or executive branches of government. A Presiding Judge may delegate the performance of ministerial duties to court employees; however, it is still the Presiding Judge's responsibility to ensure they are performed in accordance with this rule. In addition to exercising general administrative supervision over the court, except those duties assigned to clerks of the superior court pursuant to law, the Presiding Judge shall:

(1) Supervise the business of the judicial district and judicial officers in such manner as to ensure the expeditious and efficient processing of all cases and equitable distribution of the workload among judicial officers;

(2) Assign judicial officers to hear cases pursuant to statute or rule. The court may establish general policies governing the assignment of judges;

(3) Coordinate judicial officers' vacations, attendance at education programs, and similar matters;

(4) Develop and coordinate statistical and management information;

(5) Supervise the daily operation of the court including:

(a) All personnel assigned to perform court functions; and

(b) All personnel employed under the judicial branch of government, including but not limited to working conditions, hiring, discipline, and termination decisions except wages, or benefits directly related to wages; and

(c) The court administrator, or equivalent employee, who shall report directly to the Presiding Judge.

#### Commentary

The trial courts must maintain control of the working conditions for their employees. For some courts this includes control over some wage-related benefits such as vacation time. While the executive branch maintains control of wage issues, the courts must assert their control in all other areas of employee relations.

With respect to the function of the court clerk, generally the courts of limited jurisdiction have direct responsibility for the administration of their clerk's office as well as the supervision of the court clerks who work in the courtroom. In the superior courts, the clerk's office may be under the direction of a separate elected official or someone appointed by the local judges or local legislative or executive authority. In those cases where the superior court is not responsible for the management of the clerk's office, the presiding judge should communicate to the county clerk any concerns regarding the performance of statutory court duties by county clerk personnel.

A model job description, including qualification and experience criteria, for the court administrator position shall be established by the Board for Judicial Administration. A model job description that generally describes the knowledge, skills, and abilities of a court administrator would provide guidance to Presiding Judges in modifying current job duties/responsibilities or for courts initially hiring a court administrator or replacing a court administrator.

(6) Supervise the court's accounts and auditing the procurement and disbursement of appropriations and preparation of the judicial district's annual budget request;

(7) Appoint standing and special committees of judicial officers necessary for the proper performance of the duties of the judicial district;

(8) Promulgate local rules as a majority of the judges may approve or as the Supreme Court shall direct;

(9) Supervise the preparation and filing of reports required by statute and court rule;

(10) Act as the official spokesperson for the court in all matters with the executive or legislative branches of state and local government and the community unless the Presiding Judge shall designate another judge to serve in this capacity;

#### Commentary

This provision recognizes the Presiding Judge as the official spokesperson for the court. It is not the intent of this provision to preclude other judges from speaking to community groups or executive or legislative branches of state or local government.

(11) Preside at meetings of the judicial officers of the district;

(12) Determine the qualifications of and establish a training program for pro tem judges and pro tem court commissioners; and

(13) Perform other duties as may be assigned by statute or court rule.

#### Commentary

The proposed rule also addresses the duties and general responsibilities of the presiding judge. The language in subsection (d), (e), (f) and (g) was intended to be broad in order that the presiding judge may carry out his/her responsibilities. There has been some comment that individual courts should have the ability to change the "duties and general responsibilities" subsections by local rule. While our committee has not had an opportunity to discuss this fully, this approach has a number of difficulties:

- . It would create many "Presiding Judge Rules" all of which are different.
- . It could subject some municipal and district court judges to pressure from their executive and/or legislative authority to relinquish authority over areas such as budget and personnel.
- . It would impede the ability of the BJA through AOC to offer consistent training to incoming presiding judges.

The Unified Family Court subgroup of the Domestic Relations Committee suggested the presiding judge is given specific authority to appoint judges to the family court for long periods of time. Again the committee has not addressed the proposal; however, subsections (e) and (f) do give the presiding judge broad powers to manage the judicial resources of the court, including the assignment of judges to various departments.

(g) Executive Committee. The judges of a court may elect an executive committee consisting of other judicial officers in the court to advise the Presiding Judge. By local rule, the judges may provide that any or all of the responsibilities of the Presiding Judge be shared with the Executive Committee and may establish additional functions and responsibilities of the Executive Committee.

#### Commentary

Subsection (g) provides an option for an executive committee if the presiding judge and/or other members of the bench want an executive committee.

(h) Oversight of judicial officers. It shall be the duty of the Presiding Judge to supervise judicial officers to the extent necessary to ensure the timely and efficient processing of cases. The Presiding Judge shall have the authority to address a judicial officer's failure to perform judicial duties and to propose remedial action. If remedial action is not successful, the Presiding Judge shall notify the Commission on Judicial Conduct of a judge's substantial failure to perform judicial duties, which includes habitual neglect of duty or persistent refusal to carry out assignments or directives made by the Presiding Judge, as authorized by this rule.

(i) Multiple Court Districts. In counties that have multiple court districts, the judges may, by majority vote of each court, elect to conduct the judicial business collectively under the provisions of this rule.

(j) Multiple Court Level Agreement. The judges of the superior, district, and municipal courts or any combination thereof in a superior court judicial district may, by majority vote of each court, elect to conduct the judicial business collectively under the provisions of this rule.

(k) Employment Contracts. A part-time judicial officer may contract with a municipal or county authority for salary and benefits. The employment contract shall not contain provisions which conflict with this rule, the Code of Judicial Conduct or statutory judicial authority, or which would create an impropriety or the appearance of impropriety concerning the judge's activities. The employment contract should acknowledge the court is a part of an independent branch of government and that the judicial officer or court employees are bound to act in accordance with the provisions of the Code of Judicial Conduct and Washington State Court rules.

[Adopted effective April 30, 2002; amended effective May 5, 2009.]

## **General Rule (GR) 31**

### **ACCESS TO COURT RECORDS**

- (a) Policy and Purpose. It is the policy of the courts to facilitate access to court records as provided by Article I, Section 10 of the Washington State Constitution. Access to court records is not absolute and shall be consistent with reasonable expectations of personal privacy as provided by article 1, Section 7 of the Washington State Constitution and shall not unduly burden the business of the courts.
- (b) Scope. This rule applies to all court records, regardless of the physical form of the court record, the method of recording the court record or the method of storage of the court record. Administrative records are not within the scope of this rule. Court records are further governed by GR 22.
- (c) Definitions.
  - (1) "Access" means the ability to view or obtain a copy of a court record.
  - (2) "Administrative record" means any record pertaining to the management, supervision or administration of the judicial branch, including any court, board, or committee appointed by or under the direction of any court or other entity within the judicial branch, or the office of any county clerk.
  - (3) "Bulk distribution" means distribution of all, or a significant subset, of the information in court records, as is and without modification.
  - (4) "Court record" includes, but is not limited to: (i) Any document, information, exhibit, or other thing that is maintained by a court in connection with a judicial proceeding, and (ii) Any index, calendar, docket, register of actions, official record of the proceedings, order, decree, judgment, minute, and any information in a case management system created or

prepared by the court that is related to a judicial proceeding. Court record does not include data maintained by or for a judge pertaining to a particular case or party, such as personal notes and communications, memoranda, drafts, or other working papers; or information gathered, maintained, or stored by a government agency or other entity to which the court has access but which is not entered into the record.

- (5) "Criminal justice agencies" are government agencies that perform criminal justice functions pursuant to statute or executive order and that allocate a substantial part of their annual budget to those functions.
- (6) "Dissemination contract" means an agreement between a court record provider and any person or entity, except a Washington State court (Supreme Court, court of appeals, superior court, district court or municipal court), that is provided court records. The essential elements of a dissemination contract shall be promulgated by the JIS Committee.
- (7) "Judicial Information System (JIS) Committee" is the committee with oversight of the statewide judicial information system. The judicial information system is the automated, centralized, statewide information system that serves the state courts.
- (8) "Judge" means a judicial officer as defined in the Code of Judicial Conduct (CJC) Application of the Code of Judicial Conduct Section (A).
- (9) "Public" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency, however constituted, or any other organization or group of persons, however organized.
- (10) "Public purpose agency" means governmental agencies included in the definition of "agency" in RCW 42.17.020



and other non-profit organizations whose principal function is to provide services to the public.

(d) Access.

- (1) The public shall have access to all court records except as restricted by federal law, state law, court rule, court order, or case law.
- (2) Each court by action of a majority of the judges may from time to time make and amend local rules governing access to court records not inconsistent with this rule.
- (3) A fee may not be charged to view court records at the courthouse.

(e) Personal Identifiers Omitted or Redacted from Court Records

- (1) Except as otherwise provided in GR 22, parties shall not include, and if present shall redact, the following personal identifiers from all documents filed with the court, whether filed electronically or in paper, unless necessary or otherwise ordered by the Court.

(A) Social Security Numbers. If the Social Security Number of an individual must be included in a document, only the last four digits of that number shall be used.

(B) Financial Account Numbers. If financial account numbers are relevant, only the last four digits shall be recited in the document.

(C) Driver's License Numbers.

- (2) The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Court or the Clerk will not review each pleading for compliance with this rule. If a pleading is filed without redaction, the opposing party or identified person may move the Court to order redaction. The



court may award the prevailing party reasonable expenses, including attorney fees and court costs, incurred in making or opposing the motion.

#### COMMENT

This rule does not require any party, attorney, clerk, or judicial officer to redact information from a court record that was filed prior to the adoption of this rule.

#### (f) Distribution of Court Records Not Publicly Accessible

- (1) A public purpose agency may request court records not publicly accessible for scholarly, governmental, or research purposes where the identification of specific individuals is ancillary to the purpose of the inquiry. In order to grant such requests, the court or the Administrator for the Courts must:
  - (A) Consider: (i) the extent to which access will result in efficiencies in the operation of the judiciary; (ii) the extent to which access will fulfill a legislative mandate; (iii) the extent to which access will result in efficiencies in other parts of the justice system; and (iv) the risks created by permitting the access.
  - (B) Determine, in its discretion, that filling the request will not violate this rule.
  - (C) Determine the minimum access to restricted court records necessary for the purpose is provided to the requestor.
  - (D) Assure that prior to the release of court records under section (f) (1), the requestor has executed a dissemination contract that includes terms and conditions which: (i) require the requester to

specify provisions for the secure protection of any data that is confidential; (ii) prohibit the disclosure of data in any form which identifies an individual; (iii) prohibit the copying, duplication, or dissemination of information or data provided other than for the stated purpose; and (iv) maintain a log of any distribution of court records which will be open and available for audit by the court or the Administrator of the

## **Revised Code Washington (RCW):**

### ***RCW 3.66.067***

#### **Assessment of punishment — Suspension or deferral of sentence — Dismissal of charges.**

After a conviction, the court may impose sentence by suspending all or a portion of the defendant's sentence or by deferring the sentence of the defendant and may place the defendant on probation for a period of no longer than two years and prescribe the conditions thereof. A defendant who has been sentenced, or whose sentence has been deferred, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court, shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. During the time of the deferral, the court may, for good cause shown, permit a defendant to withdraw the plea of guilty and to enter a plea of not guilty, and the court may dismiss the charges.

[2001 c 94 § 1; 1984 c 258 § 46; 1983 c 156 § 1; 1969 c 75 § 1.]

#### ***Notes:***

**Rules of court:** ER 410.

**Court Improvement Act of 1984 -- Effective dates -- Severability -- Short title -- 1984 c 258:** See notes following RCW [3.30.010](#).

### ***RCW 3.50.320***

#### **Suspension or deferral of sentence — Change of plea — Dismissal.**

After a conviction, the court may impose sentence by suspending all or a portion of the defendant's sentence or by deferring the sentence of the defendant and may place the defendant on probation for a period of no longer than two years and prescribe the conditions thereof. A defendant who has been sentenced, or whose sentence has been deferred, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court, shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. During the time of the deferral, the court may, for good cause shown, permit a defendant to withdraw the plea of guilty, permit the defendant to enter a plea of not guilty, and dismiss the charges.

[2001 c 94 § 4; 1984 c 258 § 116; 1983 c 156 § 5; 1961 c 299 § 81.]

### **Notes:**

**Court Improvement Act of 1984 -- Effective dates -- Severability -- Short title -- 1984 c 258:** See notes following RCW [3.30.010](#).

**Application -- 1984 c 258 §§ 101-139:** See note following RCW [3.50.005](#).

### **District Court RCW**

## **RCW 3.66.068**

### **Assessment of punishment — Suspension or deferral of sentence — Terms.**

For a period not to exceed five years after imposition of sentence for a defendant sentenced for a domestic violence offense or under RCW [46.61.5055](#) and two years after imposition of sentence for all other offenses, the court has continuing jurisdiction and authority to suspend or defer the execution of all or any part of its sentence upon stated terms, including installment payment of fines. A defendant who has been sentenced, or whose sentence has been deferred, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court, shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. However, the jurisdiction period in this section does not apply to the enforcement of orders issued under RCW [46.20.720](#). For the purposes of this section, "domestic violence offense" means a crime listed in RCW [10.99.020](#) that is not a felony offense.

[2010 c 274 § 405; 2001 c 94 § 2; 1999 c 56 § 2; 1983 c 156 § 2; 1969 c 75 § 2.]

## **RCW 3.50.330**

### **Suspension or deferral of sentence — Continuing jurisdiction of court.**

For a period not to exceed five years after imposition of sentence for a defendant sentenced for a domestic violence offense or under RCW [46.61.5055](#) and two years after imposition of sentence for all other offenses, the court shall have continuing jurisdiction and authority to suspend or defer the execution of all or any part of the sentence upon stated terms, including installment payment of fines. A defendant who has been sentenced, or whose sentence has been deferred, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court, shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. However, the jurisdiction period in this section does not apply to the enforcement of orders issued under RCW [46.20.720](#). Any time before entering an order terminating probation, the court may modify or revoke its order suspending or deferring the imposition or execution of the sentence. For the purposes of this section, "domestic violence offense" means a crime listed in RCW [10.99.020](#) that is not a felony offense.

[2010 c 274 § 406; 2001 c 94 § 5; 1999 c 56 § 1; 1984 c 258 § 117; 1983 c 156 § 6; 1961 c 299 § 82.]

## **Notes:**

**Intent -- 2010 c 274:** See note following RCW [10.31.100](#).

**Court Improvement Act of 1984 -- Effective dates -- Severability -- Short title -- 1984 c 258:** See notes following RCW [3.30.010](#).

**Application -- 1984 c 258 §§ 101-139:** See note following RCW [3.50.005](#).

### **RCW 3.66.069**

#### **Assessment of punishment — Revocation of deferred or suspended sentence — Limitations — Termination of probation.**

Deferral of sentence and suspension of execution of sentence may be revoked if the defendant violates or fails to carry out any of the conditions of the deferral or suspension. Upon the revocation of the deferral or suspension, the court may impose the sentence previously suspended or any unexecuted portion thereof. In no case shall the court impose a sentence greater than the original sentence, with credit given for time served and money paid on fine and costs.

Any time before entering an order terminating probation, the court may revoke or modify its order suspending the imposition or execution of the sentence. Whenever the ends of justice will be served and when warranted by the reformation of the probationer, the court may terminate the period of probation and discharge the person so held.

[1983 c 156 § 3; 1969 c 75 § 3.]

### **RCW 35.20.255**

#### **Deferral or suspension of sentences — Probation — Maximum term — Transfer to another state.**

(1) Judges of the municipal court, in their discretion, shall have the power in all criminal proceedings within their jurisdiction including violations of city ordinances, to defer imposition of any sentence, suspend all or part of any sentence including installment payment of fines, fix the terms of any such deferral or suspension, and provide for such probation as in their opinion is reasonable and necessary under the circumstances of the case, but in no case shall it extend for more than five years from the date of conviction for a defendant to be sentenced under RCW [46.61.5055](#) and two years from the date of conviction for all other offenses. A defendant who has been sentenced, or whose sentence has been deferred, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court, shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. However, the jurisdiction period in this section does not apply to the enforcement of orders issued under RCW [46.20.720](#). Any time before entering an order terminating probation, the court may modify or revoke its order suspending or deferring the imposition or execution of the sentence.

(2)(a) If a defendant whose sentence has been deferred requests permission to travel or transfer to another state, the director of probation services or a designee thereof shall determine whether such request is subject to RCW [9.94A.745](#), the interstate compact for adult offender supervision. If such request is subject to the compact, the director or designee shall:

- (i) Notify the department of corrections of the defendant's request;
- (ii) Provide the department of corrections with the supporting documentation it requests for processing an application for transfer;
- (iii) Notify the defendant of the fee due to the department of corrections for processing an application under the compact;
- (iv) Cease supervision of the defendant while another state supervises the defendant pursuant to the compact;
- (v) Resume supervision if the defendant returns to this state before the period of deferral expires.
- (b) The defendant shall receive credit for time served while being supervised by another state.
- (c) If the probationer is returned to the state at the request of the receiving state under rules of the interstate compact for adult offender supervision, the department of corrections is responsible for the cost of returning the probationer.
- (d) The state of Washington, the department of corrections and its employees, and any city and its employees are not liable for civil damages resulting from any act or omission authorized or required under this section unless the act or omission constitutes gross negligence.

[2005 c 400 § 5; 2001 c 94 § 3; 1999 c 56 § 3; 1983 c 156 § 8; 1969 ex.s. c 147 § 9.] **Notes:**

**Application -- Effective date--2005 c 400:** See notes following RCW [9.94A.74504](#).

Sample policies and procedures are included below as examples of how to proceed from the Guidelines to an agencies P and P document:

	City of Tukwila			
	Standard Operating Policies / Procedures			
	Policy:	01	MCA Guideline	MCA 615 & 635
	Subject:	Orientation and Training Probation Staff		
	Signed:		Date:	

## **POLICY 01ORIENTING AND TRAINING PROBATION STAFF**

### **1. New Staff Shall Read The Department Policy Manual**

All Probation Division staff shall read and become familiar with the Policy Manual and the City of Tukwila Personnel Manual within two weeks of hire.

### **2. Staff Shall Review Referral Resources**

All Probation Division staff shall familiarize themselves with referral sources and state approved treatment programs. Lists of certified treatment agencies are located on the bookshelf in the green binder labeled "Treatment Agencies".

### **3. Staff Shall Attend The Adult Services Academy**

All Tukwila Probation Officers shall attend the two-week Adult Services Academy at the Washington State Criminal Justice Training Commission within six months of hire, unless they have previously attended and successfully completed the academy or this requirement is waived by the Presiding Judge. Successful completion of the academy and the final examination is required. Failure to successfully complete the academy and the final examination may be grounds for termination of employment.

City of Kent			
Standard Operating Policies / Procedures			
Policy:	106	MCA Guideline	MCA 810 and 815
Subject:	Assigning Supervision Levels		
Signed:		Date:	

### **POLICY-106**

### **ASSIGNING SUPERVISION LEVELS**

This section applies to all staff supervising cases.

**1. The Staff Shall Complete Risk Assessment Form (attached)**

The assigned Probation Officer should complete the Risk Assessment during the intake interview in all probation cases. The Wisconsin Risk Assessment Form should be used to make the assessment.

**2. The Staff Should See Probationer Based On The Scale**

The assigned Probation Officer should see probationers based on the score derived from the assessment according to the following scale:

- a. **A score of 26 and over (Level 1)** – probationers seen once a month with monthly treatment verification (if treatment is court ordered).
- b. **A score of 15 to 25 (Level 2)** – probationers seen every other month with monthly treatment verification (if treatment is court ordered).
- c. **A score of 14 and under (Level 3)** – probationers on monthly mail-in or call-in with monthly treatment verification (if the probationer has completed treatment or treatment is not ordered by the Court, the probationer is on monthly mail in or call in)

**3. Overrides**

If a Probation Officer believes there is reason for seeing a probationer on a level lower than the score indicates, the Court must be notified in writing for approval purposes. Overrides should only be requested in cases where the probationer's physical condition and/or current residency prohibits compliance with his or her assigned supervision level.



## **MCA ETHICAL STANDARDS**

### **I. *On respecting the human dignity and inalienable rights of all persons:***

1. Withhold judgment of offenders until all available information has been compiled.
2. Recognize the limitation of invested authority and expertise and to refrain from offering clients legal advice.
3. Treat offenders with impartiality regarding race, religion, sex, or age.
4. Be aware of and conscientiously set aside personal biases in dealing with offenders.
5. Respect the confidential nature of the relationship between offenders and probation department staff.

### **II. *On conducting one's personal life with decorum:***

1. Avoid involvement in activities which would reflect adversely on the probation department or the court.
2. Refrain from engaging in private, social or business transactions with offenders, their families, or their close personal associates.
3. Refrain from accepting gifts from offenders, their families, their close personal associates, or their attorney.
4. Avoid supervision of offenders with whom a business, social, or familial relationship pre-exists.
5. Avoid activity which raises a question of appearance of fairness or impropriety.
6. Refrain from proselytizing personal values and beliefs to offenders.
7. Practice discretion when participating in political activities.
8. Govern personal and social behavior in accordance with one's status as a criminal justice professional.

### **III. *On upholding the law with dignity:***

1. Refrain from involvement in illegal activity.
2. Cooperate with law enforcement agencies by providing pertinent information on probationers activities, associates, and residence.
3. Advise police of offender's involvement in the commission of a crime.
4. Refrain from personally determining the merit of any law, but rather recognize the responsibility to uphold it.
5. Remember, in the execution of professional duties, the paramount importance of the safety of the community.

### **IV. *Continually striving to improve:***

1. Adhere to the in-service training requirements as set forth by the Washington State Criminal Justice Training Commission.
2. Keep abreast of new additions to the body of corrections knowledge, and of new or modified legislation pertinent to the field.
3. Remain open to learning and employing new rehabilitative methods, techniques, and programs.

### **V. *Working toward the development and maintenance of conditions in keeping with these standards:***

1. Contribute personal knowledge, skills, and support to programs of human services.
2. Treat with respect the findings, views, and actions of colleagues, and use appropriate channels to critique these matters.
3. Promote a positive image of the corrections profession through support of and participation in community activities, and through cooperation with other community service agencies.
4. Provide assistance and support to colleagues in the dispatch of their professional duties.