

Harper v. Prof. Prob. Servs., Inc., No. 2:17-CV-1791-ACA (N.D. Ala.)

Exhibit 7

to

Plaintiffs' Opposed Motion for Class Certification

Professional Probation Services, Inc.

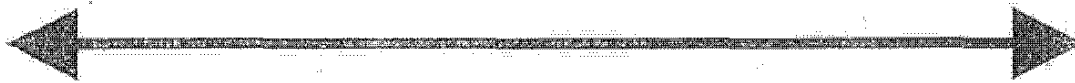


Standard Operating Procedures Manual

Probation

Corrections Continuum

Probation Interm. Sanctions Prison



1. 67 % of those in the correctional system are on probation.
2. John Augustus first developed probation in 1841.
3. Split sentence = court specifies a period of incarceration followed by period of probation.
4. Modification of sentence = original sentencing court changes sentence to probation
5. Intermittent incarceration = spending weekends or nights in jail
6. Two conflicting roles of probation are supervision and investigation.
7. Victim impact statement = description in PSI of cost to victim
8. Standard conditions = constraints imposed on all probationers
9. Structured case management systems reduce revocation rates.

10. Technical violation = breaking condition of probation
11. The most common reason for revocation of probation is a new offense by the probationer.
12. A probationer is entitled to a hearing before sentencing on revocation.

John Augustus

- Was permitted to take custody of man convicted of drunkenness → man avoided prison
- First instance of probation
- Also developed idea of PSI, social casework, reports to court
- Helped offenders reform by helping them get jobs or helping their families

Sentencing Arrangements

- Probation used to be imposed exclusively in lieu of incarceration
- Now commonly used in combo w/ incarceration
 - Only half of sentences involving probation involve probation exclusively
- In addition to 3 types mentioned in quiz, have *shock probation*
 - Defendant sentenced to incarceration – e.g. 2 years
 - Judge doesn't intend to keep him there, but defendant doesn't know it
 - After a short stay ("shock"), judge orders him released and placed on probation

Dual roles of probation

- Dual role can create tension
 - Investigative involves working w/ other professionals
 - Supervision means working directly w/ offender
 - Has led many large probation depts. to specialize
 - Officers assigned only to one or other function

Investigative

- Involves preparation of PSI
 - Assist judge in determining sentence
 - Interview offender and others w/ info re: offender
- What purposes besides helping judge served by PSI?
 - Helps w/ subsequent classification decision about incarceration, parole
 - Assist w/ treatment planning
 - Becomes document for systematic research
- PSI has to enable judge to assess rehab needs vs. community protection (“risk management”)
 - Can rehab need outweigh risk of keeping him in community?

PSI reports

- Contains four main types of info:
 - background info on offender
 - specifics of offense (official version, his version)
 - victim impact statement
 - provides victims w/ opportunity to explain effect of crime on them
 - sentence recommendation
 - Although plea bargaining constrains influence of PSI, sentences concur w/ PSI 70-90% of time

PSI Disclosure

- Issue: should defendant have right to see PSI?
 - If sentence based on PSI, then defendant has to be able to challenge contents
 - BUT, if defendant aware of damaging statements, could jeopardize person who made statement
- *Williams v. NY* (1949)
 - USSC upheld judge's decision to withhold
- Today, many states allow disclosure
 - Many require "cleansing" - removing confidential statements or clinical evals

Supervision

- Effectiveness of supervision affected by
 - officer
 - offender
 - bureaucracy
- Officer has dual role:
 - enforcing the law
 - helping offender
- Success depends to great extent on cooperation of offender
 - Willingness to subject themselves to authority of P.O.

Supervision

- Bureaucracy
 - Imposes constraints on what P.O. can/can't do
 - Imposes conditions
 - Standard - imposed on all probationers
 - e.g. reporting, notification, employment
 - Punitive - increase punishment or sense of restriction
 - e.g. fines, community service
 - Treatment - addresses individual problems
 - e.g. drug, alcohol

Supervision strategies

- Per Arling & Lerner, 4 general strategies:
- Selective intervention - help w/ temp. crisis
- Environmental structure - help w/ living skills and pro-social activities
- Casework/control - overcome serious personal problems (addiction, emotional probs)
- Limit-setting - close monitoring and assertive enforcement

Effectiveness of supervision

- Function of:
 - ability of p.o.
 - availability of services
 - cooperation of offender
 - caseload issues
- How measure effectiveness?
 - Recidivism rate most common outcome
 - Recidivism rates low for misdemeanants
 - Recidivism rates high for felons
 - Great variation by place
 - 12-65% felony rearrest rate
 - Ignores other outcomes (fines, restitution, etc.)

Structured case management

- “Model system” - Nat’l. Inst. of Corr.
 - Employs standardized assessment of probationer risks, needs
 - Five components
- 1) Statistical risk assessment
 - Helps avoid overprediction of risk
 - Identify those in need of little supervision
- 2) Systematic needs assessment
 - Checklist of potential areas of need
- 3) Contact supervision standards
 - Classify offenders into supervision “levels”
 - Based on risk and needs assessment

Structured case management

4) Case planning

- Written plan increases fit btwn. client needs and supervision plan

5) Workload accounting

- Time studies to estimate staffing needs

Other management issues

- Be familiar with issues related to:
 - control of probation: centralized vs. decentralized?
 - control by judiciary or executive?
 - combine w/ parole or not?
 - traditional regular services or specialized supervision?

Probation revocation

- Two ways to terminate probation:
 - person successfully ends sentence
 - person misbehaves ---> revocation
- Violation of terms of probation = *technical violation*
- Why controversial?
- Most common reason for revocation is new offense
 - Several studies found high rates of failure
 - Many remain on probation even after failure

Revocation process

- Offender has due process rights
- *Mempa v. Rhay* - 1967
 - Sentences cannot be imposed after revocation w/o attorney
- Court later specified 3 stage process for revocation
 - Preliminary hearing
 - Review facts of arrest to be sure there's probable cause that violation occurred
 - Hearing
 - Facts reviewed - much like a trial, but probation department presents case
 - Sentencing
 - Can impose incarceration or reinstate probation

Probation & Parole

Probation: A court-ordered disposition alternative through which an adjudicated offender is placed under the control, supervision, and care of a probation staff member in lieu of imprisonment, so long as the probationer meets certain standards of contact.

Nearly 4 million adults were under state or federal probation at year end 1999.

Probationers make up 60% of all adults under correctional supervision.

On any one day, nearly 2% of all U.S. adult citizens are under probation supervision.

Parole: The system of conditionally releasing prisoners from jail. It comes from the french word parol, meaning "Word", as in giving one's word of honor. It has come to mean an inmate's promise to conduct himself in a law abiding manner and according to certain rules in exchange for release.

Chief credit for developing the early parole system is given to Alexander Maconochie (1787-1860), who was in charge of the English penal colony at Norfolk Island, off the coast of Australia.

Zebulon Brockway (1827-1920), a Michigan penologist, is given credit for implementing the first parole system in the U.S.

There are nearly 700,000 people currently out on parole in the U.S.

Over half (64%) of all persons on parole in the U.S. were in California, New York, Pennsylvania or Texas.

62% of parolees are re-arrested within three years of their release.

California leads the nation in terms of the percentage of parolees who are returned to prison.

As of 2001, 14 states have abolished discretionary parole (Georgia is not one of them).



December 2015, NCJ 249513

Correctional Populations in the United States, 2014

Danielle Kaebler, Lauren Glaze, Anastasios Tsoutis, and Todd Minton, *BJS Statisticians*

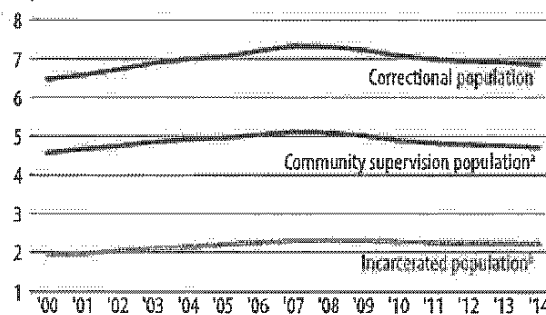
At yearend 2014, an estimated 6,851,000 persons were under the supervision of U.S. adult correctional systems, a decline of about 52,200 from 6,903,200 at yearend 2013 (figure 1). After peaking at 7,399,600 persons in 2007, the correctional population decreased each year by an average of 1.0%. By yearend 2014, the population declined by 0.8% to the lowest level observed in more than a decade (6,886,800 in 2003). About 1 in 36 adults in the United States was under some form of correctional supervision at yearend 2014. This was the lowest rate observed since 1996 (5,531,300) when about 1.3 million fewer offenders were under correctional supervision (not shown).

This report summarizes data from several Bureau of Justice Statistics (BJS) correctional data collections to provide statistics on the total population supervised by adult correctional systems in the United States. (See Methodology for sources.) These systems include offenders living in the community while supervised by probation or parole agencies and those under the jurisdiction of state or federal prisons or held in local jails. (See *Terms and definitions* for more information.)

FIGURE 1

Estimated total population under the supervision of U.S. adult correctional systems, by correctional status, 2000–2014

Population (in millions)



Note: Estimates were rounded to the nearest 100. Estimates may not be comparable to previously published BJS reports because of updated information or rounding. Includes estimates for nonresponding jurisdictions. Detail may not sum to total due to adjustments to account for offenders with multiple correctional statuses. See *Methodology*.

^aIncludes persons living in the community while supervised on probation or parole.

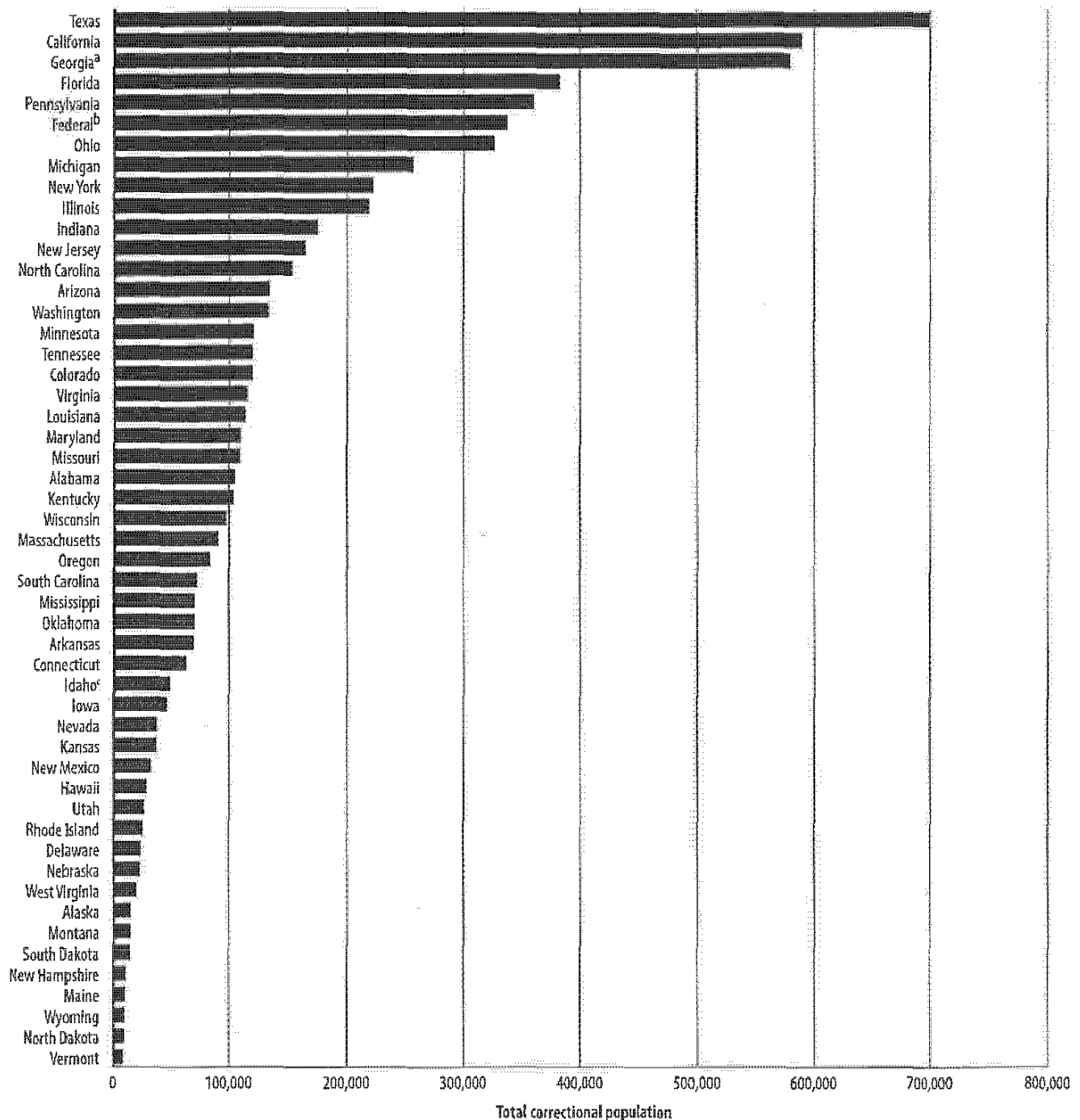
^bIncludes inmates under the jurisdiction of state or federal prisons or held in local jails.

Sources: Bureau of Justice Statistics, Annual Probation Survey, Annual Parole Survey, Annual Survey of Jails, Census of Jail Inmates, and National Prisoner Statistics program, 2000–2014.

HIGHLIGHTS

- Adult correctional systems supervised an estimated 6,851,000 persons at yearend 2014, about 52,200 fewer offenders than at yearend 2013.
- About 1 in 36 adults (or 2.8% of adults in the United States) was under some form of correctional supervision at yearend 2014, the lowest rate since 1996.
- The correctional population has declined by an annual average of 1.0% since 2007.
- The community supervision population (down 1.0%) continued to decline during 2014, accounting for all of the decrease in the correctional population.
- The incarcerated population (up 1,900) slightly increased during 2014.
- Between 2007 and 2014, about 88% of the decrease in the correctional population (down 488,600 offenders) was attributed to the decline in the probation population.
- Seven jurisdictions accounted for almost half (48%) of the U.S. correctional population at yearend 2014.
- Nearly all (47) jurisdictions had a larger proportion of their correctional population supervised in the community at yearend 2014 than incarcerated in prison or local jail.

Bulletin

FIGURE 3**Estimated total population supervised by U.S. adult correctional systems, by jurisdiction, 2014**

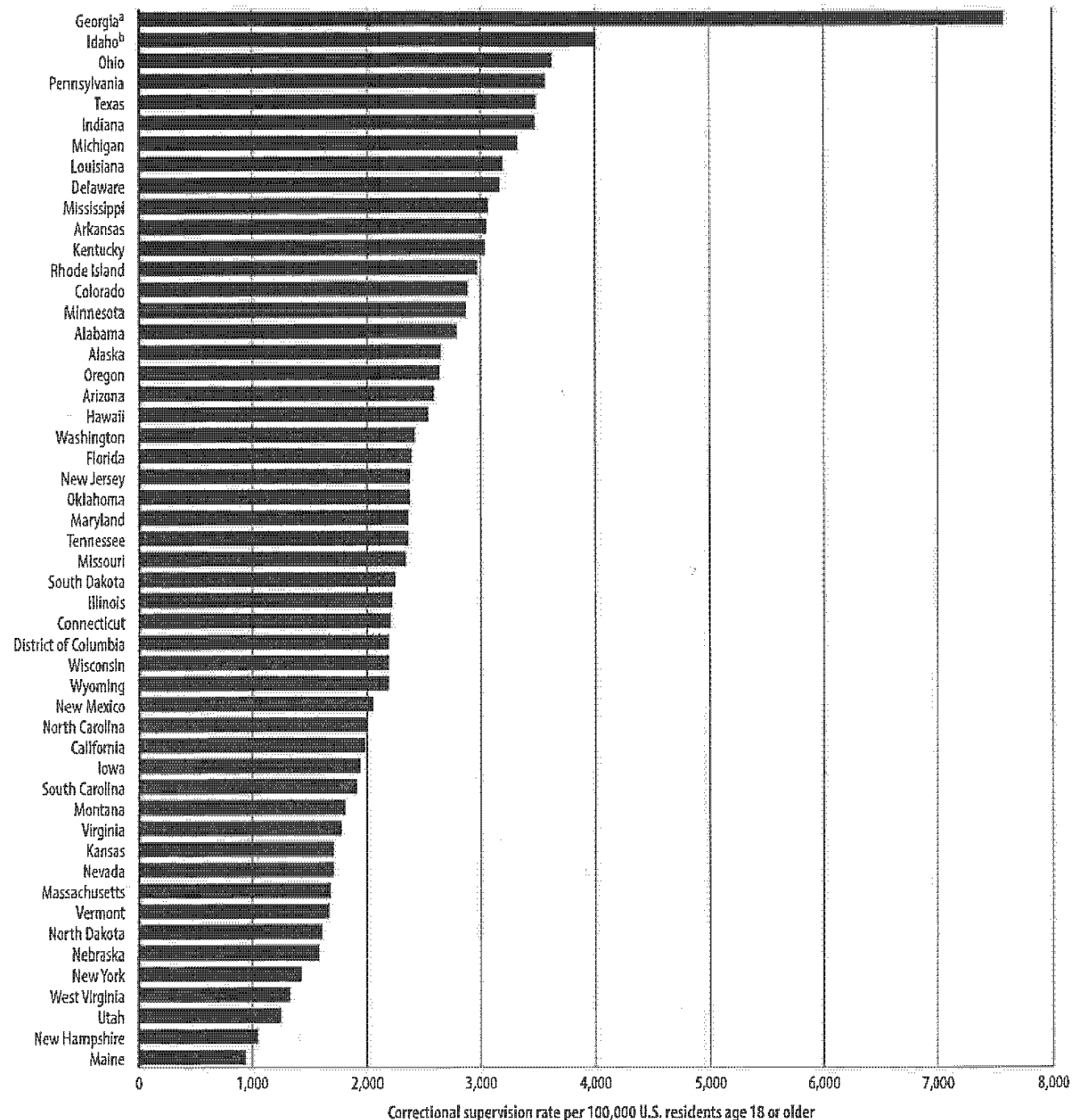
Note: Excludes the District of Columbia. Estimates were rounded to the nearest 100. Counts include adjustments for nonresponding jurisdictions and exclude offenders with multiple correctional statuses to avoid double counting. See appendix table 1 for estimates. See *Methodology*.

^aIncludes misdemeanor probation cases, not individuals, supervised by private companies and may overstate the number of offenders under supervision.

^bExcludes about 11,900 inmates who were not held in locally operated jails but in facilities that were operated by the Federal Bureau of Prisons and functioned as jails.

^cIncludes estimates of probationers supervised for a misdemeanor based on admissions and may overstate the number of offenders under supervision.

Sources: Bureau of Justice Statistics, Annual Probation Survey, Annual Parole Survey, Deaths in Custody Reporting Program, and National Prisoner Statistics program, 2014.

FIGURE 4**Estimated adult correctional supervision rate, by jurisdiction, 2014**

Note: Excludes the federal system and the District of Columbia. Rates were rounded to the nearest 10. Rates include estimates for nonresponding jurisdictions and exclude offenders with multiple correctional statuses to avoid double counting. See appendix table 1 for estimates. See *Methodology*.

^aIncludes misdemeanor probation cases, not individuals supervised by private companies and may overstate the number of offenders under supervision. For this reason, the adult correctional supervision rate may not be comparable to other jurisdictions.

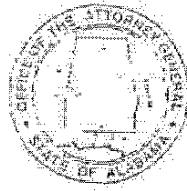
^bIncludes estimates of probationers supervised for a misdemeanor based on admissions and may overstate the number of offenders under supervision. For this reason, the adult correctional supervision rate may not be comparable to other jurisdictions.

Sources: Bureau of Justice Statistics, Annual Probation Survey, Annual Parole Survey, Deaths in Custody Reporting Program, and National Prisoners Statistics program, 2014; and U.S. Census Bureau, unpublished U.S. resident population estimates within jurisdiction on January 1, 2015.

TABLE 1: SIGNIFICANT EVENTS IN THE DEVELOPMENT OF U.S. PROBATION

Year	Event
1841	— John Augustus introduces probation in the United States in Boston.
1878	— Massachusetts is the first state to adopt probation for juveniles.
1878-1938	— Thirty-seven states, the District of Columbia, and the federal government pass juvenile and adult probation laws.
1927	— All states but Wyoming have juvenile probation laws.
1954	— All states have juvenile probation laws.
1956	— All states have adult probation laws (Mississippi becomes the last state to pass authorizing legislation).
1973	— The National Advisory Commission on Criminal Justice Standards and Goals endorses more extensive use of probation. — Minnesota is the first state to adopt Community Corrections Act; eighteen states follow by 1995.
1974	— Martinson's widely publicized research purportedly proves that probation does not work.
1975	— U.S. Department of Justice conducts the first census of U.S. probationers. — Wisconsin implements first probation case classification system; American Probation and Parole Association founded.
1976	— U.S. Comptroller General's study of U.S. probation claims to reduce recidivism and costs.
1982	— Georgia's intensive supervision probation program claims to reduce recidivism and costs.
1983	— Electronic monitoring of offenders begins in New Mexico, followed by larger program in Florida.
1985	— RAND releases study of felony probationers showing high failure rates; replications follow, showing that probation services and effectiveness vary widely across nation.
1989	— General Accounting Office survey shows all fifty states have adopted intensive probation and other intermediate sanction programs.
1991	— U.S. Department of Justice funds nationwide intensive supervision demonstration and evaluation.
1993	— Program evaluations show probation without adequate surveillance and treatment is ineffective, but well-managed and adequately funded programs reduce recidivism.
1999	— "Broken Windows" model of probation, emphasizing that supervision is not effective when conducted solely in officers' offices, is endorsed by the American Probation and Parole Association.

OFFICE OF THE ATTORNEY GENERAL



98-00043

BILL PRYOR
ATTORNEY GENERAL
STATE OF ALABAMA
NOV 24 1997

ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (334) 242-7300

Honorable Curtis H. Springer, Jr.
Presiding Judge
Montgomery Municipal Court
P.O. Box 1111
Montgomery, Alabama 36101-1111

Municipal Judges -
Probation Officers - Funds
- Private Work

A municipality may enter into a contract with a private probation service to fulfill the needs of the municipal court. Furthermore, a municipal judge can assess a supervision fee upon each probationer as a condition of probation. This fee, however, cannot exceed the probationer's ability to pay.

Dear Judge Springer:

This opinion of the Attorney General is issued in response to your request.

QUESTION

Whether a municipality may contract with a private probation service to provide probation services to the municipal court, and if so, what type and amount of fee may be assessed to each probationer.

Honorable Curtis H. Springer, Jr.
Page 2

FACTS AND ANALYSIS

Municipal judges have the authority to place individuals on probation. ALA. CODE § 12-14-13 (1995). In addition to placing individuals on probation, the municipal court has the authority to designate probation officers or such suitable persons as the court may designate to conduct investigations concerning the defendant. *Id.* The Code also gives municipalities the general authority to provide probation services within the municipality. ALA. CODE § 12-14-2 (1995).

Your question first concerns whether a municipality may enter into a private contract for probation services. Municipalities are subdivisions of the State, and as such, can only exercise the power as is conferred on them by law. Wilkins v. Dan Haggerty & Assocs., Inc., 672 So.2d 507 (Ala. 1995). A municipality, however, "need not predicate its every action on some specific express grant of power. Alabama's cities possess certain implied powers that derive from the nature of the powers expressly granted to them by the legislature." *Id.* at 509. "A municipality may exercise those powers that are explicitly granted to it by the legislature, as well as those powers that are necessarily implied from an express grant of power." City of Birmingham v. Graffeo, 551 So.2d 357, 360 (Ala. 1989).

The Legislature, in section 12-14-2 of the Code of Alabama expressly granted municipalities the power to provide probation services. Furthermore, section 11-40-1 of the Code of Alabama expressly grants to cities the power to enter into contracts in furtherance of their governmental functions. ALA. CODE § 11-40-1 (1989); Wilkins, 672 So.2d at 510. The power to contract for private probation services is necessarily implied from the express power granted to cities to provide probation services. See, generally, Wilkins, 672 So.2d at 510. Based on the foregoing, a municipality may enter into a contract with a private probation service to fulfill the needs of the municipal court.

Your next question concerns whether a fee can be charged to each probationer. A municipality cannot charge probationers a fee as an additional court cost. Court costs are prescribed by statute and cannot be extended. See Attorney General's Opinion to Honorable Steven E. Blair, dated August 11, 1995, A.G. No. 95-00283.

The municipal probation statute, however, gives the judge broad authority to place conditions on probation. ALA. CODE § 12-14-13 (1995). The statute not only provides a listing of conditions that the judge may require

Honorable Curtis H. Springer, Jr.
Page 3

the probationer to comply with, but also gives the judge the authority to require the probationer to comply with "any other conditions." Id. Therefore, it is the opinion of this Office that a municipal judge can assess a supervision fee upon each probationer as a condition of probation.

Any condition placed on a probationer that requires the payment of a fee, fine, or restitution should not exceed the probationer's ability to pay. See ALA. R. CRIM. P. 27.1, Committee Comments. Furthermore, an indigent defendant cannot be incarcerated for his or her inability to pay a fee, court costs, or restitution. Moses v. State, 645 So.2d 334 (Ala. Crim. App. 1994). "To imprison an indigent when in the same circumstances an individual of financial means would remain free constitutes a denial of equal protection of the laws." Barnett v. Hopper, 548 F.2d 550, 554 (5th Cir. 1977). Therefore, while the court may assess a type of supervision fee, this fee cannot exceed the probationer's ability to pay or be used to prevent an indigent from receiving probation because of inability to pay.

CONCLUSION


A municipality may enter into a contract with a private probation service to fulfill the needs of the municipal court. Furthermore, a municipal judge can assess a supervision fee upon each probationer as a condition of probation. This fee, however, cannot exceed the probationer's ability to pay.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Wendi M. Brown of my staff.

Sincerely,

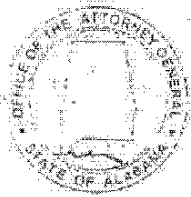
BILL PRYOR
Attorney General

By:


JAMES R. SOLOMON, JR.
Chief, Opinions Division

BP/JRSjr/wb

OFFICE OF THE ATTORNEY GENERAL



99-00117

BILL PRYOR
ATTORNEY GENERAL
STATE OF ALABAMA

ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (334) 242-7300

February 23, 1999

Honorable Michael A. Nix
District Judge, 37th Judicial Circuit
Lee County Justice Center
2311 Gateway Drive
Opelika, Alabama 36801-6847

District Courts – Probation Officers
– Probation Services - Private Work

Absent the specific grant of power to do so, the district court does not have the authority to enter into a contract with a private probationary service corporation.

Dear Judge Nix:

This opinion of the Attorney General is issued in response to your request.

QUESTIONS

May a district court contract with a private probation services corporation to conduct probationary services for the court, provided the service provider in no way duplicates or infringes on the duties of the Juvenile or Adult Probation Officer or the Court Referral Officer which may be serving that court?

If Question 1 is answered in the affirmative, may the court assess a supervision fee upon

Honorable Michael A. Nix
Page 2

each probationer, as a condition of probation, provided such fee does not exceed the probationer's ability to pay?

FACTS AND ANALYSIS

The Supreme Court of Alabama is given the authority to promulgate rules governing the administration of all courts and rules governing the practice and procedure in all courts. ALA. CONST. amend. 328, §6.11. Specifically, the presiding judge of each circuit "shall have general supervision of the administrative operation of the district courts within the circuit. . . ." ALA. CODE § 12-12-10 (1995). In addition to the general authority given to the Supreme Court of Alabama and the presiding circuit judge, the Administrative Director of Courts is specifically authorized to:

[D]irect the expenditure of moneys appropriated to the Administrative Director of Courts, Administrative Office of Courts, Department of Court Management or to any account for trial courts, circuit courts or district courts for any and all functions or projects directly or indirectly affecting the operation of any court. . . .

ALA. CODE § 12-5-13 (1995) (emphasis added). The Supreme Court of Alabama has not promulgated a rule that would allow the district courts to enter into contracts for private probationary services. Furthermore, the Administrative Director of Courts directs the expenditures of moneys appropriated to any account for the district courts. Absent the specific grant of power to do so, the district court does not have the authority to enter into a contract with a private probationary service corporation.

In your request you cite an Attorney General's Opinion concluding that a municipality may enter into a contract with a private probation service to fulfill the needs of the municipal court. Attorney General's Opinion to Honorable Curtis Springer, Jr., dated November 24, 1997, A.G. No. 98-00043. That Opinion specifically addressed the question of whether a municipality could enter into such a contract, not a court. Unlike a district court, municipalities are given the express power to enter into contracts. See ALA. CODE § 11-40-1 (1989).

Honorable Michael A. Nix
Page 3

CONCLUSION

A district court does not have the authority to enter into a contract with a private probation service corporation.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Wendi B. Molz of my staff.

Sincerely,

BILL PRYOR
Attorney General
By:



CAROL JEAN SMITH
Chief, Opinions Division

BP/WBM
3027/2162-001



2001-257

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

BILL PRYOR
ATTORNEY GENERAL

ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, AL 36130
(334) 242-7300
WWW.AGO.STATE.AL.US

August 14, 2001

Honorable James H. Lackey
Presiding Judge
Mobile Municipal Court
Mobile Government Plaza
North Tower, Second Floor
205 Government Street
Mobile, AL 36644

Municipal Courts – Municipal
Judges – Probation Officers – Fines
– Mobile County

A municipal judge may require probationers to pay fines, costs, and restitution directly to their probation officers if the municipality has contracted with private probation officers to collect fines, costs, and restitution payments and remit them to the court and if the probation service agrees to be liable for the funds collected.

Dear Judge Lackey:

This opinion of the Attorney General is issued in response to your request on behalf of the Mobile Municipal Court.

QUESTION

May private probation officers, who are contracted to provide probation services to the municipal court, collect fines, costs, and restitution payments from their probationers and remit them to the court, as long as proper records of payments and disbursements are kept and as long as the probation service agrees to be liable for all funds collected?

Honorable James H. Lackey
Page 2

FACTS AND ANALYSIS

Your request states that, at the present time, persons placed on probation and who are paying fines and/or restitution, are making payments at the office of the court, which is located downtown. These probationers are also reporting to their probation officers at offices that are located in another part of the municipality. This requires two separate trips each month, which, in many cases, makes it difficult for the probationer to maintain employment. In addition, the probation officer must check with the court to determine if fines, costs, and restitution are being paid. Payment of fines, costs, and restitution directly to the probation officer would be more convenient for the court and the probationer.

This Office has previously held that municipal judges have the authority to place individuals on probation and that municipalities may enter into contracts with a private probation service to fulfill the needs of the municipal court. Opinion to Honorable Curtis H. Springer Jr., Presiding Judge, Montgomery Municipal Court, dated November 24, 1997, A.G. No. 98-00043 (citing ALA. CODE §§ 12-14-2 and 12-14-13 (1995)). In that opinion, this Office stated that section 12-14-13 of the Code of Alabama gives the municipal judge broad authority to place conditions on probation and, in addition to listing the conditions that the judge may require a probationer to comply with, section 12-14-13 gives the judge the authority to require compliance with "any other conditions." Opinion to Springer at 3; ALA. CODE § 12-14-13 (1995).

This Office has also held that a probation officer who has undertaken to collect fines and costs should be held accountable for any sums he has collected. Opinion to Honorable Allen L. Tapley, Administrative Director of Courts, dated December 7, 1982, A.G. No. 83-00091. The municipal court, however, is ultimately responsible for these funds. ALA. CODE § 12-14-10 (1995).

CONCLUSION

A municipal judge may require probationers to pay fines, costs, and restitution directly to their probation officers if the municipality has contracted with private probation officers to collect fines, costs, and restitution payments and remit them to the court and the probation service agrees to be liable for the funds collected.

Honorable James H. Lackey

Page 3

I hope this opinion answers your question. If this Office can be of further assistance, please contact Brenda F. Smith of my staff.

Sincerely,

BILL PRYOR
Attorney General

By:



CAROL JEAN SMITH
Chief, Opinions Division

BP/BFS
48920v1/29881



2003-151

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

BILL PRYOR
ATTORNEY GENERAL

May 29, 2003

ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, AL 36130
(334) 242-7300
WWW.AGG.STATE.AL.US

Honorable Rich Hobson
Administrative Director of Courts
Administrative Office of Courts
300 Dexter Avenue
Montgomery, Alabama 36104-3741

Mandatory Treatment Act - Court Referral
Officers - Court Referral Programs -
Monitoring Fees - Administrative Office -
Courts

A defendant is required to pay a court referral officer ("CRO") a monitoring fee after being ordered by the court to be evaluated by a CRO and to complete an alcohol and drug education and/or treatment program for the entire length of the probationary period. When a defendant is initially assessed by a CRO, and the defendant is ordered by a court to complete an alcohol/drug education or treatment program, only the monitoring fee provided by section 12-23-13 of the Code of Alabama is to be assessed to the exclusion of any other "supervisory" fee, and the monitoring fee must be distributed to the State Treasurer in accordance with that section. Entities that have *not* contracted with the Administrative Director of Courts for CRO services, including, but not limited to, governmental entities or agencies, including municipalities, district attorney pretrial diversion or deferred prosecution programs authorized by local act, community corrections providers, drug courts, private probation services providers and private collection services providers, *have no authority* to evaluate and monitor

Honorable Rich Hobson
Page 2

defendants whose use of alcohol or drugs directly or indirectly contributed to an offense, or charge any fee for the supervision of these defendants.

The only statutory fees a court referral officer may assess against a defendant are as follows: the "court referral officer assessment fee" established by section 12-23-12 of the Code, the "monitoring fee" established by section 12-23-13, and the "Indigent Offender Alcohol and Drug Treatment Trust Fund" fee established by section 12-23-15. Under no circumstances may a CRO or court referral program charge fees to defendants that are not expressly authorized by statute or expressly provided for by policies and procedures of the Administrative Office of Courts.

Because section 12-23-13 fails to expressly mandate that the monitoring fee be approved by the Supreme Court, until the Legislature amends this section, the Administrative Office of Courts may adjust the fee without Supreme Court approval.

Dear Dr. Hobson:

This opinion of the Attorney General is issued in response to your request on behalf of the Administrative Office of Courts.

QUESTION NO. 1

After being ordered by the court to be evaluated by a court referral officer ("CRO") to complete an alcohol and drug education and/or treatment program, to be monitored and placed on probation for a time certain, may the CRO collect a monitoring fee from the defendant as provided by section 12-23-13 of the Code of Alabama? If the answer to this question is in the affirmative, when alcohol and drugs are either directly or indirectly related to the commission of an offense

Honorable Rich Hobson
Page 3

that requires the defendant's referral to a CRO, regardless of the supervisory term the judge uses in his or her order to require monitoring as a part of probation, pre-trial diversion, deferred prosecution, "case management," or any other term that would compel the CRO to monitor the defendant's progress for the duration of the court's order(s), would the defendant be required to pay any other supervisory fee other than the monitoring fee as provided by section 12-23-13 of the Code?

Likewise, other than the monitoring fee collected by the CRO, as provided in section 12-23-13 of the Code, may an individual or entity that contracts with the Administrative Director of Courts ("ADC") charge any other fee for supervising or ensuring that a defendant comply with the order(s) of the court?

Alternatively, because Opinion 98-00167, dated June 23, 1998, rules that *only* the ADC has the authority to appoint CROs, may other entities that have *not* contracted with the ADC for CRO services, including, but not limited to, governmental entities or agencies, including municipalities, district attorney pretrial diversion or deferred prosecution programs authorized by local act, community corrections providers, drug courts, private probation services providers, and private collection services providers, evaluate and monitor defendants whose use of alcohol or drugs directly or indirectly contributed to an offense, and then charge any fee for the supervision of these defendants?

FACTS, LAW, AND ANALYSIS

The Mandatory Treatment Act, section 12-23-1, *et seq.*, of the Code of Alabama, authorizes the Administrative Director of Courts ("ADC") to contract for court referral officer services and court referral education programs throughout the state. Section 12-23-12 of the Code authorizes court referral officers ("CROs") to collect an assessment fee from persons convicted as adults or adjudicated a youthful offender or juvenile delinquent for the offense of driving under the influence or other alcohol or drug-related offenses. Section

Honorable Rich Hobson

Page 4

12-23-13 of the Code of Alabama provides that CROs shall also collect a monitoring fee from those defendants who have been assessed and ordered by the court to attend alcohol and drug educational or treatment programs. Section 12-23-2 of the Code expressly provides the legislative intent of the Mandatory Treatment Act as follows:

To establish a specialized court referral officer program to promote the evaluation, education and rehabilitation of persons whose dependency on alcohol or drugs directly or indirectly contributed to the commission of an offense for which they were convicted in state or municipal courts and to establish mandatory alcohol and drug abuse treatment programs to provide treatment and rehabilitation for these identified offenders.

ALA. CODE §12-23-2 (1995).

Section 12-23-3(5) of the Code defines "court referral officers" as "[t]hose persons within designated court jurisdictions providing assessment or evaluation of defendants for alcohol and/or drug abuse, recommendations and/or referrals for education or treatment and monitoring for court-ordered compliance." ALA. CODE § 12-23-3(5) (1995). Additionally, A.G. Opinion 95-00054 advised that a CRO "is authorized to assess and/or monitor any defendant whose use of or dependency on drugs or alcohol contributed, directly or indirectly, to the commission of the offense for which he is convicted [or adjudicated] whether or not that offense is, in and of itself, alcohol or drug-related." Opinion to Oliver Gilmore, Administrative Director of Courts, dated December 7, 1994, A.G. No. 95-00054. This opinion also advised that a CRO has the authority to collect other court costs and fees associated with the defendant's conviction or adjudication if ordered by the court or directed by the ADC.

In pertinent part, section 12-23-13 of the Code of Alabama provides that a CRO shall collect a "monitoring fee" that "[a]ny alcohol or drug-related offender referred for assessment and placed on probation by the judge shall pay a monitoring fee to the court referral officer which shall also be remitted to the State Treasurer by the court referral officer by the tenth day of each month. . . ." ALA. CODE § 12-23-13 (1995). Under this section, a defendant is required to pay a CRO a monitoring fee after being ordered by the court to be evaluated by a CRO and to complete an alcohol and drug education and/or treatment program for the entire length of the probationary period. Additionally, when alcohol and drugs are either directly or indirectly related to the commission of an offense that requires the defendant's referral to a CRO, regardless of the supervisory

Honorable Rich Hobson

Page 5

term the judge uses in his or her order to require monitoring as a part of probation, pre-trial diversion, deferred prosecution, "case management," "electronic monitoring," or any other term that would compel the CRO to monitor the defendant's progress for the duration of the court's order(s), the defendant *would not be required to pay any other supervisory fee other than the monitoring fee* as provided by section 12-23-13 of the Code of Alabama, nor could an individual or entity that contracts with the ADC to provide court referral officer services or court referral educational services charge any other fee for supervising or ensuring that a defendant comply with the order(s) of the court. In A.G. Opinion 2003-020, this Office advised that a CRO or court referral program could keep the costs associated with drug testing and electronic monitoring devices to recoup the costs of purchasing these items. Opinion to Ronald L. Jones, Chief Examiner, Examiners of Public Accounts, dated October 30, 2002, A.G. No. 2003-020. When a CRO or court referral program monitors the defendant's compliance by using a drug test or electronic monitoring device, the "monitoring fee," pursuant to section 12-23-13 of the Code of Alabama, must be sent to the State Treasurer in compliance with that section.

In Opinion 96-00302, this Office advised as follows:

Since the Mandatory Treatment Act already specifically provides for the assessment of a monitoring fee to the court referral officer, express authority must exist under Alabama law for the court referral officer to receive a fee for monitoring services *in addition* to the monitoring fee provided by the Mandatory Treatment Act.

* * *

The "Alabama Community Punishment and Corrections Act" expressly provides for "user fees" for the supervision of defendants. However, since the DeKalb County Court Referral program wishes to use court referral officers to provide supervision services, a fee *in addition* to the monitoring fee expressly provided for under the Mandatory Treatment Act should not be assessed against the defendant by the court or the court referral officer. This office previously advised in . . . Opinion No. 95-00054, dated December 7, 1994, that the Mandatory Treatment Act authorizes a court referral officer to assess and *monitor* defendants whose use of

Honorable Rich Hobson
Page 6

or dependency on alcohol or drugs contributed, directly or indirectly, to the crime for which the defendant was convicted, and regardless of whether such crime, in and of itself, was alcohol or drug related. Please note, however, that in expanding the types of defendants and circumstances under which a court referral officer is authorized to provide monitoring services, Attorney General's Opinion 95-00054 did not also expand or authorize an additional monitoring fee separate from the fee already established by the Mandatory Treatment Act.

Opinion to Honorable Stephen P. Bussman, Geraldine and Sylvania Municipal Judge, dated September 6, 1996, A.G. No. 96-00302. (emphasis added).

More importantly, section 12-23-4(b)(4) of the Mandatory Treatment Act authorizes CROs to "*continuously monitor defendants* who are ordered to complete alcohol and/or drug related educational or rehabilitative programs and report violations of such orders to the prosecutor or court." ALA. CODE § 12-23-4(b)(4) (1995) (emphasis added). Therefore, *no authority exists* that would authorize a CRO, or other individual or entity, to charge a separate or additional fee during the course of monitoring a defendant, nor does any authority exist that authorizes a CRO, other individual, or entity to collect any separate or additional fee from a defendant during the course of monitoring. In other words, after a defendant is initially assessed by a CRO, and the defendant is ordered by a court to complete an alcohol/drug education or treatment program, only the monitoring fee provided by section 12-23-13 is to be assessed to the exclusion of any other "supervisory" fee, and the monitoring fee must be distributed to the State Treasurer in accordance with that section.

Section 12-23-4(a) of the Mandatory Treatment Act expressly provides that the Administrative Director of Courts is authorized to contract "with individuals or entities to provide alcohol and drug assessment for courts and to conduct the court referral programs in each jurisdiction in the state." ALA. CODE § 12-23-4(a) (1994). In Opinion 98-00167, this Office advised as follows:

The provisions of section 12-23-4 are unambiguous. Court referral officers are appointed or hired by contract by the Administrative Director of Courts with the advice of the presiding circuit judge and serve at the pleasure of the Administrative Director of Courts. There is nothing in municipal law that supersedes the statutory authority given the

Honorable Rich Hobson

Page 7

Administrative Office of Courts and its Director as the appointing authority for court referral officers.

Opinion to Honorable Linda D. Benson, Tallahassee Municipal Judge, dated June 23, 1998, A.G. No. 98-00167. Section 12-23-3(4) defines "Court Referral Officer Program" as "[a] program established to evaluate defendants' use of alcohol and/or drugs and to provide assistance to courts in promoting the education and rehabilitation of defendants including juveniles and those granted youthful offender status or convicted of alcohol and/or drug-related offenses." ALA. CODE § 12-23-3(4) (1995). Section 12-23-4(a) authorizes the ADC to contract with court referral programs in each jurisdiction of the state, and "shall designate the locations where said court referral programs . . . shall serve, which designations may change from time to time; provided, however, that all . . . approved court referral programs shall serve at the pleasure of the Administrative Director of Courts." ALA. CODE § 12-23-4(a) (1995). Section 12-23-6 provides as follows:

In order to effect the purposes of this chapter, all courts exercising jurisdiction over alcohol and drug related offenses *shall be* authorized to refer a defendant to a court referral program for evaluation and referral to an appropriate education and/or treatment program. At a minimum, every defendant who is not referred directly to drug or alcohol treatment *shall be* required to complete an alcohol and drug education program certified by the Administrative Office of Courts.

ALA. CODE § 12-23-6 (1995) (emphasis added). Moreover, Section 105 of the Constitution of Alabama provides that "[n]o special, private, or local law . . . shall be enacted in any case which is provided for by general law." ALA. CONST. art. IV, § 105. Read *in para materia*, these sections indicate that entities that have *not* contracted with the ADC for CRO services, including, but not limited to, governmental entities or agencies, including municipalities, district attorney pretrial diversion or deferred prosecution programs authorized by local act, community corrections providers, drug courts, private probation services providers, and private collection services providers, *have no authority* to evaluate and monitor defendants whose use of alcohol or drugs directly or indirectly contributed to an offense, or charge any fee for the supervision of these defendants.

Honorable Rich Hobson
Page 8

CONCLUSION

A defendant is required to pay a CRO a monitoring fee after being ordered by the court to be evaluated by a CRO and to complete an alcohol and drug education and/or treatment program for the entire length of the probationary period. When a defendant is initially assessed by a CRO and the defendant is ordered by a court to complete an alcohol/drug education or treatment program, only the monitoring fee provided by section 12-23-13 of the Code is to be assessed to the exclusion of any other "supervisory" fee, and the monitoring fee must be distributed to the State Treasurer in accordance with that section. Entities that have *not* contracted with the ADC for CRO services, including, but not limited to, governmental entities or agencies, including municipalities, district attorney pretrial diversion or deferred prosecution programs authorized by local act, community corrections providers, drug courts, private probation services providers, and private collection services providers, *have no authority* to evaluate and monitor defendants whose use of alcohol or drugs directly or indirectly contributed to an offense, or charge any fee for the supervision of these defendants.

QUESTION NO. 2

Section 12-23-4 of the Code of Alabama authorizes the Administrative Office of Courts to create policies and procedures for the statewide court referral program network. Under what circumstances may a CRO or court referral program charge fees to defendants that are not statutorily authorized or otherwise recognized by policies and procedures of the Administrative Office of Courts?

FACTS, ANALYSIS, AND CONCLUSION

The only statutory fees a court referral officer may assess against a defendant are as follows: the "court referral officer assessment fee" established by section 12-23-12 of the Code, the "monitoring fee" established by section 12-23-13, and the "Indigent Offender Alcohol and Drug Treatment Trust Fund" fee, established by section 12-23-15. Under no circumstances may a CRO or court referral program charge fees to defendants that are not expressly authorized by statute or expressly provided for by policies and procedures of the Administrative Office of Courts.

Honorable Rich Hobson

Page 9

QUESTION NO. 3

Section 12-23-12 of the Code establishes the "court referral officer assessment fee" and provides that the amount of the fee shall be recommended by AOC and approved by the Supreme Court. Section 12-23-13 of the Code of Alabama, however, which establishes the "monitoring fee," provides that "[t]he assessment fee and monitoring fees shall be established and regulated by the Administrative Office of Courts and can be adjusted to ensure that adequate financial resources are available to support the court referral program and administration of the programs." Because section 12-23-13 fails to expressly provide that the monitoring fee be approved by the Supreme Court, may the AOC adjust the fee without Supreme Court approval?

FACTS, ANALYSIS, AND CONCLUSION

Because section 12-23-13 fails to expressly mandate that the monitoring fee be approved by the Supreme Court, but makes Supreme Court approval necessary in other sections of the Mandatory Treatment Act, until the Legislature amends section 12-23-13 to expressly provide for Supreme Court approval of the monitoring fee, the AOC may adjust the fee without Supreme Court approval.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Carol Jean Smith of my staff.

Sincerely,

BILL PRYOR
Attorney General

By:



CAROL JEAN SMITH
Chief, Opinions Division

BP/EL/

101825v1/52848

IN THE SUPREME COURT OF ALABAMA
December 19, 2000

ORDER

WHEREAS, the Court having heard a report on the status of the program in Chambers County District Court using the services of Professional Probation Services, Inc., and

Being convinced that said program is of a great benefit to the district court and county,

The Administrative Office of Courts is hereby authorized to contract with Professional Probation Services, Inc., to service such district courts as it deems appropriate.

Hopper, C. J., and Maddox, Houston, Cook, See, Lyons, Johnstone, and England, JJ., concur.

I Robert G. Escala, Sr., as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 18th day of Jan., 2001

Robert G. Escala, Sr.
Clerk, Supreme Court of Alabama

BASIC CONSTITUTIONAL RIGHTS

Provisions Related to Law Enforcement and Corrections

FIRST AMENDMENT: includes --

1. Freedom of religion.
2. Freedom of speech.
3. Freedom of press.
4. Freedom of assembly.
5. Freedom of petition the government for redress of grievances.

FOURTH AMENDMENT: Prohibition against

1. Unreasonable arrest.
2. Unreasonable search and seizures.

FIFTH AMENDMENT: includes --

1. Right of a grand jury indictment for capital or otherwise infamous crime.
2. Right against double jeopardy.
3. Right against self-incrimination.
4. Prohibition against the taking of life, liberty, or property without due process of law.
5. Right against the taking of private property for public use without just compensation.

SIXTH AMENDMENT: includes --

1. Right to a speedy and public trial.
2. Right to an impartial jury,
3. Right to be informed of the nature and cause of the accusation against him.
4. Right to be confronted with the witnesses against him,
5. Right to have compulsory process for obtaining witnesses in his favor,
6. Right to have the assistance of counsel.

EIGHTH AMENDMENT: includes --

1. Prohibition against excessive bail.
2. Prohibition against cruel and unusual punishment.

FOURTEENTH AMENDMENT: includes --

1. Right to due process.
2. Right to equal protection of the laws.

Right to privacy - extrapolated from the 1st, 4th, 5th, 6th, and 14th Amendments.

Confidential

BRIEFS OF LEADING CASES IN PROBATION

A case "brief" is a summary of a case decided by a court. It is typically taken from a lengthier court transcript and is designed for simplicity and focus. All of the cases briefed in the following text have been decided by the United States Supreme Court. They do not include cases decided by lower courts. These cases constitute the most authoritative type of case law and apply throughout the country.

What is due process of law?

Due process of law is fundamental fairness. It is provided in the procedures established to protect the rights of the accused.

Case law = precedent

Relevant cases to probation supervision:

Gagnon vs. Scarpelli (1973)

This case set forth the probationer's rights in a revocation hearing. These rights must be met in order to satisfy due process under the constitution.

1. Prompt & convenient hearing
2. Notification of time, location, and purpose of hearing and of alleged violations
3. Opportunity to appear and present evidence
4. Confront and cross examine adverse witness
5. Neutral and detached decision maker
6. Written conclusion, reason for revocation, evidence
7. Right to an attorney
8. Absence of technical rules of evidence

Owens vs. Kelly (1982)

Probation conditions and religion

Probation conditions and warrantless search

Probation conditions and polygraph

U.S. vs. Toury (1979)

This case established the following tests for the validity of conditions of probation:

1. Related to rehabilitation
2. Protection of public against crime
3. Deterrence of future misconduct
4. Punishment

Beardon vs. Georgia (1983)

Probation cannot be revoked unless there is a willful failure to pay and the ability to pay. Alternatives (such as community service) must be considered in lieu of fines.

Gagnon v. Scarpelli

From Wikipedia, the free encyclopedia

Gagnon v. Scarpelli, 411 U.S. 778 (1973) was the second substantive ruling by the United States Supreme Court regarding the rights of individuals in violation of a probation or parole sentence.

The case involved Gerald Scarpelli, a man serving a probation sentence in the State of Wisconsin for armed robbery. While the Judge sentenced Scarpelli to 15 years imprisonment, the Judge suspended Scarpelli's sentence and ordered him to serve 7 years probation. After the probation sentence began, Scarpelli was arrested for burglary in Illinois. Scarpelli's probation was revoked by the Wisconsin Department of Public Welfare subsequent to his confession to police that he was involved in the burglary. The confession in question was later challenged by Scarpelli as being made under duress. After the revocation proceedings, Scarpelli was incarcerated.

After 3 years incarceration, Scarpelli challenged the revocation of his probation because he was not afforded a hearing on the matter. The State of Wisconsin argued that his probation was violated for two legitimate reasons: Scarpelli had been associating with felons in general and Scarpelli was associated with a known felon at the time of his arrest.

Contents

- 1 Supreme Court Decision
- 2 Impact of the Gagnon decision
- 3 See also
- 4 External links

Supreme Court Decision

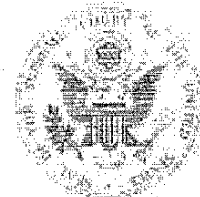
The Supreme Court held, in an 8–1 decision, that a probationer's sentence can only be revoked after a preliminary revocation hearing and a final revocation hearing. These hearings are now known as the **Gagnon I** and **Gagnon II** hearings, respectively.

Justice Lewis Powell delivered the opinion of the court, which held that:

- Scarpelli should be given a hearing regarding the status of his probation,
- Scarpelli was entitled to a writ of habeas corpus, and
- The Wisconsin Department of Public Welfare should have been directed to 'consider' providing the assistance of counsel to Scarpelli in dealing with his new charge of burglary.

Regarding the first part of the ruling, the probation sentence of an individual cannot be revoked without a hearing. If a probationer commits a violation of their probation, that probation sentence can be revoked only after holding a final violation hearing. The Court explained:

Gagnon v. Scarpelli



Supreme Court of the United States

Argued January 9, 1973

Decided May 14, 1973

Full case name *Warden Gagnon v. Gerald Scarpelli*

Citations 411 U.S. 778 (*more*)
389 U.S. 128 (1967); 408 U.S. 471 (1972); 372 U.S. 335 (1963)

Prior history On writ of certiorari to the United States Court of Appeals for the Seventh Circuit

Holding

A preliminary and final revocation of probation hearings are required by Due Process; the judicial body overseeing the revocation hearings shall determine if the probationer or parolee requires counsel; denying representation of counsel must be documented in the record of the Court.

Court membership

Chief Justice

Warren E. Burger

Associate Justices

William O. Douglas · William J. Brennan, Jr.

Potter Stewart · Byron White

Thurgood Marshall · Harry Blackmun

Lewis F. Powell, Jr. · William Rehnquist

Case opinions

Majority Powell, joined by Burger, Brennan, Stewart, White, Marshall, Blackmun, Rehnquist

Dissent Douglas

Laws applied

Criminal Procedure, Right to counsel, Due Process, Prisoners' rights

When the (Parole Officer's) view of the probationer's or parolee's conduct differs in this fundamental way from the latter's own view, due process requires that the difference be resolved before revocation becomes final. Both the probationer or parolee and the State have interests in the accurate finding of fact and the informed use of discretion - the probationer or parolee to insure that his liberty is not unjustifiably taken away and the State to make certain that it is neither unnecessarily interrupting a successful effort at rehabilitation nor imprudently prejudicing the safety of the community.

The Court dismissed the unilateral denial of counsel to a probationer when they are arrested on new charges within the period of probation. Instead, the Court stated a determination if counsel should be provided shall be made on a case-by-case basis. Justice Powell wrote for the majority:

The differences between a criminal trial and a revocation hearing do not dispose altogether of the argument that under a case-by-case approach there may be cases in which a lawyer would be useful but in which none would be appointed because an arguable defense would be uncovered only by a lawyer. Without denying that there is some force in this argument, we think it a sufficient answer that we deal here, not with the right of an accused to counsel in a criminal prosecution, but with the more limited due process right of one who is a probationer or parolee only because he has been convicted of a crime.

Impact of the Gagnon decision

All probationers in the United States that incur a violation or multiple violations are guaranteed certain hearings before any permanent, punitive action is taken. A **Gagnon I** hearing occurs when a probationer is taken into custody for an alleged violation hearing; this first hearing determines if the probation should remain in custody or be released back into the community. A **Gagnon II** hearing is the final revocation procedure. A determination on the status of the probation is made, and if the probationer is found in violation, a sentence for the violation is handed down by the Judge.

A violation of probation does not necessarily mean that a violation occurred beyond a reasonable doubt; instead, the standard of evidence required is that the violation occurred by the preponderance of evidence.

See also

- List of United States Supreme Court cases, volume 411

External links

- Full text of Gagnon v. Scarpelli decision at FindLaw

Retrieved from "http://en.wikipedia.org/w/index.php?title=Gagnon_v._Scarpelli&oldid=486702282"

Categories: United States criminal due process case law | United States Supreme Court cases

| 1973 in United States case law | United States Sixth Amendment appointment of counsel case law

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Probation , 125

Bearden v. Georgia
461 U.S. 660 (1983)

CAPSULE: It is unconstitutional to revoke probation based on the failure to pay a fine or restitution if the probationer is indigent.

FACTS: Bearden pleaded guilty in state court to burglary and theft by receiving stolen goods. He was a first-time offender and under Georgia statute was given probation on the condition that he pay a \$500 fine and \$250 in restitution, with \$100 payable that day, \$100 the next day, and the balance within four months. Bearden borrowed money and paid off the first \$200 but was laid off from his job about one month later. He tried to find other work but was unsuccessful. Shortly before the \$550 balance became due, he notified the probation office that his payment was going to be late. Bearden's probation was revoked because of non-payment and he was sent to prison.

ISSUE: Can probation be revoked based on the failure to pay a fine and restitution if the probationer does not have the resources to pay? NO.

DECISION: A judge cannot constitutionally revoke probation because of failure to pay a fine or restitution in the absence of evidence and a finding that the probationer was somehow responsible for the failure or that alternative forms of punishment were inadequate to meet the state's interest in punishment and deterrence.

REASON: "This Court has long been sensitive to the treatment of indigents in our criminal justice system. Over a quarter-century ago, Justice Black declared that 'there can be no equal justice where the kind of trial a man gets depends on the amount of money he has.' (*Griffin v. Illinois*, 351 U.S. 12, [1956]). *Griffin*'s principle of 'equal justice,' which the Court applied there to strike down a state practice of granting appellate review only to persons able to afford a trial transcript, has been applied in numerous other contexts. See e.g., *Douglas v. California*, 372 U.S. 353 (1963) (indigent entitled to counsel on first direct appeal); *Roberts v. LaVallee*, 389 U.S. 40 (1967) (indigent entitled to free transcript of preliminary hearing for use at trial); *Mayer v. Chicago*, 404 U.S. 189 (1971) (indigent cannot be denied an adequate record to appeal a conviction under a fine-only statute). Most relevant to the issue here is the holding in *Williams v. Illinois*, 399 U.S. 235 (1970), that a State cannot subject a certain class of convicted defendants to a period of imprisonment beyond the statutory maximum solely because they are too poor to pay a fine."

CASE SIGNIFICANCE: This case reiterates the principle enunciated in previous Supreme Court cases that "there can be no equal justice where the kind of trial a man gets depends on the amount of money he has." To revoke the proba-

126 Briefs of Leading Cases in Corrections

tion of an indigent probationer would be to violate the equal protection clause of the Constitution because the only reason the probationer would then be sent to prison is that he or she is too poor to pay. Note the following points, however, in connection with this case:

1. The decision states that "a sentencing court cannot properly revoke a defendant's probation for failure to pay a fine and make restitution, absent evidence and findings that he was somehow responsible for the failure . . ." A distinction must be made between inability to pay because of indigency and refusal to pay even if resources are available. Failure to pay because of indigency cannot lead to revocation because such revocation would violate the equal protection clause of the Constitution; refusal to pay, however, can result in a valid revocation because there is no equal protection issue. Refusal to pay is based on defiance or stubbornness.
2. The decision also states that "a sentencing court cannot properly revoke a defendant's probation without ascertaining that alternative forms of punishment were inadequate to meet the State's interest in punishment and deterrence . . ." The Court rules out an automatic probation revocation without first determining whether other, alternative forms of punishment are in fact adequate to satisfy the state's purpose of punishment and deterrence. *Bearden* does not categorically say that failure to pay because of indigency can never lead to revocation under any circumstance. Revocation can be resorted to even in cases of indigency as long as the judge first determines that "alternative forms of punishment were inadequate to meet the State's interest in punishment and deterrence . . ." In reality, however, it is difficult to imagine instances in which alternative forms of punishment (such as community service) would not suffice as an alternative form of punishment to fine or restitution, hence effectively ruling out imprisonment resulting from revocation in indigency cases.

Minnesota v. Murphy
465 U.S. 420 (1984)

CAPSULE: Statements made by a probationer to a probation officer during interrogation while not in custody are admissible in a subsequent criminal trial. The exception is if the probationer specifically asks for a lawyer during such interrogation and a lawyer is not provided.

FACTS: Murphy was prosecuted for criminal sexual conduct and pleaded guilty to the lesser charge of false imprisonment. He received a suspended prison sentence and was placed on probation for three years. The terms of Murphy's probation provided that he participate in a treatment program for sexual offenders, re-

port to his probation officer as directed, and be truthful with the probation officer "in all matters." Murphy was told that failure to comply with the conditions of his probation could result in probation revocation.

Murphy's probation officer learned from one of the counselors at the treatment facility that Murphy had confessed to a rape and murder in 1974. Armed with this information, the probation officer met with Murphy and confronted him with the information from the counselor. After further questioning by the probation officer, Murphy admitted his involvement in the 1974 rape and murder.

Murphy was charged with first degree murder. During the trial he attempted to suppress the confession made to the probation officer on the ground that it was obtained in violation of the Fifth and Fourteenth Amendments. The trial court admitted the evidence, ruling that Murphy was not "in custody" when he confessed to the probation officer and that the confession was neither compelled nor involuntary despite the absence of *Miranda* warnings.

ISSUE: Is a statement made by a probationer to his probation officer without the *Miranda* warnings admissible in a subsequent criminal trial? YES.

DECISION: Statements made by a probationer to a probation officer during interrogation while not in custody are admissible in a subsequent criminal trial. The exception is if the probationer specifically asks for a lawyer during such interrogation and a lawyer is not provided.

REASON: "The general obligation to appear before his probation officer and answer questions truthfully did not in itself convert respondent's otherwise voluntary statements into compelled ones.

"A witness confronted with questions that the government should reasonably expect to elicit incriminating evidence ordinarily must assert the Fifth Amendment privilege rather than answer if he desires not to incriminate himself. If he chooses to answer rather than assert the privilege, his choice is considered to be voluntary since he was free to claim the privilege and would suffer no penalty as a result of his decision to do so.

"Respondent cannot claim the benefit of the 'in custody' exception to the general rule that the Fifth Amendment privilege is not self-executing. It is clear that respondent was not 'in custody' for purposes of receiving *Miranda* protection since there was no formal arrest or restraint on freedom of movement of the degree associated with formal arrest. The fact that the probation officer could compel respondent's attendance and truthful answers and consciously sought incriminating evidence, that respondent did not expect questions about prior criminal conduct and could not seek counsel before attending the meeting, and that there were no observers to guard against abuse or trickery, neither alone nor in combination, are sufficient to excuse respondent's failure to claim the privilege in a timely manner."

128 Briefs of Leading Cases In Corrections

CASE SIGNIFICANCE: Should the *Miranda* warnings be given by the probation officer when asking questions of a probationer? The answer is complex and may be presented in a chart as follows:

	A. Evidence To Be Used In a Revocation Proceeding	B. Evidence To Be Used In a Criminal Trial
I. If Probationer Is Not In Custody	No	No, unless the probationer asserts his or her right (this situation is the <i>Murphy</i> case).
II. If Probationer Is In Custody	Some states say no; others, yes. It depends on statutory or case law.	Yes

As the above chart shows, it is important to know (1) whether the evidence obtained is to be used in a revocation proceeding or in a criminal trial, and (2) whether the probationer is in custody or not in custody. Evidence obtained by probation officers is usually used in probation revocation proceedings, which are administrative proceedings. There are instances, however, when the evidence obtained by the probation officer might be needed by the prosecutor in a subsequent criminal trial of that offender. In these cases, the *Miranda* warnings must be given if the evidence is to be used in a criminal trial and if the probationer is in custody.

The important question is: When is a probationer in custody or not in custody? Jurisdictions differ, but the general rule is that if the probation officer will allow the probationer to leave after the interrogation, the probationer is not in custody. Conversely, if the probation officer knows he or she will not allow the probationer to leave after the interrogation, that probationer is in custody. Under this test, asking routine questions during a routine visit with a probationer is considered non-custodial; however, asking the probationer to come to the office after the officer receives information from the police and the officer asking the police to take the probationer into custody after the interrogation imply that the probationer is in custody.

Although this case involves a probationer, there is every reason to believe that the same rules outlined above also apply to parolees who, like probationers, are under supervision but are not in custody.

Alabama v. Shelton

Wikipedia, the free encyclopedia

Alabama v. Shelton, 535 U.S. 654, decided by the Supreme Court on May 20, 2002, upheld the Alabama State Supreme Court's ruling that counsel (a lawyer) must be provided for the accused in order to impose a suspended prison sentence.

Contents

- 1 The Case
- 2 Quotes from the United States Supreme Court Ruling
- 3 See also
- 4 Further reading

The Case

Shelton was accused of third-degree assault, which, in Alabama, is a misdemeanor and carries a maximum sentence of one year in prison and a \$2,000 fine. The court repeatedly warned Shelton of the dangers of representing himself during the trial, yet failed to offer him counsel. He represented himself both in the local court, where he was convicted, and the Alabama Circuit Court, where he was also convicted. However, the Circuit Court gave Shelton a 30-day suspended sentence and 2 years probation.

The Criminal Court of Appeals found that it was not compulsory to offer the defendant counsel for a suspended sentence because the sentence did not result in actual confinement.

The Supreme Court of Alabama stated that: (1) a defendant may not be sentenced to a term of imprisonment absent provision of counsel; and (2) for purposes of this rule, a suspended sentence constitutes a "term of imprisonment," even though incarceration is not immediate or inevitable.

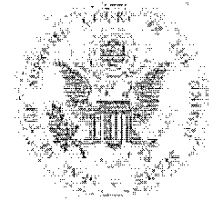
The United States Supreme Court affirmed the Supreme Court of Alabama's decision.

Quotes from the United States Supreme Court Ruling

"A suspended sentence that may end up in the actual deprivation of a person's liberty may not be imposed unless the defendant was accorded the guiding hand of counsel in the prosecution for the crime charged."

"It is not true that only those criminal proceedings result-ing in immediate actual imprisonment trigger an indigent defendant's right to state-appointed counsel under the Federal Constitution's Sixth Amendment, for (1) no person may be imprisoned for any offense unless the person was represented

Alabama v. Shelton



Supreme Court of the United States

Argued February 19, 2002

Decided May 20, 2002

Full case name *Alabama v. LeReed Shelton*

Citations 535 U.S. 654 (*more*)
122 S.Ct. 1764, 152 L.Ed.2d 888, 02 Cal. Daily Op. Serv. 4307, 2002 Daily Journal D.A.R. 5472, 15 Fla. L. Weekly Fed. S 281

Prior history Defendant convicted, Alabama Circuit Court; affirmed, 851 So. 2d 83 (Ala. Crim. App. 1998); sentence reversed, 851 So. 2d 96 (Ala. 2000); certiorari granted, 532 U.S. 1018 (2001)

Holding

A suspended sentence that may result in incarceration may not be imposed if defendant did not have counsel at trial.

Court membership

Chief Justice

William Rehnquist

Associate Justices

John P. Stevens · Sandra Day O'Connor
Antonin Scalia · Anthony Kennedy
David Souter · Clarence Thomas
Ruth Bader Ginsburg · Stephen Breyer

Case opinions

Majority Ginsburg, joined by Stevens, Souter, O'Connor, Breyer

Dissent Scalia, joined by Rehnquist, Kennedy, Thomas


Laws applied

U.S. Const. amend. VI

by counsel at trial; and (2) the Sixth Amendment inquiry trains on the stage of the proceedings where the defendant's guilt is adjudicated, eligibility for imprisonment established, and prison sentence determined."

"Does the Sixth Amendment permit activation of a suspended sentence upon the defendant's violation of the terms of probation? We conclude that it does not. A suspended sentence is a prison term imposed for the offense of conviction."

See also

 Works related to Alabama v. Shelton at Wikisource

- List of United States Supreme Court cases, volume 535
- List of United States Supreme Court cases

Further reading

- Kitai, Rinat (2004). "What Remains Necessary following *Alabama v. Shelton* to Fulfill the Right of a Criminal Defendant to Counsel at the Expense of the State". *Ohio Northern University Law Review* **30** (1): 35–58.
- Stambaugh, Joshua S. (2004). "*Alabama v. Shelton*: One Small Step for Man, One Very Small Step for the Sixth Amendment's Right to Counsel". *Pepperdine Law Review* **31** (2): 609–659.

Retrieved from "http://en.wikipedia.org/w/index.php?title=Alabama_v._Shelton&oldid=491823112"

Categories: United States Supreme Court cases 2002 in case law

United States Sixth Amendment appointment of counsel case law 2002 in Alabama Legal history of Alabama

This page was last modified on 10 May 2012 at 16:05.

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Terms

Morgan County

Morgan County Circuit Clerk > Jury Duty > Legal and Judicial Terms

Home**Contact Us****Pictures**

Morgan Circuit Clerk Office

Absentee Information

Absentee Voting

Voting Info

Civil Division

Circuit & District Civil

Morgan Co. Filing Fees

Foreign Judgment Act

Standing Orders

Small Claims

Evictions

Court Calendars

2016 Circuit Court Calendar

2016 District Court Calendar

Criminal Division

Circuit Criminal

District Criminal

Driving School

Traffic Court

Magistrates

Family Division

Child Support

Child Visitation Schedule

Divorce

Domestic Violence

Where to File

Jury Duty

Jury Information

Juror FAQs

Juror's Responsibilities

Trial Participants

Sequence of Trial Events

Legal and Judicial Terms

Links**Passport Information**

Passports

Passport Fees

Unclaimed Monies**Legal and Judicial Terms****A****answer** - the defendant's response to allegations in the civil complaint or pleading.**C****civil case** - a case that is not criminal in nature but one that pertains to the settlement of disputes between individuals, i.e., a suit seeking the recovery of damages incurred from an automobile accident, breach of contract action, divorce case.**circuit court** - a trial court of general jurisdiction hearing all civil matters where the amount in controversy exceeds \$10,000 and all criminal prosecutions involving felony offenses, as well as misdemeanors and municipal ordinance violations arising out of felonies. The district court also has original jurisdiction concurrent with the circuit court in matters where the amount in controversy exceeds \$1500 but does not exceed \$10,000, and in taking non-capital felony guilty pleas before an indictment is returned.**closing argument** - a summary of the evidence presented to the jury by the attorneys on both sides of a case.**complaint (civil)** - statements by the plaintiff stating the claims (s)he has against the defendant.**complaint (criminal)** - a formal statement charging an individual with a criminal offense.**cross-examination** - questioning of a witness by the opposing side.**D****deadlock** - a term used to refer to when a jury cannot reach a verdict, resulting in a mistrial.**deposition** - testimony taken under oath and outside the courtroom.**direct examination** - the first questioning of a witness by the party on whose behalf (s)he is called.**district court** - a trial court of limited jurisdiction hearing all civil matters where the amount in controversy does not exceed \$1,500 and all criminal prosecutions of misdemeanors, unless the misdemeanors arise out of felony charges or have had an indictment returned. District courts also have concurrent jurisdiction with the circuit court in matters where the amount in controversy exceeds \$1,500 but does not exceed \$10,000, and in taking non-capital felony guilty pleas before an indictment is returned. District courts also have original jurisdiction to hold preliminary hearings in felony prosecutions.**E****evidence** - any legally presented proof which may be established by witnesses, testimony, documents, etc.**exhibit** - a paper, document, or other object used as evidence during a trial or hearing.**F****felony** - a serious criminal offense punishable by at least one year and one day in the penitentiary and may also include a fine of \$5,000 or more.**I****Indictment** - a grand jury's written accusation charging a person or business with committing a crime.**information** - a written statement charging a defendant with the commission of an indictable offense, made under oath, signed and presented to the court by the district attorney without action by the grand jury.**M****misdemeanor** - a less serious criminal offense punishable by up to one year in the county jail or a fine of \$2,000 or both.**mistrial** - an erroneous or invalid trial declared defective and void because of prejudicial error in the proceedings or inability of the jury to reach a verdict.**moral turpitude crime** - an offense consisting of a base or vile act or the depravation in private and social duties which man owes to his fellow man or to society in general. It is essentially an act or behavior which violates the accepted moral standards of the community.**O****oath** - a written or oral pledge to speak the truth.**objection** - a statement by an attorney opposing specific testimony or admission of evidence.**opening statement** - outline of anticipated proof presented to the jury by the attorneys at the trial's beginning.

overrule - court's denial of a motion or objection raised to the court; when a court overrules an objection to evidence (for example, testimony), the jury may properly consider it.

P

probable cause - a reasonable belief that a crime has or is being committed; the basis for all lawful searches and arrests.

prosecution - act of pursuing a lawsuit or criminal trial; the prosecution in a criminal case is brought by the state through the district attorney.

R

rebuttal - the introduction of rebutting evidence to discredit statements of opposing witnesses.

redirect examination - follows cross-examination and is exercised by the party who first examined the witness.

restitution - a full or partial payment of money damages to a victim or its equivalent in services performed or work or labor done for the victim's benefit as determined by a judge.

"the rule" - (also known as "invoking the rule") - a request made by a party to a case asking the judge to rule that material witnesses who are to give testimony must stay out of the courtroom during the proceedings until they are brought into the courtroom to testify. This rule is invoked so that the witnesses will not be able to hear what has been said in the trial to ensure that they will give unbiased testimony.

S

striking a jury - a process of selecting a trial jury where attorneys "strike" or excuse jurors until the number required remains.

sustain - court's acceptance of any motion or objection; when a court sustains an objection to evidence (for example, testimony), the jury may not consider it.

V

venire - the group of sworn jurors.

verdict - the final formal trial decision made by a jury, read before the court, and accepted by the judge.

voir dire examination - the preliminary questioning of jurors to establish their qualifications.

If there are other terms or phrases which you hear while serving as a juror that you do not understand, ask the judge to explain the term or phrase to you.

Glossary of Legal Terms

A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | U | V | W | X | Y | Z

- A -

abandonment - A parent's or custodian's act of leaving a child without adequate care, supervision, support or parental contact for an excessive period of time. Also, the desertion of one spouse by the other with the intent to terminate the marriage relationship.

abstract of record - A short, abbreviated form of the case as found in the record.

accessory - A person who assists in the commission of a crime, either before or after the fact.

action in personam - An action against the person, founded on personal liability, in contrast to action in rem, an action for the recovery of a specific object, usually an item of personal property such as an automobile.

adjudication - Giving or pronouncing a judgment or decree, or the rendering of a decision on a matter before a court.

admissible evidence - Evidence which can legally and properly be used in court.

admission - A statement tending to establish the guilt or liability of the person making the statement.

adversary system - The system of trial practice in the United States and some other countries in which each of the opposing, or adversary, parties has the opportunity to present and establish opposing contentions before the court.

affidavit - A written and sworn statement witnessed by a notary public or another official possessing the authority to administer oaths. Affidavits may be admitted into evidence.

agent - One who has authority to act for another.

alibi - A defense claim that the accused was somewhere else at the time a crime was committed.

allegation - The assertion, declaration, or statement of a party to an action, made in a pleading, establishing what the party expects to prove.

Alternative Dispute Resolution (ADR) - Methods of resolving disputes outside of official court proceedings. These methods include mediation, arbitration, and conciliation.

amicus curiae - A friend of the court; a nonparty who interposes, with the permission of the court, and volunteers information upon some matter before the court.

annual review - Yearly judicial review, usually in juvenile dependency cases, to determine whether the child requires continued court supervision or placement.

answer - A pleading by which defendant responds to the plaintiff's complaint.

appeal - The bringing of a case to a higher court for review of a lower court's order or judgment.

appearance - The formal proceeding by which defendant submits to the jurisdiction of the court.

appellant - The party appealing a final decision or judgment.

appellate court - A court which hears appeals from a lower court.

appellate jurisdiction - The appellate court has the right to review and revise the lower court decision.

appellee - The party against whom an appeal is taken.

arraignment - In a misdemeanor case, the initial appearance before a judge at which the criminal defendant enters a plea; in a felony case, the proceeding after the indictment or bindover at which the defendant comes before a judge in District Court, is informed of the charges, enters a plea, and has a date set for trial or disposition. In Juvenile Court, the first hearing after a petition has been filed.

arrest of judgment - Postponing the effect of a judgment already entered.

assault - A willful attempt to illegally inflict injury on or threaten a person.

assumption of risk - In tort law, a defense to a personal injury suit. The essence of the defense is that the plaintiff assumed the known risk of whatever dangerous condition caused the injury.

attorney of record - Attorney whose name appears in the permanent records or files of a case.

[Return to top](#)

- B -

bail - In criminal cases, a sum of money posted by or on behalf of a defendant to guarantee his appearance in court after being released from jail;

bail bond - An obligation signed by the defendant, with sureties, to secure his/her presence in court;

bail bondsman - A person who posts bail in exchange for a fee, usually 10 percent of the total bail.

bailiff - A court officer whose duties are to keep order in the courtroom and to have custody of the jury.

battered child syndrome (B.C.S.) - Physical condition of a child indicating that external or internal injuries result from acts committed by a parent or custodian. Also termed Parent Infant Trauma Syndrome (P.I.T.S.).

battery - Actual physical violence, whether serious or minor, inflicted on a person. (A mere threat is called assault, whereas the completed act is called battery).

bench trial - Trial without a jury in which the judge decides the case.

bench warrant - An order issued by the court for the arrest of a person.

beyond a reasonable doubt - Entirely convinced; in a criminal case the defendant's guilt must be proven to the jury to this extent. This is the highest burden of proof any party has in any proceeding

bind over - A judge's decision to hold a criminal defendant for trial.

brief - A lawyer's written statement of a client's case filed in court. It usually contains a summary of the facts in the case, the pertinent laws, and an argument of how the law applies to the facts supporting the client's position.

burden of proof - The duty to establish a claim or allegation by admissible evidence. This is usually the duty of the plaintiff in a civil case and always is the duty of the state in a criminal case.

burglary - The unlawful breaking into or entering of a building or dwelling with the intent to commit a serious crime or theft.

[Return to top](#)

- C -

calendar - A court's list of cases for arraignment, hearing, trial or arguments.

caption - The heading or introductory clause of papers connected with a case in court, which shows the names of the parties, name of the court, docket number of the case, etc.

case law - The law made by courts interpreting cases and laws as opposed to law made by legislatures. In the American system, the primary sources of law are 1) constitutions, 2) statutes/regulations, and 3) case law.

cause of action - A claim in law in fact sufficient to justify a legal right to sue.

certification - Generally used to refer to the process of transferring a minor's case from the Juvenile Court to the adult court for trial. Usually reserved for capital or first degree felonies or for chronic offenders.

certiorari - See writ of certiorari.

challenge to the array - Questioning the qualifications of an entire jury panel, usually on the grounds of partiality or some fault in the process of summoning the panel.

chambers - A judge's private office in the courthouse.

change of venue - The removal of a suit begun in one county or district to another for trial, or from one court to another in the same county or district. In criminal cases, for example, a change of venue will be permitted if the court feels the defendant cannot receive a fair trial where the court is located.

charge - The statement accusing a person of committing a particular crime. Also the judge's instructions to the jury on its duties, on the law involved in the case and on how the law in the case must be applied.

child abuse - Any form of cruelty to a child's physical, moral or mental well-being.

circumstantial evidence - All evidence of an indirect nature. Testimony not based on actual personal knowledge or observation of the facts in controversy.

citation - An order of the court requiring the appearance of a defendant on a particular day to answer to a particular charge.

civil case - A lawsuit brought to enforce, redress, or protect private rights or to gain payment for a wrong done to a person or party by another person or party. In general, all types of actions other than criminal proceedings.

clerk of the court - Court official who keeps court records, files pleadings, motions, and judgments, and administers the oath to jurors and witnesses.

code - A collection, compendium or revision of laws, rules and regulations enacted by the legislature, i.e., Utah Code Annotated.

codicil - A supplement or an addition to a will. It may explain, modify, add to, subtract from, qualify, alter, restrain or revoke provisions in the existing will.

commit - To send a person to prison or jail in criminal proceedings, or to another institution in civil cases by authority of a court.

common law - General provisions of law existing before codification or interpretation by courts.

commutation - The change of a punishment from a greater degree to a lesser degree, as from death to life imprisonment. In Utah this may be done by the Board of Pardons.

comparative negligence - The degree to which a person contributed to his/her own injury, damage or death. Usually measured in terms of percentage. Contributory negligence is the failure to exercise care by a plaintiff, which contributed to the plaintiff's injury.

competency - A witness's ability to observe, recall and recount under oath what happened. Criminal defendants must also be competent to stand trial; they must understand the nature of the proceedings and have the ability to assist their lawyers.

complainant - Synonymous with "plaintiff," or, in criminal cases, the complaining witness.

complaint - The first pleading on the part of the plaintiff in a civil action.

concurrent jurisdiction - The jurisdiction of two or more courts, each authorized to deal with the same subject matter.

concurrent sentence - Sentence under which two or more prison or jail terms are served simultaneously, and the prisoner is entitled to discharge when the longest term specified expires (i.e., sentences of 1 to 15 years and 0 to 5 years means a maximum sentence of 15 years). Differs from a consecutive sentence, which is when the sentences are served back-to-back. (A 1 to 15 and 0 to 5 consecutive sentence could mean up to 20 years).

condemnation - The legal process by which real estate of a private owner is taken for public use without the owner's consent, but the owner receives "just compensation."

conditional release - A release from custody which imposes regulations on the activities and associations of the defendant. If a defendant fails to meet the conditions, the release is revoked.

contempt of court - Any act involving disrespect to the court or failure to obey its rules or orders. Contempt of court carries a maximum of 30 days in jail.

continuance - A court order postponing proceedings.

contract - An oral or written agreement between two or more parties which is enforceable by law.

conviction - In a criminal case, a finding that the defendant is guilty.

corpus delicti - The substance or foundation of a crime; the substantial fact that a crime has been committed, e.g., the corpse of a homicide victim, the charred remains of a burned house.

corroboration - Confirmation or support of a witness' statement or other fact.

corroborating evidence - Evidence supplementary to that already given and tending to strengthen or confirm it.

court reporter - A court official who records testimony and arguments, and transcribes it into a permanent record of all court proceedings.

costs - An allowance for expenses in prosecuting or defending a suit. Ordinarily this does not include attorney fees.

counterclaim - A claim presented by a defendant in a civil proceeding in opposition to the claim of a plaintiff.

courts of record - Courts whose proceedings are permanently recorded, and which have the power to fine or imprison for contempt. In Utah, they include the Supreme Court, the Court of Appeals, district courts and juvenile courts. Courts not of record are those of lesser authority whose proceedings are not permanently recorded, i.e., the Justice Courts.

criminal case - A case brought by the government against a person accused of committing a crime.

criminal insanity - Lack of mental capacity to do or abstain from doing a particular act; inability to distinguish right from wrong.

cross-claim - In a civil proceeding, if there are two or more defendants, one defendant can raise a claim against another defendant.

cross-examination - The questioning of a witness by the lawyer for the opposing side. This may be done by leading questions, questions which suggest the answer.

custody - The right to or responsibility for a child's care and control, carrying with it the duty of providing food, shelter, medical care, education and discipline.

[Return to top](#)

- D -

damages - Money that a court orders paid to party (usually the plaintiff) who has suffered a loss by another party who caused the loss (usually the defendant).

declaratory judgment - One which declares the rights of the parties or expresses the opinion of the court on a question of law, without ordering anything to be done.

decree - A decision or order of the court. A final decree is one which fully and finally disposes of the litigation. An interlocutory decree is a preliminary decree which is not final.

defamation - The making of false, derogatory statements about a person's character, morals, abilities, business practices or financial status. (Includes libel, which is written, and slander, which is spoken).

default - Occurs when a defendant fails to respond to the plaintiff's complaint within the time allowed, or fails to appear at the trial. The court may then enter a default judgment.

defendant - The accused in a criminal case; the person from whom money or other recovery is sought in a civil case.

deliberation - The jury's decision-making process after hearing the evidence and closing arguments and being given the court's instructions.

delinquency - The commission of an illegal act by a juvenile.

dependent child - A child who is homeless or without proper care through no fault of the parent, guardian, or custodian.

deposition - The taking of testimony of a witness under oath outside of court, usually transcribed in writing by a court reporter, or less frequently, recorded on videotape.

deprivation of custody - The court transfers legal custody of a person from parents or legal guardian to another person, agency or institution. It may be temporary or permanent.

detention hearing - In Juvenile Court, a judicial hearing, usually held after the filing of a petition, to determine interim custody of a minor pending a judgment.

direct evidence - Evidence in the form of testimony from a witness who actually saw, heard, or touched the subject of interrogation.

direct examination - The first questioning of a witness by the attorney for the party on whose behalf the witness is called. Usually proceeds with open ended, non leading questions.

directed verdict - In civil cases in which there is insufficient basis for any other conclusion, the judge may direct the jury to render a specific verdict. Criminal defendants may also ask the court to rule in their favor rather than submitting the case to the jury.

discovery - The process through which parties to an action are allowed to obtain relevant information known to other parties or nonparties before trial.

dismissal without prejudice - A dismissal which permits the plaintiff to sue again on the same cause of action or the state to proceed again. Dismissal with prejudice bars the right to subsequently bring an action on the same cause.

disposition - The order of a Juvenile Court determining what is to be done with a minor already adjudged to be within the court's jurisdiction. In criminal or civil cases, the settlement of a case.

dispositional report - In Juvenile Court, a written report relating to the child's mental, physical, and social history, submitted by the juvenile probation department or other designated agency to assist the judge in determining a proper disposition.

dissent - A term commonly used to denote the disagreement of one or more judges of a court of appeals with the decision of the majority.

diversion - Procedures for handling relatively insignificant juvenile problems informally, without referral to Juvenile Court. In criminal cases, the formal continuance of a case for a certain length of time, usually a year, with the goal of dismissal if the defendant meets certain conditions.

docket - A brief entry or the book containing such entries of any proceeding in court.

domicile - That place where a person has his true and permanent home. A person may have several residences, but only one domicile.

double jeopardy - Common law and constitutional prohibition (5th Amendment) against more than one prosecution for the same crime.

due process - The guarantee of due process requires that no person be deprived of life, liberty, or property without a fair and adequate process. In criminal proceedings (as well as juvenile) this guarantee includes the fundamental aspects of a fair trial, including the right to adequate notice in advance of the trial, the right to counsel, the right to confront and cross-examine witnesses, the right to refuse self-incriminating testimony, and the right to have all elements of the crime proven beyond a reasonable doubt.

[Return to top](#)

- E -

embezzlement - The fraudulent appropriation by a person to his own use or benefit of property or money entrusted to him by another.

eminent domain - The power to take private property for public use by the state and municipalities.

en banc - A proceeding in which the entire membership of an appellate court participates in the decision, rather than leaving the decision to a smaller "panel" of the court's members. In Utah, the Court of Appeals is prohibited from sitting en banc.

enjoin - See [injunction](#).

entrapment - In criminal procedures, a complete defense. The defendant must show that officers induced the defendant to commit a crime not contemplated by him, for the purpose of instituting a criminal prosecution against him.

equity, courts of - Courts which administer a legal remedy according to the system of equity, as distinguished from courts of common law. The English system upon which most American states modeled their court systems included two separate sets of courts: equity and law. Although Utah has now combined the two in a single system, courts continue to refer to their powers in equity as distinct from their functions as courts of law. Equitable powers are flexible and try to do justice. Courts of law are rigid and must act strictly according to the law.

escheat - In American law, the right of the state to an estate left vacant, to which no one makes a valid claim. Property of a decedent who had no will and no heirs escheats to the state.

escrow - A writing, deed, money, stock, or other property is given to a third person to hold until all conditions in a contract are fulfilled.

estate - A collective term meaning all real and personal property owned by a person.

estoppel - A person's own act, or acceptance of facts, which preclude later claims to the contrary.

et al - An abbreviation of et alii, meaning "and others," ordinarily used in lieu of listing all names of persons involved in a proceeding.

et seq - An abbreviation for et sequentes, or et sequentia, "and the following," ordinarily used in referring to a section of statutes.

evidence - Testimony, records, documents, material objects, or other things presented at a trial to prove the existence or nonexistence of a fact.

exclusionary rule - A rule by which evidence that was obtained illegally cannot be used in a criminal trial against a defendant. Also, in criminal cases, a rule which prevents witnesses from observing each other testify or from discussing testimony during the course of the proceedings.

exclusion of witnesses - An order of the court requiring all witnesses to remain outside the courtroom until each is called to testify, except the plaintiff or defendant. The witnesses are ordered not to discuss their testimony with each other and may be held in contempt if they violate the order.

exclusive jurisdiction - The matter can only be filed in one court.

executor - A person assigned to carry out the provisions of a will.

exhibit - A paper, document or other article presented and offered into evidence in court during a trial or hearing to prove the facts of a case.

ex parte - By or for one party only. Ordinarily courts are not allowed to engage in communications with one party only (ex parte communications). Both parties must be heard.

expert testimony - Testimony given in relation to some scientific, technical or professional matter by experts, i.e., persons qualified to speak authoritatively by reason of their special training, skill or familiarity with the subject.

ex post facto - After the fact, ordinarily used in reference to constitutional prohibition on ex post facto laws. For example, a person cannot be punished for conduct committed before a criminal law was enacted.

expungement - A court order allowing the destruction or sealing of records of minors or adults, after the passage of a specified period of time or when the person reaches a specified age and has not committed another offense.

extradition - The surrender by one state to another of an individual accused or convicted of an offense outside its own territory, and within the territorial jurisdiction of the other.

extraordinary writ - A writ, often issued by an appellate court, making available remedies not regularly within the powers of lower courts. They include writs of habeas corpus, mandamus, prohibition and quo warranto.

[Return to top](#)

- F -

false arrest - Any unlawful physical restraint of another's personal liberty, whether or not carried out by a peace officer.

false pretenses - Representation of some fact or circumstance which is not true and is calculated to mislead, whereby a person obtains another's money or goods.

fee simple absolute - The most complete, unlimited form of ownership of real property.

felony - A felony is a major crime for which the maximum imprisonment is more than one year in a state correctional institution. The court may also impose a fine. Felonies are classified into four categories: capital, 1st degree, 2nd degree, and 3rd degree.

fiduciary - A person who has assumed a special relationship to another person or another person's property, such as a trustee, administrator, executor, lawyer, or guardian. The fiduciary must exercise the highest degree of care to maintain and preserve the person's rights and/or property which are within his/her charge.

Fifth Amendment - Among other rights, the Fifth Amendment to the U.S. Constitution guarantees that a person cannot be compelled to present self-incriminating testimony in a criminal (or juvenile) proceeding.

fine - A sum of money paid as part of a penalty of conviction for a particular criminal offense.

fitness hearing - A hearing held in Juvenile Court to determine the fitness of a minor for retention in Juvenile Court, and the minor's amenability to Juvenile Court resources. Must be held before any evidence is heard on a petition for detention. Such a hearing is a prerequisite to transfer of a minor's case to adult court. Also called certification hearing.

forcible entry and detainer - Ordinarily refers to a summary proceeding for restoring possession of land to one who has been wrongfully deprived of possession.

foreclosure - A termination of all rights of the mortgagor or his grantee in the property covered by the mortgage.

forfeiture - The concept of forfeiture is used in a variety of settings in the legal system. For example, property such as an automobile or house that is used in the commission of a crime i.e., selling a controlled substance, may be forfeited to the state in a civil proceeding.

foster care - A form of substitute care, usually in a home licensed by a public agency, for children whose welfare requires removal from their homes.

foundation - In a trial, a foundation must be laid to establish the basis for the admissibility of certain types of evidence. For example, an expert witnesses' qualifications must be shown before expert testimony will be admissible.

Fourteenth Amendment - Among other matters, the 14th Amendment to the U.S. Constitution prohibits states from depriving any person of life, liberty, or property without adequate due process.

Fourth Amendment - The 4th Amendment to the U.S. Constitution protects every person against unreasonable search and seizure by government officials.

fraud - An intentional perversion of truth; deceitful practice or device resorted to with intent to deprive another of property or other right.

[Return to top](#)

- G -

garnishment - A court order to take part of a person's wages, before he gets them, and apply the amount taken to pay a debt owed to a creditor.

grand jury - A group of citizens impaneled to hear evidence and decide whether a defendant should be charged with a crime. The grand jury is used frequently in federal courts, but rarely in Utah state courts.

guardian ad litem - In Utah State Court proceedings, a lawyer appointed by a court to look after the interests of an infant, child or incompetent person during court proceedings.

guardian - A guardian has the authority to consent, on behalf of an infant, child or incompetent, to marriage, enlistment in the armed forces, or major medical, surgical, or psychiatric treatment. Includes legal custody.

[Return to top](#)

- H -

habeas corpus - Latin phrase meaning "you have the body"; A civil proceeding used to review the legality of a prisoner's confinement in criminal cases. Habeas corpus actions are commonly used as a means of reviewing state or federal criminal convictions. The petitioner alleges the convictions violated state or federal constitutional rights. State habeas proceedings start in state District Court; federal habeas proceedings start in federal District Court. Lower court decisions may be appealed to appellate courts.

harmless error - An error committed by a lower court during a trial, but not prejudicial to the rights of the party and for which the appellate court will not reverse the judgment.

hearing - A formal proceeding (generally less formal than a trial) with definite issues of law or of fact to be heard.

hearing de novo - A full new hearing.

hearsay - Second-hand evidence, generally consisting of a witness's testimony that he/she heard someone else say something.

holographic will - A will entirely written, dated and signed by the testator in his/her own handwriting.

hostile witness - A witness who displays antagonism toward the party who called him to testify, or who is a witness for the opposing party. The examining party is allowed to conduct direct examination as if it were cross-examination.

hung jury - A jury which cannot agree on a final verdict. If a jury is hung, the court declares a mistrial and the case may be re-tried.

hypothetical question - A form of question generally used for expert witnesses. The examiner states a factual foundation (often based on disputed facts) and asks the expert to draw conclusions based on the hypothetical foundation. The hypothetical question includes only facts already in evidence.

[Return to top](#)

- I -

immunity - Legal protection from liability. There are many categories of immunity in civil and criminal law. For example, sovereign immunity protects government agencies from civil liability and judicial immunity protects judges acting in their official capacities.

impanel - To seat a jury. When voir dire is finished and both sides have exercised their challenges, the jury is impanelled. The jurors are sworn in and the trial is ready to proceed.

impeachment of witness - An attack on the credibility of a witness.

inadmissible/incompetent evidence - Information which is so unreliable it cannot be admitted under the established rules of evidence.

in camera - In a judge's chambers; in private.

incarceration - Imprisonment; confinement in a jail or penitentiary.

incest - The crime of sexual intercourse between a male and a female who are so closely related they would not legally be allowed to marry.

indeterminate sentence - An indefinite sentence of imprisonment, within a specified range (e.g. "5 to life") with the Board of Pardons later determining the exact term to be served.

indictment - An accusation of a criminal offense made by a grand jury.

Information - The first paper filed in criminal prosecution which states the crime of which the defendant is accused.

Injunction - A court order forbidding or requiring a certain action.

in loco parentis - "In the place of the parent"; refers to actions of a custodian, guardian or other person acting in the parent's place.

Instruction - A direction given by the judge to the jury concerning the law to be applied in the case.

Inter alia - Among other things.

interlocutory appeal - An appeal to an appellate court of a temporary or provisional order of a trial court. The appellate court is not required to hear the appeal.

interrogatories - In the discovery phase of civil litigation, these written questions are submitted by one party to another party and must be answered in writing under oath.

Interstate compact - A contract between member states to supervise juveniles on probation or parole, and to return delinquent juveniles who have escaped or nondelinquent juveniles who have run away, from one state to another.

Intervention - A proceeding in a civil suit by which a third person is permitted by the court to join as a party to the suit.

intestate - The status of a person who dies without leaving a will.

irrelevant - Evidence not sufficiently related to the matter in issue.

[Return to top](#)

- J -

judgment - The official decision of a court disposing of a case.

jurisdiction - The legal authority of a court to hear a case or conduct other proceedings; power of the court over persons involved in a case and the subject matter of the case.

jurisprudence - Formal study of the principles on which legal rules are based and the means by which judges guide their decision making.

jury commissioner - An officer charged with the duty of selecting the names to be put into a jury wheel, or of drawing the panel of jurors for a particular term of court.

[Return to top](#)

- L -

law and motion - A setting before a judge at which time a variety of motions, pleas, sentencings, orders to show cause or procedural requests may be presented. Normally, evidence is not taken. Defendants must be present.

leading question - One which virtually instructs a witness how to answer or puts into his mouth words to be echoed back; one which suggests to the witness the answer desired. Ordinarily prohibited on direct examination, although allowed on cross-examination.

levy - A seizure; the obtaining of money by legal process through seizure and sale of property.

liability - A legal responsibility, obligation, or debt.

libel - See defamation.

lien - A claim against property for payment of a debt. Common types of liens include the mechanic's lien, the judgment lien, and the mortgage lien.

lis pendens - A pending suit.

litigant - A party to a lawsuit; one engaged in litigation.

locus delicti - The place of the offense.

[Return to top](#)

- M -

malfeasance - Unlawful conduct.

malicious prosecution - A meritless (civil or criminal) action instituted solely to harass the defendant. Such misuse of the judicial process may be the basis for an action against the original plaintiff/prosecutor.

malpractice - A lawsuit brought against a professional person, such as a doctor, lawyer or engineer, for injury or loss caused by the defendant's negligence in providing professional services.

mandamus - A writ by which a court commands the performance of a particular act.

manslaughter - A person recklessly causes the death of another, or acting under extreme emotional disturbance, causes the death of another, or acting under circumstances when a person reasonably believes the circumstances provide a legal justification or excuse for his conduct constitutes manslaughter.

material evidence - Evidence which is relevant to the issues in a case.

mens rea - Literally, "guilty mind." The intent required to commit the crime. One of the two basic requirements, along with the guilty act (actus reus) which constitute a crime.

Miranda rule - The rule, pronounced in *Miranda v. Arizona*, that confessions are inadmissible in a criminal prosecution if the police do not advise the suspect in custody of certain rights before questioning. The rights include:

- a. The right to remain silent and to refuse to answer any questions;
- b. The right to know that anything the suspect says can and will be used against the suspect in a court of law;
- c. The right to consult with an attorney and to have an attorney present during questioning;
- d. The right to have counsel appointed at public expense, prior to any questioning if the suspect cannot afford counsel.

misdemeanor - A minor offense, lower than a felony, which is punishable by a county jail term of up to one year and/or a fine, but not prison. Misdemeanors are classified into three categories: Class A, B, and C.

mistrial - A trial which is void because of some error.

mitigating circumstance - A circumstance which may be considered to reduce the degree of moral culpability, although it does not entirely justify or excuse an offense.

moot - A moot point is one that need not be decided, due to a change of circumstances.

moral turpitude - Conduct contrary to honesty or good morals.

motion - A formal request presented to a court.

multiplicity of actions - Numerous and unnecessary attempts to litigate the same issue.

[Return to top](#)

- N -

ne exeat - A writ which forbids the person to whom it is addressed to leave the country, the state or the jurisdiction of the court.

negligence - Failure to exercise the care that an ordinarily prudent person would exercise in the same circumstances.

no bill - This phrase, endorsed by a grand jury on an indictment, means that, in the opinion of the jury, evidence was insufficient to warrant the return of a formal charge.

no-fault divorce - A kind of divorce in which the parties need not cast blame on one another for the failure of the marriage.

nolle prosequi - A formal entry upon the record by the plaintiff in a civil suit, or the prosecuting officer in a criminal case, declaring the case will not be prosecuted.

nolo contendere - A Latin phrase meaning "I will not contest it." A plea in a criminal case which does not require the defendant to admit guilt, but the defendant does not contest the facts on which the charge is based. Some judges refuse to accept such pleas in criminal cases.

nominal party - One who is joined as a party or defendant merely because the technical rules of pleading require his presence in the record.

non compos mentis - Not of sound mind; insane.

not guilty plea - Complete denial of guilt. In criminal cases, a necessary stage of the proceedings required to preserve all legal issues.

not guilty by reason of insanity - The jury or the judge must determine that the defendant, because of mental disease or defect, could not form the intent required to commit the offense.

[Return to top](#)

- O -

objection - The act of taking exception to some statement or procedure in trial or other proceeding. Used to call the court's attention to improper evidence or procedure.

of counsel - A phrase commonly applied to counsel employed to assist in the preparation or management of the case, or its presentation on appeal, but who is not the principal attorney for the party.

opinion evidence - Witnesses are normally required to confine their testimony to statements of fact and are not allowed to give their opinions in court. However, if a witness is qualified as an expert in a particular field, he or she may be allowed to state an opinion as an expert based on certain facts.

order to show cause - Court order requiring a party to appear and show cause why the court should not take a particular course of action. If the party fails to appear or to give sufficient reasons why the court should take no action, the court will take the action. In criminal cases, the defendant must show why probation should not be revoked.

ordinance - A written law enacted by the legislative body of a county, city, or town.

original jurisdiction - The court in which a matter must first be filed.

[Return to top](#)

- P -

pardon - Action by an official of an executive branch of government relieving a criminal from a conviction.

Parent Infant Trauma Syndrome (P.I.T.S.) - See Battered Child Syndrome

parole - A procedure in which a parole board releases a convict on good behavior before the maximum sentence expires.

parol evidence - Oral or verbal evidence (rather than written). The parol evidence rule limits the admissibility of parol evidence which would directly contradict the clear meaning of terms of a written contract.

parties - The persons who are actively involved in the prosecution or defense of a legal proceeding, including the plaintiff or prosecution, the defendant and any "third party defendant".

peremptory challenge - Each party to a suit tried to a jury has the right to peremptorily "challenge" (reject) a certain number of prospective jurors without giving a reason. By contrast, the parties have unlimited rights to challenge jurors for good cause, but the judge must approve "for cause challenges." Parties may not exercise peremptory challenges on the basis of race or gender.

perjury - Lying while under oath.

petition - A civil pleading filed to initiate a matter in Juvenile Court, setting forth the alleged grounds for the court to take jurisdiction of the case and asking the court to do so and intervene.

petit jury - The ordinary jury of twelve (or fewer) persons for the trial of a civil or criminal case. So called to distinguish it from the grand jury.

plaintiff - A person who files a lawsuit.

plea - The defendant's formal response to a criminal charge (guilty, not guilty, nolo contendere, not guilty by reason of insanity, and guilty and mentally ill).

plea bargaining - A process whereby the prosecutor and defense attorney negotiate a mutually satisfactory disposition of the case. The court and the defendant must approve of any settlements. For example, a guilty plea may be exchanged for a lesser charge or a sentencing recommendation, or for dismissal of one or more of the charges in a multi-count information, or for dismissal of another case.

pleading - The formal allegations by the parties of their respective claims and defenses.

polling the jury - A practice whereby the jurors are asked individually on the record whether they agreed, and still agree, to the verdict.

power of attorney - A written instrument authorizing another (not necessarily a lawyer) to act as one's agent or attorney.

precedent - A rule of law that is established by an appellate court in an earlier case serves as binding precedent in all subsequent similar cases.

prejudicial evidence - Evidence which might unfairly sway the judge or jury to one side or the other. For example, photographs of a gory murder scene might inflame a jury without providing useful evidence. May be excluded in criminal cases if prejudicial effect outweighs probative value.

prejudicial error - Synonymous with "reversible error"; an error which warrants the appellate court in reversing the judgment before it.

preliminary hearing - A probable cause hearing which screens felony criminal cases by deciding whether there is enough evidence to warrant a trial. If the judge determines there is sufficient evidence, the defendant is "bound over" for trial. The defendant may waive this hearing.

preliminary injunction - In civil cases when it is necessary to preserve the status quo prior to trial, the court may issue a preliminary injunction or temporary restraining order ordering a party to carry out a specified activity.

preliminary inquiry - In Juvenile Court, an investigation and study conducted by the probation department upon receiving a referral to determine whether further action should be taken.

premeditation - The planning of a crime preceding the commission of the act, rather than committing the crime on the spur of the moment.

preponderance of evidence - Evidence which is (even minimally) of greater weight or more convincing than the evidence which is offered in opposition to it. This is the standard by which a plaintiff must prove his/her case in a civil suit.

presentence report - An investigation conducted at the request of the court after a person has been found guilty of a crime. The purpose is to provide the court with extensive background information to determine the appropriate sentence. On felonies, usually done by the Department of Corrections, Division of Adult Probation & Parole (AP & P).

presentment (first appearance) - In felony cases, the first appearance before a judge at which the defendant is formally notified of the charges and a date is set for a preliminary hearing. No plea is entered at this stage. If, after the preliminary hearing, the case is bound over to the District Court, the defendant will enter a plea during arraignment in District Court. (Presentment is often incorrectly called arraignment.)

prima facie - Literally, "on its face." A fact presumed to be true unless disproved by some other evidence. In a criminal case, when the prosecution rests, the state's case is said to be prima facie, if the evidence so far introduced is sufficient to convict.

privileged communications - Confidential communications to certain persons that are protected by law against any disclosure, including forced disclosure in legal proceedings. Communications between lawyer and client, physician and patient, psychotherapist and patient, priest, minister or rabbi and penitent are typically privileged.

probable cause - A judicial finding that there exists reasonable grounds for belief that a person should be arrested or searched.

probate - The process of proving the validity of a will.

probation - A sentence releasing a convicted criminal into the community or a treatment facility under the supervision of a probation officer, requiring compliance with certain conditions. If the conditions are not met, the court orders an "Order to Show Cause" hearing as to why probation should not be revoked and the sentence imposed.

pro se - For himself; in his own behalf. One who does not retain a lawyer and appears for himself in court.

prosecutor - The name of the public officer who is appointed in each county to conduct criminal prosecutions on behalf of the state or people.

protective custody - In child abuse and neglect cases, the emergency removal of child from his home when the child would be in imminent danger if allowed to remain with the parent(s) or custodian(s).

protective supervision - A court order following a judgment on the ground of neglect or abuse, whereby the child is permitted to remain in his home, and supervision and assistance to correct the neglect or abuse is provided by the probation department or other agency designated by the court.

proximate cause - In a civil tort action such as a medical malpractice suit, the plaintiff must show that an act or omission of the defendant was a proximate cause of the plaintiff's injury or loss. Similarly, in a criminal action, the state must prove beyond a reasonable doubt that the defendant's action was the direct cause of the crime.

public defender - Lawyers regularly employed by the government to represent people accused of crimes who cannot afford to hire their own. The term may also be used to refer to a private firm receiving public money to defend indigent criminal defendants.

punitive damages - Money awarded to an injured person, over and above the measurable value of the injury, in order to punish the person who hurt him.

[Return to top](#)

- Q -

quash - To overthrow; vacate; to annul or void a summons, indictment, bindover order or subpoena.

quid pro quo - What for what; something for something; giving one valuable thing for another.

[Return to top](#)

- R -

reasonable doubt - A person accused of a crime is entitled to acquittal if, in the minds of the jury or judge, his or her guilt has not been proved beyond a "reasonable doubt"; the jurors are not entirely convinced of the person's guilt.

rebuttal evidence - Evidence given to explain, contradict, or disprove facts offered by the adverse party. In criminal cases, the state has the opportunity to rebut the defendant's case because it has the burden of proof.

recidivism - The continued, habitual or compulsive commission of law violations after first having been convicted of prior offenses.

recognizance - A kind of bail, consisting of a written promise to appear in court when required. Generally, when there is no good reason to suppose the accused in a criminal case will not appear when required or the accused is not a significant risk to the community, he or she will be released on his or her own recognizance.

redirect examination - Follows cross-examination, and is conducted by the party who first examined the witness.

referral - In Juvenile Court, a written report submitted by a law enforcement officer or other person who has reason to believe a juvenile has committed a crime that would place the child within the jurisdiction of the Juvenile Court.

relevant - Evidence that helps to prove a point or issue in a case.

remand - "To send back"; For example, an appellate court may remand a case to a lower court for retrial or for some change in disposition.

removal, order of - An order by a court directing the transfer of a case to another court. For example, when a case is proper for jurisdiction in federal court, the federal court may remove the case from the state court in which it was originally filed.

reporting statutes - State laws requiring certain designated persons (physicians, nurses, teachers) to report to the authorities suspected cases of child abuse and injuries.

res ipsa loquitur - Literally, "a thing that speaks for itself." In tort law, the doctrine which holds a defendant guilty of negligence without an actual showing that he or she was negligent. Its use is limited in theory to cases in which the cause of the plaintiff's injury was entirely under the control of the defendant, and the injury presumably could have been caused only by negligence.

res judicata - A rule of civil law that once a matter has been litigated and final judgment has been rendered by the trial court, the matter cannot be relitigated by the parties in the same court, or any other trial court. A court will use res judicata to deny reconsideration of a matter.

respondeat superior - Literally, "a superior (or master) must answer." The doctrine which holds that employers are responsible for the acts and omissions of their employees and agents, when done within the scope of the employees' duties.

respondent - 1) the person who is the subject of a petition, 2) the prevailing party in a court case against whom an

appeal is taken.

rest - A party is said to "rest" or "rest his case" when he/she has presented all the evidence he/she intends to offer.

restitution - Court-ordered payment to restore goods or money to the victim of a crime by the offender.

restraining order - Similar to an injunction, commanding the party to leave the other party alone, usually in a divorce proceeding.

retainer - The fee which the client pays when he/she retains an attorney.

Return to top

- S -

sealing - The closure of court records to inspection, except to the parties.

search and seizure, unreasonable - In general, an examination, without authority of law, of one's premises or person to find stolen property or contraband.

search warrant - An order issued by a judge or magistrate commanding a sheriff, constable, or other officer to search a specified location.

self-defense - The protection of one's person or property against some injury attempted by another. The law of "self defense" justifies an act done in the reasonable belief of immediate danger. When acting in justifiable self-defense, a person may not be punished criminally nor held responsible for civil damages.

sentence - The judgment formally pronounced by the court upon the defendant after conviction in a criminal prosecution, imposing the punishment to be inflicted.

suspended sentence - A sentence ordered by the court but not imposed, which gives the defendant an opportunity to complete probation.

deferred sentence - The court retains jurisdiction to sentence the defendant at a later time.

separate maintenance - Allowance ordered to be paid by one spouse to the other for support while the spouses are living apart but not divorced.

service of process - Notifying a person that he or she has been named as a party to a lawsuit or has been accused of some offense. Process consists of a summons, citation or warrant, to which a copy of the complaint is attached. Subpoenas are court orders which, if properly served, compel the attendance of the witness in court.

slander - See Defamation.

small claims - A civil dispute in which the amounts of money involved is less than \$2,000. Persons usually are not represented by lawyers in small claims proceedings. Small claims are litigated in the small claims division of the District Court, or in the Justice Court.

sovereign immunity - The doctrine that a government or governmental agency cannot be sued without consent.

specific performance - A mandatory order in equity. Where monetary damages would be inadequate compensation for the breach of a contract, the contractor will be compelled to perform specifically what the contract called for.

standard of proof - There are essentially three standards of proof applicable in most court proceedings. In criminal and delinquency cases, the offense must be proven beyond a reasonable doubt, the highest standard. In civil cases and neglect and dependency proceedings, the lowest standard applies by a mere preponderance of the evidence (more likely than not). In some civil cases, and in juvenile proceedings such as a permanent termination of parental rights, an intermediate standard applies: proof by clear and convincing evidence.

stare decisis - The doctrine that, when a court has once laid down a principle of law applicable to a certain set of facts, it will adhere to that principle and apply it to future cases where the facts are substantially the same. This is a defining characteristic of the common law system followed in the U.S., Great Britain, and a few other nations.

status offense - Refers to misbehavior which would not be criminal if committed by an adult (e.g., truancy, runaway, etc.), but is defined as an offense when committed by a minor because of the minor's status.

statute - A law passed by the state legislature.

statute of limitations - A certain time allowed by statute in which litigation must be brought. In criminal cases, prosecution is barred if not brought within the statute of limitations.

stay - A stopping or arresting of a judicial proceeding by order of a court (e.g., a stay of enforcement of a judgment).

stipulation - An agreement by attorneys on opposite sides of a case as to any matter pertaining to the proceedings or trial. It is not binding unless agreed to by the parties, and most stipulations must be in writing.

subpoena - An official order to appear in court (or at a deposition) at a specific time. Failure to obey a subpoena to appear in court is punishable as a contempt of court.

subpoena duces tecum - A special form of subpoena which commands a witness to produce certain documents or records in a trial or at a deposition.

substantive law - The law dealing with rights, duties and liabilities, as contrasted with procedural law, which governs the technical aspects of enforcing civil or criminal laws.

summons - A notice to the named person that an action has been commenced against him in court and that he is required to appear, on the day named, and answer the complaint.

suppression hearing - A hearing on a criminal defendant's motion to prohibit the prosecutor's use of evidence alleged to have been obtained in violation of the defendant's rights. This hearing is held outside of the presence of the jury, either prior to or at trial. The judge must rule as a matter of law on the motion.

[Return to top](#)

- T -

temporary restraining order - See [preliminary injunction](#).

termination of parental rights - A judicial proceeding freeing a child from all custody and control by parents, so the child can be adopted by others.

testate - One who has died leaving a will or one who has made a will.

testator - The person who makes a will. (female: testatrix)

testimony - Information or evidence given by a witness under oath.

tort - An injury or wrong committed, either with or without force, to the person or property of another, for which civil liability may be imposed.

transcript - The official record of proceedings in a trial or hearing.

trial - A judicial examination of issues between parties to an action.

trial by declaration or informal traffic hearing - Persons who receive a traffic citation have an option to appear before a judge in an informal hearing called Trial by Declaration. At this hearing, there are no prosecutors, police or witnesses present. The person simply tells the judge his/her side of the story and the judge takes what action he/she

determines is appropriate. If the defendant disagrees with the judge at the informal hearing, he/she may request and receive a formal trial.

trial de novo - A new trial or retrial held in an appellate court in which the whole case is heard as if no trial had been heard in the lower court or administrative agency.

trust - A transaction in which the owner of real property or personal property (the trustor or settlor) gives ownership to a trustee, to hold and to manage it for the benefit of a third party, called the "beneficiary."

[Return to top](#)

- U -

undue influence - Whatever destroys free will and causes a person to do something he would not do if left to himself. For example, a strong willed family member might be found to have used undue influence on an elderly person's drawing up of a will.

unlawful detainer - A detention of real estate without the consent of the owner or other person entitled to its possession.

[Return to top](#)

- V -

venue - The particular county, city or geographical area in which a court with jurisdiction may hear and determine a case. A change of venue, i.e., a change to a court in a different area may be sought under some circumstances.

verdict - The formal and unanimous decision or finding made by a jury.

voir dire - "To speak the truth". The questioning of potential jurors by the judge and the lawyers to determine any biases, prejudices or other reasons for disqualification.

[Return to top](#)

- W -

waive - To give up a right or claim voluntarily.

waiver of immunity - A means authorized by statutes by which a witness, in advance of giving testimony or producing evidence, may renounce the fundamental constitutional right that no person shall be compelled to be a witness against himself/herself.

warrant - A written order issued and signed by a judge or magistrate which allows the police to search a place and seize specified items found there (search warrant), or to arrest or detain a specified person (arrest warrant).

willful - A "willful" act is one done intentionally, as distinguished from an act done carelessly or inadvertently.

with prejudice - A dismissal "with prejudice" bars the right to bring or maintain another action on the same claim or cause.

without prejudice - A dismissal "without prejudice" allows a new suit to be brought on the same cause of action.

witness - One who testifies under oath to what he/she has seen, heard or otherwise observed.

writ - A petition to a court for some extraordinary relief, such as asking the court to release a defendant from imprisonment.

writ of certiorari - A procedure requesting appellate review. It is discretionary. If the writ is denied, the higher court refuses to hear the appeal and the judgment in the lower court stands unchanged. If the writ is granted, the higher

English-Spanish Legal Terminology Glossary

English-Spanish Legal Terminology Glossary

Posted to Utah State Courts website: December 13, 2006

This glossary has been compiled through various resources and is not all-inclusive. Its use is intended for guidance in navigating the Utah court system in English and Spanish and for use in standardizing terminology in translated documents. It continues to be a work in progress.

-- English --	-- Spanish --
Abandonment	Abandono
Abrogate	Abrogar
Abstract	Extracto
Abstract of judgment	Resumen de fallo
Accessory	Partícipe
Accomplice	Cómplice
Accrual	Acumulación
Accrued interest	Intereses acumulados
Accused	Acusado
Acknowledgment of satisfaction of judgment	Reconocimiento de pago del fallo
Acquittal	Absolución
Action	Demanda (Civil)
Active status	Estado activo
Adjournment	Suspensión
Adjudicate	Resolver
Admissible evidence	Pruebas admisibles
Admission	Admisión
Admonition to jury	Amonestar al jurado
Adversary system	Sistema contencioso
Adverse witness	Testigo adverso
Advocate	Defensor
Affidavit	Declaración jurada por escrito
Affirm	Ratificar
Affirmative defense	Defensa afirmativa
Agent	Agente
Aid to Families With Dependent Children	Ayuda a familias con niños dependientes
Alibi	Coartada

Alimony	Pensión conyugal
Allegation	Acusación (criminal), demanda (civil)
Alternative dispute resolution	Método alternativo para resolver conflictos
Amend	Enmendar
Amount	Cantidad
Annulment (nullity of marriage)	Anulación (matrimonio nulo)
Anonymous	Anónimo
Answer	Respuesta
Appeal	Apelar
Appear in court	Comparecer ante el (Juzgado o Tribunal)
Appearance	Comparecencia
Appellant	Apelante
Appellate	Apelaciones
Acquittal	Absolución
Acquitted	Absuelto
Arbitration	Arbitraje
Arraignment	Lectura de cargos
Arrearage	Atrasos
Ascertained	Comprobado
Assault	Agresión
Assets	Bienes
Assignee	Apoderado
Assignment of support rights	Asignación de derechos de manutención
Assignment order	Orden de asignación
Assistance	Ayuda
At your own risk	Bajo su cuenta y riesgo
Attachment	Adjunto
Attempt	Intentar
Attendance	Asistencia
Attorney's fees	Honorarios
Attorney of record	Abogado del caso
Audit	Auditoría
Backlog	Casos acumulados
Bail bond	Fianza
Bail bondsman	Fiador judicial
Bail exoneration	Exoneración de fianza

Bail forfeiture	Renunciar a la fianza
Bail notice	Aviso de fianza
Bail receipt	Recibo de fianza
Bailiff	Alguacil
Bank levy	Embargo de banco
Bankruptcy	Bancarrota o quiebra
Bar	Colegio de abogados
Battery	Golpear
Bench trial	Juicio ante el juez
Bench warrant	Orden de arresto
Bind	Obligar
Bind over	Consignar
Binding precedent	Precedente legal
Blood test	Análisis de sangre
Bona fide	De buena fe
Bond	Bono
Book (booking)	Registrar (registro)
Breath test	Prueba de aliento
Brief	Informe
Burden of proof	Obligación de comprobar
Burglary	Allanamiento con fines delictivos
Calendar	Lista de causas
Call in to question	Poner en duda
Capital case	Caso con pena de muerte
Capital offense	Delito con pena de muerte
Case file	Expediente del caso
Case law	Precedentes judiciales
Case number	Número del caso
Caseload	Número de casos
Cause of action	Causa de acción legal
Certified copy	Copia certificada
Challenge	Disputar
Chambers	Despacho del juez
Change of venue	Cambio de lugar
Charge	Cargo
Chattel	Bien mueble

Child support	Pensión alimenticia
Child support enforcement agency Office of Recovery Services (ORS)	Agencia del cumplimiento de la manutención de los hijos
Children (under 18)	Niños (menor de 18)
Circumstantial evidence	Pruebas circunstanciales
Citation	Infracción
Cited	Citado
Citing authority or agency	Autoridad o dependencia que emplaza
Civil jurisdiction	Jurisdicción civil
Claim of exemption	Reclamo de exención
Claim splitting	División de reclamos
Codicil	Codicilo
Collect your judgment	Cobrar su veredicto
Collection agency	Agencia de cobranza
Commitment order	Orden de encarcelamiento
Common law	Derecho común
Compensatory	Compensatorios
Competence order	Orden de competencia
Complainant	Parte acusadora
Complaint	Demanda
Compulsory	Obligatorio
Concurrent sentence	Sentencias simultáneas
Confidential record	Expediente confidencial
Confiscate	Confiscar
Consecutive sentences	Sentencias consecutivas
Conservator	Curador
Conservator of the estate	Curador de patrimonio
Conservator of the person	Curador de la persona
Conservatorship	Curatela
Consolidation of actions	Consolidación de acciones
Contempt	Desacato
Contested	Disputado
Continuance	Aplazamiento
Convey	Trasmitir
Conviction	Condena
Costs after judgment	Gastos después del fallo

Counsel	Asesor legal
Counseling	Terapia
Counterclaim	Contrademanda
Counts	Incidencias
Court	Tribunal o juzgado
Court calendar	Lista de causas
Court clerk	Secretario judicial
County recorder	Registrador del condado
Court referee	Árbitro judicial
Court reporter	Taquigrafo judicial
Court stamp	Sello judicial
Court trial	Juicio
Courtesy notice	Aviso
Credit union	Cooperativa de crédito
Crime (violent crime)	Delito (crimen)
Cross complaint	Contrademanda
Cross examination	Contrainterrogatorio
Custody (noun), to be in custody	Tutela (sustantivo), encarcelado
Custodial parent	Padre con tutela
Debtor's examination	Examen del deudor
Decedent (deceased)	Difunto
Declarant	Declarante
Decree	Acta
Defamation	Difamación
Default	Incumplimiento/Rebeldía
Default judgment	Fallo por incumplimiento
Defendant	Acusado
Defense attorney	Abogado defensor
Demurrer	Petición de abandono
Deposition	Delcaración jurada
Detention	Detención
Dictum	Dictamen legal
Direct examination	Interrogatorio directo
Direct income withholding	Retención directa de ingresos
Directory	Directorio
Disbursement	Desembolso

Disclaimer	Descarga de responsabilidad
Discovery	Material evidenciario
Dismissal	Desestimación/Sobreseimiento
Dismiss with prejudice	Desestimación con detrimento
Dismiss without prejudice	Desestimación sin detrimento
Disposable income	Ingresos netos
Disposition	Resolución
Disqualification	Descalificación
Dissolution	Disolución
District Court	Tribunal del Distrito
Diversion	Desviación
Divorce Decree	Acta de divorcio
Docket	Orden del día
Driver's license	Licencia de conducir (manejar)
Driving under the influence of Alcohol or Drugs	Manejar bajo la influencia de alcohol o estupefacientes
Due process	Proceso debido
Drugs (illicit)	Estupefacientes
Drunk Driving	Manejar en estado de ebriedad
Earnings withholding order	Orden de retención de ingresos
Electronic surveillance	Vigilancia electrónica
Elementary School	Escuela Primaria
Eligible	Tener derecho a, cumplir con los requisitos
Eminent domain	Derecho del gobierno a expropiar
Endorse	Endosar
Enforce	Poner en vigor
Enforcement	Cumplimiento
Enjoin	Imponer
Enter a plea	Asentar una declaración
Equitable	Equitativo
Estoppel	Impedimento basado en el conducto de uno
Eviction	Desalojo
Executor	Ejecutor, albacea
Exemplary	Ejemplares
Exempt assets	Bienes exentos
Exhibit	Prueba admitida
Exonerate bail	Exonerar la fianza

Expunge	Borrar
Federal question jurisdiction	Jurisdicción federal de incumbencia
Fee	Cuota u honorario
Fee waiver	Exención de cuotas
Felony	Delito mayor
Felony Prosecution	Procesamiento por delito mayor
File	Presentar, entablar,
Filed-stamped	Presentado sellado
Filing clerk	Secretario de actas
Filing fees	Cuotas de presentación
Finding	Determinación
Findings of fact	Determinación de hecho
Flat rate	Tarifa fija
Folder	Carpeta
Foreperson	Presidente del jurado
Forfeit bail	Incautarse la fianza
Forfeiture	Incautación
Form	Formulario
Full faith and credit	Plena fe y crédito
Garnishment	Retención
Grand jury	Jurado de acusación
Grievance	Queja, Denuncia
Guardian ad litem	Tutor ad litem
Guardianship	Tutela
Guidelines	Pautas
Habitual offender	Infractor habitual
Harrassment	Acoso
Heading (of a document)	Encabezamiento
Hearing	Audiencia
High School	Escuela preparatoria
Hearsay	De oídas
Holding cell	Celda de detención temporal
Home detention	Detención domiciliaria
Hung jury	Jurado en desacuerdo
Impeach	Impugnar, "Hacer un juicio político"
Impound	Decomisar

Income withholding	Retención de ingresos
Indictment	Acusación formal
Infraction	Infracción
Injunction	Mandamiento judicial
Intercept	Interceptar
Interpleader	Procedimiento de consignación
Intestate	Intestado
Issue (noun), to issue (v)	Asunto (sustantivo), expedir, emitir (v)
Joinder	Unión
Joint	Conjunta (o)
Judgment	Fallo
Judgment debtor's statement of assets	Declaración de bienes del deudor del fallo
Judgment Lien against real property	Gravamen del fallo económico favorable contra un bien inmueble
Judicial council	Consejo Judicial
Judicial district	Distrito judicial
Jurisdictional limit	Límite jurisdiccional
Juror	Miembro del jurado
Jury room	Sala del jurado
Jury roster	Lista de jurados
Justice Court	Juzgado
Juvenile	Menor
Knowingly	A sabiendas
Landlord	Arrendador
Law enforcement officer	Oficial del orden público
Lawsuit	Demanda
Lease	Arrendar
Lease agreement	Contrato de arrendamiento
Ledger	Libro mayor
Legal Assistance	Asesoría legal
Legal Aid Office	Oficina de Asesoría Legal
Legal fees	Costos judiciales
Legislature	Cuerpo legislativo
Let the buyer beware	Que el comprador tenga cuidado
Letters of conservatorship	Cartas de curatela
Levy	Recaudación

Libel	Libelo
License Plate	Placa
Lien	Gravamen
Litigants	Litigantes
Long arm jurisdiction	Jurisdicción entre estados
Lower court	Juzgado inferior
Maim	Lislar
Malfeasance	Fechoría
Manslaughter	Homicidio culposo
Marital settlement agreement	Acuerdo de resolución matrimonial
Marshal	Alguacil
Mayhem	Mutilación criminal
Mediator	Mediador
Minors	Menores
Minute order	Orden de actas
Miranda warning	Alerta de miranda
Misdemeanor	Delito menor
Misfeasance	Alcaldada
Mistrial	Juicio nulo
Motion	Moción
Motion to quash	Moción de anulación
Motion to reduce bail	Moción para reducir la fianza
Municipal Court	Juzgado municipal
Murder	Asesinato
Negligence	Negligencia
Nonfeasance	Incumplimiento del deber
Nonservice	Sin entrega
Nonwage payments	Pagos que no son de sueldo
Notice of Entry of Judgment	Aviso de publicación de fallo
Not guilty	No culpable
Notice of entry of judgment	Aviso de publicación de fallo
Notice Of Opposition to Claim of Exemption	Aviso de oposición al reclamo de exención
Notice to quit	Aviso de desalojo
Nullify	Nulo
Object	Oponerse
Objection	Objeción

Obligee	Acreedor de deuda
Obligor	Obligado
Offense	Delito
Offset	Contrarrestar
On line court assistance program	Programa en línea para ayuda del tribunal
Order to appear for examination	Orden de comparecencia para examen
Order to Show Cause	Orden de mostrar causa
Ordinance	Ordenanza
Owner's possession bond	Título de posesión del propietario
Parole	Libertad supervisada
Payee	Beneficiario
Payor	Pagador
Penalties	Penas
Penalty assessment	Impuesto legal
Personal Injury	Lesión personal
Petition	Petición
Petition (initial written document)	Solicitud
Petitioner	Demandante
Physical harm	Daño corporal
Physical or mental disorder	Trastorno físico o mental
Plea bargain	Trato declaratorio
Pleading	Alegato
Post	Dar aviso
Post bail	Pagar la fianza
Power of attorney	Poder duradero
Prayer (Protective Order)	Súplica
Precedent	Precedente
Preemptory challenge	Recusación preventiva
Presiding Judge/justice	Juez que preside
Pre-Trial Conference	Audiencia de conciliación
Probable cause	Motivos fundados
Probate	Legalización de testamentos
Procedure	Procedimientos
Proceedings	Acto procesal
Process server	Profesional de entrega legal
Promissory note	Nota promisoría

Pronouncement of judgment	Dictar el fallo
Prosecuting officer	Oficial de la fiscalía
Protective Order	Orden de protección
Public offense	Delito público
Public record	Acta pública
Punitive	Punitivo
Putative father	Padre putativo
Qualify	Reunir los requisitos, ser apto
Quash	Invalidar
Quiet title	Fijar la validez de un título
Rape	Violación
Rap sheet	Lista de antecedentes
Real copy	Copia fiel
Real Estate Property	Bienes Raíces
Rebuttal	Refutación
Recall warrant	Retirar la orden
Recess	Descanso, receso
Record	Acta
Record	Asentar
Record on appeal	Acta de apelación
Record of conviction	Antecedentes penales
Recuse	Recusar
Referral	Remisión
Release of penalties	Liberación de pena
Rent	Arrendar, Alquiler
Renters	Inquilinos
Remand	Remitir
Remanding order	Orden de remisión
Remittitur	Auto de devolución (de actas)
Reset	Volver a fijar
Respondent	Demandado
Relief	Ayuda
Restitution	Indemnización
Seizure order	Orden de confiscación
Self-surrender	Rendirse por cuenta propia
Sentence	Sentencia

Service of process	Entrega de proceso
Settlement (Civil)	Acuerdo económico
Severance of actions	División de acciones
Shelter	Albergue
Sheriff	Alguacil
Small claim (civil)	Demanda de reclamo menor
Stalking	Acechar
Statute of limitations	Ley de prescripción
Statutes	Estatutos
Stay order	Orden de suspensión
Subject to	Estar sujeto a
Submit	Enviar, remitir, presentar
Subpoena	citatorio
Subpoena duces tecum	Citación duces tecum
Subsidized housing	Subsidio de vivienda
Substituted service	Entrega sustituida
Summary judgment	Fallo sumario
Summons	Emplazamiento
Summons & Complaint	Emplazamiento y Demanda
Superior court	Corte superior
Supreme court	Corte suprema
Surety bond	Fianza garantizada
Swear	Jurar
Swear under oath	Declarar bajo juramento
Temporary custody	Tutela temporal
Tenant	Inquilino
Third party action	Acción de una tercera parte
Ticket	Citación, Multa
Toll	Limitación, Peaje
Tort	Agravio
Traffic safety school	Curso de seguridad vial
Transportation list	Lista de transporte
Transportation order	Orden de traslado
Trial jury	Jurado de juicio
Truancy	Ausentismo escolar
Under oath	Bajo juramento

Under penalty of perjury	Bajo pena de perjurio
Unlawful detainer	Retención ilícita de un inmueble
Utah law	Ley de Utah
Vacate the default judgment	Anular el fallo por falta de incumplimiento
Valid	Vigente
Vehicle insurance	Seguro para el vehículo
Vehicle registration	Matricula del vehículo
Venue	Lugar
Verdict form	Formulario de veredicto
Violation	Quebrantamiento
Wage garnishment	Embargo de sueldo
Wage withholding	Retención de sueldo
Warrant	Orden de arresto
Withhold	Privar
Writ	Auto
Writ of execution	Auto ejecutivo
Wrongful death	Muerte por negligencia

COMMON ABBREVIATIONS, ACRONYMS, & SYMBOLS

ADA:	Americans with Disabilities Act
ADR:	Alternate Dispute Resolution
AEC:	Attempted Employment Contact
AG:	Attorney General
AHC:	Attempted Home Contact
AOC:	Administrative Office of the Courts
BW:	Bench Warrant
CC:	Collateral Contact
COA:	Court of Appeals
CS:	Community Service
CTS:	Credit for Time Served
CT:	Court
DDS:	Department of Driver Services
DFCS:	Department of Family & Children's Services
DOC:	Department of Corrections
DR:	Delinquency Report
DS:	Drug Screen
EC:	Employment Contact
EM:	Electronic Monitoring
FC:	Field Contact
FTA:	Failure to Appear
FTC:	Failure to Comply
FTR:	Failure to Report
FY:	Fiscal Year
HC:	Home Contact
HR:	Human Resources
INS:	Immigration and Naturalization Services
IT:	Information Technology
JC:	Jail Contact
OC:	Office Contact
OTSC:	Order to Show Cause
PET:	Petition
PD:	Public Defender
PO:	Probation or Parole Officer
PSI:	Pre-Sentence Investigation
RRP:	Risk Reduction Program
SA:	State Attorney
SO:	Sheriff's Office
TC:	Telephone Contact
TX:	Treatment
VOP:	Violation of Probation
WA:	Warrant
^	Defendant/Offender/Probationer

Note that this list is not all inclusive. Each jurisdiction may have its own list of abbreviations, acronyms, and symbols.

SOP



Standard Operating Procedures
Effective: July 30, 2015

I. Court Room Intake

- A. PPS staff shall be courteous and professional in court and shall display identification badges (if required) at all times.
- B. PPS staff shall fill out the appropriate documents legibly and completely.
- C. PPS staff shall make reasonable efforts to ensure that new probationers sign their sentence, are given a copy of their sentence, are given a completed map/appointment notice, and have a full and clear understanding of the conditions of their sentence before leaving the courtroom.
- D. Officers shall dress professionally at all times. Female officers shall wear suits, skirts, or dresses. Male officers shall wear a coat and tie.

II. Data Entry

- A. Case files must be returned from court to the probation office in order to be properly entered into the computer.
- B. Cases need to be keyed into the probation accounting system accurately by utilizing the case sheet(s) and sentence sheet.
- C. Once a case has been entered, the case must be delivered to the appropriate officer.

III. Office Contacts

- A. All contacts with probationers shall be documented in the field notes.
- B. Probationers should be escorted in the probation office at all times.

- C. Probationers must be treated with professionalism at all times.
- D. All probationers should leave the office with a valid receipt and an appointment for their next office contact, when appropriate.

IV. Addressing Violations

A. Failure to Report

1. Upon a missed appointment the PPS officer shall place telephone calls to at least two known numbers until reaching the probationer and rescheduling the appointment.
2. If the probationer cannot be reached by telephone, the PPS officer shall mail a missed appointment card/letter instructing the probationer to report on a specific date and time. All correspondence regarding a probationer's case must be copied and placed in the probationer's original file folder.
3. PPS officers shall not tolerate continued "Failure to report" violations of probation. PPS staff shall schedule walk-in hearings to address these violations whenever possible to reprimand those probationers whose reporting habits are unsatisfactory.

B. Failure to Pay

1. Under no circumstances shall any PPS staff allow a case to expire with a fine balance greater than \$0.00. If a case expires (without written consent of the Court) with an outstanding balance or special condition, the supervising officer shall write a memorandum to the Senior Vice-President of Operations providing an explanation for the expiration and documenting the details of the case.
2. All probationers' monthly payment schedules shall be calculated by PPS staff in accordance with Court directives.
3. If, at any time during a probated sentence, the probationer should become behind on his/her financial obligation to the Court, the PPS officer should schedule a walk-in hearing to address these financial deficiencies.

C. New Non-Violent Misdemeanors

1. PPS recognizes that criminal offenses committed by probationers are violations of probation. Therefore, a walk-in hearing should be promptly scheduled to address ALL new non-violent misdemeanor offenses as directed by the Court.

D. New Violent Misdemeanor Offenses and All Felony Offenses

PPS recognizes the tremendous liabilities involved when a probationer commits/is charged with a violent misdemeanor or felony, and is allowed to remain free from custody of the court's facility of detention. PPS will, therefore, immediately request the issuance a probation warrant (upon verification of new charges) when:

1. The PPS officer is notified that the probationer has been charged with a new violent misdemeanor or felony.
2. The probationer reports to the probation office and discloses that he/she has been charged with a new violent misdemeanor or felony.
3. The PPS officer should immediately schedule a custody revocation hearing as the corresponding court's calendar and procedures dictate.
4. A felony shall be any act defined as such by the laws of the state and the United States of America.

E. Substance Abuse Violations

1. In the event that a probationer reports to the probation office under the influence of drugs and/or alcohol, PPS staff shall notify the Court of the alleged violation.

F. Witnessed Unlawful Vehicle Operation

1. In the event that a PPS staff member either witnesses or has probable cause to believe that a probationer has driven a vehicle to the probation office while his/her driver's license is either invalid or suspended, PPS staff should advise the appropriate law enforcement agency by telephone of the following:
 - The probationer's name and date of suspension/date of guilty plea to the suspendable offense
 - The probationer has driven to the office
 - PPS is requesting that a law enforcement officer be dispatched to question the probationer and/or take appropriate action
2. In the event that the police agency declines to dispatch an officer, PPS staff shall advise the probationer of the violation, allow the defendant to telephone for a ride, and supervise the defendant until he/she leaves the office as a passenger of a licensed driver. A walk-in modification/revocation hearing may be scheduled at the direction of the Court.

V. Warrants

- A. All warrants shall be legible and complete.
- B. All warrants that are prepared and submitted to the court shall be properly signed and notarized.
- C. If it is determined that the probationer has absconded, a tolling affidavit may be submitted to the Court in accordance with state law.

VI. Recalling Probation Warrants

- A. Warrants may be recalled when a probationer is able to satisfy all alleged violations contained in the warrant (i.e. remitting TOTAL BOND AMOUNT DUE, new charges are dismissed, defendant produces proof of completion of alleged special condition violations, etc.) and the Court approves the recall of the warrant.
- B. In the event that a warrant is to be recalled, PPS staff shall transmit a warrant recall form to the appropriate government agency. PPS staff should follow up with a telephone call requesting prompt return of the signed recall verification form. The form, once returned by the government agency shall be placed in the probationer's file.
- C. If a probationer is taken into custody on a probation warrant, the warrant cannot be recalled as it was served.
- D. Warrants that have been issued on cases that cannot be tolled should be recalled prior to the expiration of the case.

VII. Modification/Revocation Hearings

- A. Modification/Revocation Hearings should be conducted according to state law and criminal procedures.
- B. All materials should be legible and complete, and should be reviewed by the office manager prior to the hearing.
- C. PPS staff shall stand whenever addressing the Court and shall speak in a clear and confident tone of voice.

VIII. Hours of Operation

- A. PPS offices should be open as individual contracts and/or PPS management dictate, Monday through Friday.
- B. Each office location should designate one weekday per month which should serve as its "late night" on which the hours of operation shall be from 10:00am until 6:00pm or 10:30am until 6:30pm.
- C. Each office should designate one Saturday (either the last or second to last in the month) per month to operate from 8:00am until 12:00pm or 9:00am until 1:00pm.
- D. In the interest of crime prevention, offices should not open early for any reason. The doors should remain closed prior to and immediately following the hours of operation.

The procedures incorporated herein above shall constitute the Standard Operating Procedures of Professional Probation Services, Inc. Any procedures previously ratified in conflict with the procedures contained herein above are hereby repealed and declared null and void. All procedures incorporated herein may be modified or overridden by the presiding judge. Any deviation from these procedures should be documented accordingly.



PPS Professional Probation Services
1770 Indian Trail Rd. • Suite 350
Morgansville, Georgia, 30093
877.268.8119 • 678.218.4100
FAX 678.218.4104
www.professionalprobation.com

STANDARD OPERATING PROCEDURES

This is to certify that I, the undersigned, have read/have had read to me the Standard Operating Procedures of Professional Probation Services, Inc., and now express a full understanding of its content, policies, and procedures.

Employee Signature

Date

Witness

Date

**Offender
Management**

PRE-SENTENCE INVESTIGATIONS

I. PURPOSE

- A. Provides verified information on an offender
 - 1. Provides the Judge with personal and behavioral data
 - 2. Aids in sentencing decision
 - 3. Assists in supervision planning and treatment

II. VERIFICATION OF INFORMATION

- A. Official reports and identifiable sources (cite sources)
- B. Documentation of unverified information (ex. "claims")
- C. Check gaps and conflicts in information

III. SOURCES OF INFORMATION FOR PSI

- A. Official Reports
 - 1. Police
 - 2. GCIC, NCIC
 - 3. Court records
- B. Interviews
 - 1. Family
 - 2. Witnesses, victims, co-defendants
- C. Military records
- D. Bank, utilities, etc.
- E. Offender's version
- F. School and employment records

IV. DISCLOSURE

- A. Access to results and content of PSI
- B. Confidentiality
 - 1. Privacy Act of 1974
 - 2. Georgia Code
 - 3. Court decisions
- C. Requirements to disclose
 - 1. Limited to judge and related agents of the court
 - 2. Exception – imminent danger to third party
 - 3. Not typically authorized: Attorney, Offender, DA

V. OFFICER'S RECOMMENDATIONS IN PSI

A. Sentence

1. Consider all factors and mitigating circumstances
2. Weigh benefit of incarceration vs. probation (public safety)

B. Restitution

1. Document requests from victim(s) and damage estimates
2. Consider economic and other factors

Court Intake

PPS staff shall act and dress professionally in Court at all times. All staff should display identification badges.

- A) Complete Case Information Sheet (Field Sheet). Fill out all sections accurately and legibly. Take your time to avoid mistakes.
- B) Review the Sentence Sheet with the defendant. Make sure that the defendant has a full understanding of all the conditions of his/her sentence. Obtain the defendant's signature on the appropriate line.
- C) Complete the Map/Payment information sheet. Please take a moment to explain the directions to the probation office and the payment options. Remind the defendant that a payment is due at the first office appointment.
- D) Try to schedule the defendant's first appointment within ten days of sentencing. If there are *less than five business days* left in the month, then the defendant's payments will not begin until the 1st of the next month. The Start date should reflect the month in which probation fees will begin.

Example:	Sentence Date	03/26/09
	Start Date	04/01/09
	End Date	03/26/10

Give to Defendant:

- 1) Copy of Sentence Sheet
- 2) Map/Payment Sheet

In PPS File:

- 1) Copy of Sentence Sheet
- 2) Case Information Sheet (Field Sheet)
- 3) Any other court related forms.
- 4) Any documents provided by defendant for file.

Leave w/ Court Clerk:

- 1) Original Sentence Sheet
- 2) Original court File with citations and records.

PPS

Probationer Case Information Sheet

Personal Information

Court: _____ Probation Y/N _____ Other: _____
Last Name: _____ First Name: _____ SSN: _____
AKA: _____ Min Monthly Pmt: _____ DOB: _____
Home Phone: _____ Cell Phone: _____
Home Address: _____
City: _____ State: _____ Zip: _____
Employer: _____ Work Phone: _____
Work Address: _____
City: _____ State: _____ Zip: _____
Sex: _____ Race: _____ Height: _____ Weight: _____ Eyes: _____ Hair: _____

Emergency Contact Information

Contact #1: _____ Phone: _____
Address: _____ Relationship: _____
City: _____ State: _____ Zip: _____
Contact #2: _____ Phone: _____
Address: _____ Relationship: _____
City: _____ State: _____ Zip: _____

Court Information

Judge: _____ Officer: _____
Dates: Sentence: _____ Start: _____ End: _____ Term/Months: _____
t Office Contact Date: _____

Intake Officer: _____

Date: _____

**IN THE MUNICIPAL COURT OF AUBURN
LEE COUNTY, STATE OF ALABAMA**

CITY OF AUBURN

vs

OFFENSE	CITATION #	FINE & COURT COST	TOTAL

SENTENCE OF PROBATION

WHEREAS, The above disposition has been made against the above named defendant, the defendant is hereby sentenced to confinement for a period of _____ days and ordered to pay a total fine in the amount of \$ _____ dollars,

HOWEVER, it is further ordered by the Court that the defendant is hereby ordered to serve _____ months on probation, subject to the following conditions:

1. Pay a monthly probation service fee of \$35.00 to Professional Probation Services, Inc.;
2. Pay all fines which include surcharges within _____ months; at a rate of \$ _____ per month.
3. Not violate the laws of any governmental unit;
4. Report to the probation supervisor as directed and behave in a truthful and respectful manner;
5. Work faithfully at suitable employment insofar as may be possible;
6. Not change his/her present place of abode, or leave the State without notifying the probation supervisor;
7. Support his/her legal dependants to the best of his/her ability;
8. Avoid injurious and vicious habits-especially alcoholic intoxication, and dangerous drugs unless prescribed lawfully;
9. Avoid persons and places of harmful or disreputable character;
10. Not to drive without a valid State Driver's license;
- ☐ 11. Abstain from the use of alcohol and drugs, and submit to random alcohol/drug testing;
- ☐ 12. Complete and alcohol and drug use evaluation and follow all directives for treatment or counseling;
- ☐ 13. Complete an Anger Management evaluation and follow all directives for treatment;
- ☐ 14. Complete _____ hours of community service as directed by the probation officer;
- ☐ 15. Probation to be unsupervised upon payment of the fine and cost;
- ☐ 16. Pay restitution in the amount of \$ _____ to _____ for Citation # _____;
- ☐ 17. Serve _____ days in the Lee County Justice Center; to report on _____ and released on _____;
- ☐ 18. Not to bother, harass, or contact affiant _____;
- ☐ 19. To stay off the property of _____;
- ☐ 20. Pay Attorney's fee in the amount of \$ _____ to _____;
- ☐ 21. To be placed on an electronic monitoring system for a period of _____ days beginning on _____ and ending _____;
- ☐ 22. _____;

UPON THE VIOLATION of any of these conditions, probation may be revoked and the sentence of confinement executed. The Defendant is subject to arrest upon the violation of any condition of probation. **IT IS SO ORDERED,** this _____ Day of _____, 20_____.

Judge, The Municipal Court of Auburn, Alabama

This is to certify that a true and correct copy of this sentence has been delivered in person to the Defendant who has been duly instructed regarding the conditions of probation. This _____ day of _____, 20_____.

Probation Officer

Defendant

White - Clerk of Court

Yellow - Probation

Pink - Defendant



KNOW YOUR RIGHTS...

If you are indigent, meaning you do not have the ability to pay your fines (which is different than not wanting to pay your fines), your probation cannot be revoked for failure to pay, alone.

Your probation can be revoked for failing to report as directed and for other violations, so it is important to report even if you don't have the money to pay.

If you are truly unable to pay the monies ordered by the Court due to indigency, you may be eligible to have your fines converted to community service work.

The key to success on probation is to report and comply with all conditions- and to communicate with your officer about your situation!

If you are unemployed, your PPS officer can assist you in your job search and even help you develop a resume - just ask.



RESTITUTION AS A CONDITION OF PROBATION

Prior to granting any restitution, the court shall make a written finding either:

1. There are no victims to whom restitution shall be made under the policy of this state
2. That the circumstances of the case are such that no restitution order or plan is reasonably possible
3. That the offender, in cooperation with the governing authority, has developed and consented to a plan of restitution, which plan shall be made a part of the restitution order; or
4. That restitution will be ordered as a condition of the relief.

In determining the nature and amount of restitution, the court shall consider:

1. The present financial condition of the offender and his dependents;
2. The probable future earning capacity of the offender and his dependents;
3. The amount of damages;
4. The goal of restitution to the victim and the goal of rehabilitation of the offender;
5. Any restitution previously made;
6. The period of time during which the restitution order will be in effect; and
7. Other appropriate factor which the ordering authority deems to be appropriate.

A failure to consider the above factors is error and the case will be remanded for a hearing in compliance with such factors.

The sufficiency of evidence to support an order of restitution in a criminal case should be measured by the "preponderance of the evidence" standard.

Add Cases

All new cases are added to the OTS system by selecting *Add Cases* in User's Menu.

Some items of note:

- Use all CAPS
- Use Tab to move between boxes- **Do NOT use Enter**
- DO NOT use commas, apostrophes, or parentheses
- Take your time. Accurate data entry is VERY important.

I. Personal

- 1) Select **proper** Court
 - 2) Select **Y** or **N** for F.O.A. or Conditional Discharge (select **N** for probation cases)
 - 3) Type Last **ONLY** (hyphenated names are fine, but NO Jr., III, etc.)
 - 4) Type First Name and Middle and/or any other designation HERE (Jr.)
 - 5) SSN- use DASHES (123-45-6789)
 - 6) AKA- any other known names
 - 7) Min Monthly Payment -should include Fee and Fund (35/9/101fine= \$145)
 - 8) Birth (DOB)- use slashes- **MM/DD/YYYY** format
 - 9) Home Phone and Cell Phone-use dashes (678-290-5775)
 - 10) Height- use dashes- NO apostrophes or quotations (5-9)
- Note: All other boxes are either self-explanatory or are "open" fields.

II. Contact Information

Same rules apply.

III. Court Information

- 1) Select **proper** Judge (see signature on Sentence Sheet)
- 2) Select **proper** Officer
- 3) Sentence, Start, and End Dates- use slashes- **MM/DD/YYYY** format
- 4) Term/Months- number of months on probation (i.e. 12)

IV. Financial Information

- 1) ID- type **COMPLETE** docket/citation # (as required by your court)
- 2) Offense- type offense (open field)
- 3) Amt and Type- enter the dollar amount of the first ID and then EVERY required TYPE (FINE< FEE, FUND, SCRIN, REST, etc.) Use the amount of months sentenced to determine the total amount of FEE and FUND (i.e. 12 x \$35= \$420 fee and 12 x \$9= \$108 fund).
- 4) Enter ALL other citation numbers that carry a balance. (Note: if the number of citations exceeds the number of available boxes, you will need to use the *Add On Charges/Fees* tab in Case Management AFTER the case is fully entered into the OTS)

V. Special Conditions

These are open fields.

Final Step

Verify all data and click the *Submit* button.

Payments & Receipts

I. Sign In and Pay

- 1) Have defendant sign-in and document name, date, and the amount of money being paid.
- 2) Verify amount and check any bills for counterfeit (with pen).

II. Search and Apply Money

- 1) Using the payment OTS program- *Search* for defendant.
Use one of the following search methods (type query, then select the proper F-key):
 - a) ***F-11 Filtered Name- use **partial last name with comma (,)*****
 - b) F-6 DOB- use date of birth
 - c) F-7 Docket- use docket ID number
 - d) F-8 Name- use for EXACT name
 - e) F-9 SSN- use Social Security number
 - f) F-10 PPSI- use PPSI number
 - g) F-12 Filtered SSN- use partial Social Security number
- 2) Select defendant from list and DOUBLE CLICK.
- 3) Verify START DATE and payment *History* to determine the proper application of funds.
- 4) Select *Post Payment* or *Non-Payment*.
- 5) Type in tender: **M.O.** (money order) or **Cash**
- 6) Use **Tab to Reference** – type in initials. If money order, include number and description.
Example: **M.O. USPS123456789878 DJ**
- 7) Type in offered amount- then hit **ENTER**
- 8) Apply correct amount of money to each data line (Type)- using **ENTER** on every line.
- 9) Select *Apply* button.

III. Secure Funds

- 1) Wrap and clip duplicate receipt around money and drop in pay drawer or drop safe.
- 2) Every defendant should leave with a copy of the receipt at every office visit (including Non-payments).
- 3) Make sure to use Handwritten Receipt book when the computer or printer is down (see Handwritten Receipt Procedures).

Keith Ward

From: David Jacobs [djacobs@ppsinfo.net]
Sent: Friday, February 06, 2015 10:46 AM
To: All PPS Staff
Subject: Help Ticket Reminder

PPS Staff,

Just a quick reminder in regards to our technology HELP DESK. Many of you have been utilizing "support" from our PPS Help Desk for some time now. However, we still get occasional questions- especially from new employees. Please note that you all have access to our Help Desk through your OTS case management program. If you are having any technology/communications issues PLEASE use this option to get the quickest solution to your problem.

Some of the issues that apply (but are not limited to):

- computer hardware
- software- including OTS
- networking/internet
- printers (if copier- please contact your copier rep directly using phone number on machine- these are under lease agreements)
- phone/communications
- email
- editing
- need new/unique reports for your court

Obviously if your situation is an EMERGENCY- feel free to contact IT directly by phone (AFTER creating a support ticket first). Our IT department has successfully "cleared" MANY support tickets in 2014 and we feel that this the best solution going forward.

Thank you,
David Jacobs, PPS Inc.
Sr. VP of Compliance

Keith Ward

From: David Jacobs [djacobs@ppsinfo.net]
Sent: Wednesday, June 03, 2015 10:39 AM
To: All PPS Staff
Subject: New Hand Written Receipt Books
Attachments: Handwritten Receipt Procedures.doc

All PPS Staff,

In the coming week all PPS locations should receive new handwritten receipt books. Please have every employee (who receives payments) read this attachment in order to familiarize themselves with our current PPS Handwritten Receipt Policy. A few things to keep in mind:

- 1) Every office will receive a color copy of a "sign" that will need to be displayed at every PPS pay window. This sign describes what the new receipts should look like (to defendants) and should be displayed "face out" on inside of your pay window (so that is easy to see- but can not be removed). If you do not have a traditional pay window in your office- please display the sign at each location that money transactions take place (you may want to frame it).
- 2) Please remember to bring (or mail) your 2013-2015 receipt books to the PPS corporate office once you receive your new receipt books. Make sure to write the name of your office in permanent marker on the outside of each receipt book- to avoid confusion.
- 3) As a part of this new program- we are trying to LIMIT the number of receipt books out in the field. If you are required to take payments in court at the SAME TIME that your office is open- then we will assign your office TWO books. If you are in a "one person" office- then you will only be assigned one book. Remember- our goal is to "shore up" handwritten receipt usage company wide- so only request what is absolutely necessary. In the future- you will NOT be allowed to purchase receipt books from a retail store- only PPS receipt books should be used. So make sure to order a replacement book when you are down to the last few pages. When a receipt book is "full"- it will need to be mailed or delivered to the corporate office for verification. You will no longer have to store old receipt books in your individual offices.

FYI- All Metro-Atlanta offices received their receipt books this week.

All Florida, Mississippi, and Alabama offices shipped out today (and Garden City). I will be delivering the Utah receipt books in person next week (office audits).

Please feel free to contact me with any questions or concerns.

Thanks,
David Jacobs, PPS Inc.
Sr VP of Compliance

PPS Handwritten Receipt Procedures

- 1) A handwritten receipt should only be used when the OTS accounting system is unavailable. Some common examples of this are: when the internet connection or the "payment" computer or printer is "down"; or when you are REQUIRED to accept a payment at COURT (outside of the office).
- 2) All handwritten receipt books should be issued by the PPS corporate office and should contain the PPS logo. DO NOT use a generic receipt book that can be purchased at the office supply store. Receipt books will be assigned to individual PPS offices and will be tracked by individual receipt numbers. New receipt books should be ordered from corporate on your monthly supply list as you get down to the last few pages in the book. Used receipt books will need to be mailed back to the corporate office for verification.
- 3) All handwritten receipts should be filled out LEGIBLY and COMPLETELY. This should include: the date, the DEFENDANT'S full name, the exact amount of payment, the type of tender (cash or money order), and the signature of the individual taking the payment. Always use a BALL POINT pen and make sure that the cardboard "backing" is in place so that you do not "write through" on multiple receipts (beyond the duplicate).
- 4) Handwritten receipts should be used in the sequential order that they appear in the receipt book (do not skip around).
- 5) Remember that every handwritten receipt is viewed as PROOF that actual money was received by PPS. This should be taken seriously. When a defendant is given a receipt, it is assumed that a payment WAS received. If, for any reason, a mistake is made on the receipt or the payment is NOT received by PPS, then the original receipt should NOT leave the office. This shall be considered a VOIDED transaction. All voided receipts should be left attached (or be reattached) and the word VOID shall be printed clearly on the receipt.
- 6) The most proper way to store cash or money order payments from handwritten receipts is to make a copy of the defendant's receipt (copy machine) and use this copy to "wrap around" the payment and to drop it in the pay drawer or safe.
- 7) Payments from handwritten receipts MUST be entered into the accounting system at the office's EARLIEST convenience. If you are holding ANY handwritten receipt money for more than TWO business days, you must contact a Sr. VP or the Director of Compliance for guidance.
- 8) When entering handwritten receipt payments into the accounting system you must WRITE the following three things on EVERY handwritten receipt: the date that the payment was entered, the receipt number generated by the computer, and then you must INITIAL the transaction.
- 9) Receipt books shall be stored and maintained in a safe place (locked in safe) and should be easily found and obtainable when requested. NEVER should a used handwritten receipt book be destroyed or discarded. Please remember to turn in all completed receipt books to the corporate office for final verification by the Dept of Compliance.

Case Management

Log into Case Management using your username, password, and three digit office number.

I. Search

- 1) Click on the *Select Offenders* tab to search.
- 2) Type in defendant's last name (or partial name) and submit.
- 3) Use alternative search criteria if the defendant's name is not found.
- 4) Select defendant's name from list by single clicking with mouse.

II. Office Contacts and Documentation

- 1) First visit- verify all information (personal info, contact info, court data and conditions)
- 2) Click on *Notes* tab and type narrative (see documentation training materials)
- 3) Click *Add* to submit documentation.
- 4) Leave note section and select *Schedule Appointment*. Select day on calendar and choose a time (military time). Type in a note if needed (mail-in, check on Custody or TX, etc.)
- 5) Other Tabs:
 - a) Use *Update Conditions* tab to update Special Conditions (CS, RRP, A&D)
 - b) Use *Update Contact Info* tab to update address and/or phone numbers.
 - c) Use *Change Status* tab to change the defendant's status- ALWAYS type a narrative when submitting a change of status (warrant-tolling issued on 03/16/09)
 - d) Use *Add Drug Screen* tab to add the cost of a drug screen to the defendant's financial obligations.
 - e) Use *Add On Charges/Fees* tab to add other citation numbers or Types (ELEC)
 - f) Use *Case Information Sheet* tab to print out entire case and notes for hearings or when you terminate a case.
 - g) Use *Terminate Case* tab to close out a case (See below).
 - h) Use *Return to Search* tab to search for another offender.
- 6) Other Listings (found in User's Menu):
 - a) *Schedule Listing*- this is a list of all defendants scheduled for a specific day. This can be printed and used as a calendar/list for the reporting day.
 - b) *FTR Listing*- this list compiles all defendants in Active status that do not have a future scheduled appointment.
 - c) *Expiration Listing*- this is a list that tracks all Active cases that are set to expire during a selected time period.

III. Case Termination

- 1) A probation case can end in one of three ways:
 - a) PIF- the defendant successfully pays off all fines and fees and completes ALL conditions of his/her sentence prior to the case's End date.
 - b) REV- the defendant can be in violation of his/her sentence and be revoked to serve the remainder of the sentence in custody and the case is closed (filed on a Petition).
 - c) TERM- the case can be terminated due to reasons other than Revocation. (deceased, treatment, disability, expired in custody, etc.) The unsuccessful termination of a case requires that an order be filed with the Court.
- 2) All cases that are to be terminated should have CLEAR and ACCURATE documentation in the case notes stating why the case is being close.
- 3) Make sure to **print notes for case file** and log case into the Termination Log.
- 4) Log any remaining balances (Term Log) on REV and TERM cases before using the *Terminate Case* tab (once function is used, ALL balances will be ZEROED out of OTS).
- 5) File case in Termination File Cabinets.

Keys to Effective Caseload Supervision

Organization

To be an effective officer, you must be organized and know how to prioritize.

Know your caseload: Who they are, where they live, where they work, what they do.

Do you have a system?

Identify goals and decide what is important. Plan daily for supervision activities.

Documentation

Document, document, document . . .

Case documentation must capture pertinent information concerning compliance/non-compliance with the sentence of probation.

If it is not documented, it didn't happen!

Case documentation is:

- Clear
- Concise
- Current
- Accurate
- Informative
- Comprehensive
- On-Going
- Dynamic
- A Chronology of Events

All contacts and interactions must be documented.

The Initial Office Contact

This is your opportunity to evaluate the offender for what strategies will work best and to formulate supervision goals. Look for: Mental health issues, physical limitations, educational background, substance abuse issues, employment history, criminal history, family history, possible support structure (faith based, mentor, family, etc.).

Remember, it is also the offender's chance to size you up as an officer. Don't forget, this is an exchange!

Your questions should enhance the information you find in the offender's file. Questions should be directed at getting a full range of information that will assist you in knowing the person's habits, attitudes, behaviors, and environment. This will allow you to effectively and efficiently supervise the case.

Allocate appropriate time.

Keep instructions simple, but specific.

Be professional!

Office Contacts: Basic Documentation

I. First Office Contact

- *1. Note the Date and Time of office contact.
- *2. Document Fee/Fund/Fine/Rest payments and balance.
- 3. Review Sentence of probation and obtain a complete understanding.
- *4. Verify personal information. Note any changes.
- *5. Any new arrests or citations? (No A/T/C)
If yes, verify through arresting agency.
- 6. Review all Special Conditions and set deadlines.
- 7. Give out paperwork for CS (Timesheet) - obtain signature on Waiver.
- 8. Allow defendant to select from State Certified List of providers for RRP (DUI school), A&D evaluations and TX (treatment).
Do NOT give out a partial list or recommend a specific provider.

Refer defendants to the following State of Georgia web sites:

<http://www.mop.uga.edu/cetp/mop/soc.aspx>

<http://www.dds.ga.gov/DUI/index.aspx>

- *9. Note the date and time of next office contact and select new date on the Schedule Listing. Write the next oc on the defendant's receipt.

II. Subsequent Office Contacts

- 1. Repeat numbers with *
- 2. Update all Special Conditions at every visit.

Sample Documentation- Case Notes

03/26/09 Sentenced to Probation. First oc set for 04/03/09 @ 2:00.

04/03/09 FTR dj

04/06/09 TC to defendant's home. Spoke with defendant. Reprimanded for FTR. Next oc 04/10/09 @ 3:00. Reminded defendant to bring payment. dj

04/10/09 OC @ 2:50pm. Paid: 35fee / 9fund / 100fine Bal= \$900
-Defendant expressed a full understanding of sentence and conditions.
-Verified personal info- no changes.
-No new arrests or citations.
-Def. signed CS intake/waiver forms. Def. given timesheet. Deadline set for 06/10/09 (40 hours).
-Def. given deadline for RRP by 07/20/09.
Next oc 05/08/09 @ 11:00am. dj

05/08/09 FTR dj

05/11/09 -TC to defendant's cell- disconnected.
-TC to defendant's home- no answer- no voice mail.
-TC to defendant's work- spoke with defendant's supervisor, Mr. John Smith. He said def. did not show up for work two weeks ago and hasn't heard from him since (terminated).
-TC to E#1, Mary Johnson, defendant's mother. She said that she has not heard from or seen the def. in about two weeks. dj

05/14/09 Sent FTR postcard to last known address. Made copy for file. Next oc 05/25/09 @ 10:00am. dj

05/25/09 FTR dj

05/27/09 Warrant and Tolling issued. dj

Crisis Management

De-escalation is the art of being able to reduce the danger in a crisis situation where tension is at an elevated state.

The goal is to enable the person in crisis to regain control to the degree that they are able to resolve or reduce their stress to a manageable level. It requires effective communication skills on the part of the probation officer seeking to intervene.

Effective Communication Skills:

Active Listening: The ability to hear what another person is saying, letting them know that they have been heard, while maintaining control of the situation. Not just listening to the words, but listening to the meaning of the words.

Empathy: The ability to put yourself in another person's shoes – seeing their circumstances as they see them. Empathy is different from sympathy.

Characteristics of a Person in Crisis:

- May appear to be hallucinating
- May be agitated/angry/withdrawn/aggressive/suicidal/non-responsive/demanding
- May appear to be under the influence
- Rapid speech or noticeable change in typical speech pattern
- Pacing or shifting from one foot to the other
- May avoid eye contact or be wide-eyed
- May cry uncontrollably
- Animated hand gestures

Assessing the Crisis:

- ALWAYS maintain your safety
- Maintain safety of others
- Maintain safety of the person in crisis
- Observe and assess the situation

De-Escalation Tips:

- Maintain at least two (2) arms lengths between you and the person in crisis
- Approach the person from the front if you have to approach them
- Make sure your hands are visible with palms open
- Maintain a calm, assured voice
- Lower the volume of your voice
- Use encouraging statements to let the person know that you are listening
 - I see
 - I understand
 - I appreciate that
- Introduce yourself – even if the person knows you
- Ask open ended questions
- Do not take insults personally
- Get information from family/support system
- Give simple, short commands
- Say “Thank you” when compliance is given
- Try to respond only to relevant questions
- Re-state/reflect what the person says to you so they know you are listening
- Be sincere and patient
- Provide hope and practical help

Behaviors You Should Avoid:

- Risks to safety
- Laughing at the person
- Making fun of the person
- Staring
- Turning away from the person
- Interrupting the person
- Getting into a power struggle
- Crossing arms, clenching fists, placing arms behind your back

Remember, stages of a crisis may vary in intensity. It is important to understand the intensity/seriousness of the crisis to help you de-escalate/manage the crisis.

Community Service

Uncompensated work performed by offenders with an agency for the benefit of the community as a condition of probation.

Community Service Goals

1. To hold probationers accountable for their actions while benefitting the community.
2. To promote a work ethics approach to punishment, enabling the probationer to become personally involved with meaningful community projects.
3. To promote a highly visible program which fosters citizen involvement in and understanding probation.

Work Site Requirements

1. The site must be a court approved, non-profit organization and no work can be performed that is unrelated to court-approved work duties.
2. It is illegal to allow an offender to be used for any purpose resulting in private gain to an individual.
3. The site can't be one that would involve any probationer having supervisory or disciplinary power over a child or children (OCGA 49-5-110).
4. A church work site may be used only when approved by a court and the work performed must benefit the general public.

COMMUNITY SERVICE INTAKE FORM

NAME _____ SEX _____ AGE _____ SSN _____
 MEDICAL DISABILITIES/PROBLEMS _____
 OFFENSE _____ DOCKET _____ JUDGE _____
 SENTENCE DATE _____ TERMINATION DATE _____
 NUMBER OF HOURS _____ DEADLINE _____

COMMUNITY SERVICE RESPONSIBILITIES AND REQUIREMENTS

1. You must complete no less than (8) hours of community service work each consecutive week. Of course, you may do more each week to finish sooner.
2. Your community service must be accomplished with a positive and cooperative attitude and the work should be accomplished on the established schedule with quality workmanship.
3. Failure to show up for community service will not be tolerated without prior approval. This includes being late or leaving early. You must report to the on-site supervisor when you arrive or leave site.
4. Any unexcused absence, failure to perform work as instructed, insubordination, intoxication, illegal drug use, or any act disruptive to the work crew will result in you being immediately dismissed from the work detail, and the reason for dismissal reported to the sentencing Judge.
5. No one except the sentencing Judge and the Probation Officer has the authority to excuse you from community service work.
6. The only acceptable excuse is a written doctor's excuse that has been verified by your Probation Officer. Other excuses will only be accepted after the facts have been verified.
7. You are responsible for providing your own transportation to your community service site.
8. Clothing requirements should be based on weather, type of service, and site location.
9. Problems that arise while performing community service should be brought to the attention of the on-site supervisor.

I certify that the information in this document is true to the best of my knowledge. I further certify that I accept placement in a community service agency to perform community service and I understand my responsibilities for proper performance of community service work. I authorize Professional Probation Services, Inc. to release the above information to the agency to which I am assigned to perform community service work. I understand that this consent shall expire upon my satisfactory performance and completion of court-ordered community service hours. I further, understand that this consent may not be revoked by me until there has been a formal and effective termination or revocation of my probation.

CONSENTED TO THIS _____ DAY OF _____, 20____

X _____
 Probationer _____ Witness _____

STATE OF ALABAMA
COUNTY OF _____

COMMUNITY SERVICE AGREEMENT

1. Probationer agrees to perform community service for any court approved agency, hereinafter called AUTHORITY as part of a court ordered sentence. For the purpose of this Agreement, AUTHORITY means the County/City of, _____ Professional Probation Services Inc., and any court approved agency, its employees, agents, officials, and supervisors including his /her successors in office.

2. The PROBATIONER Covenants, Agrees and Promises the following:

- a. I will perform such community service in a proper and workmanlike manner.
- b. I will assume liability for any bodily or personal injury received as a result of performing this community service. I will not institute any proceedings against the AUTHORITY or its Insurers, Court Officials, Probation Officials or any Federal Court, Administration Court or Worker's Compensation Board because of any injury arising out of this community service or because of any injury sustained while going to or from any location where such community service is or is to be performed.
- c. I will not be considered an employee of said AUTHORITY while performing such community service and understand I am not to be paid any compensation whatsoever for the community service I shall perform.
- d. I herein declare no disability or handicap which will prevent the performance of my assigned community service hours. I will promptly provide to the court written documentation which fully describes any disability or handicap should such occur in the future. Exemption from community service can only be declared by the Court.
- e. I understand that if I do not satisfactorily perform community service, my sentence imposed by the Court may be revoked.
- f. I understand and have reviewed the conditions agreed to by the AUTHORITY.
- g. I understand that I am to complete _____ hours of community service.

IN WITNESS WHEREOF, PROBATIONER HAS HERE ONTO SET HIS HAND

on this the _____ day of _____, 20_____.

Signed in the presence of:

Probationer

Witness

Dry Erase Board

Ways to use your Dry Erase board as a probation tool.

- 1) As a check list for upcoming Hearings, Warrants, or other Court Orders.
 - a typing "To Do List"
 - make sure to include court dates next to each name
 - this can serve as a deterrent to other defendants
 - can be used as an effective tool for directing defendant behavior

- 2) As a check list for those who are in Custody or in Full-time Treatment.
 - these defendants have excused reasons for not reporting to the office
 - these defendants' statuses should be updated in the system
 - these defendants should be instructed to "report upon release"
 - defendants in treatment facilities need to sign a waiver of information
 - the defendants' whereabouts need to be checked on monthly (by 20th)

- 3) For other convenient lists (as needed).
 - number of new cases received (current month)
 - number of warrants issued (current month)
 - Mail-in cases
 - House Arrest/ GPS cases
 - other temporary lists

Needs Hearing

Needs Order

Custody

Needs Warrants

(Other Options)

Treatment

Number of New Cases
Number of New Warrants
Mail-in Cases
Transfer out Cases
House Arrest/GPS

Failure to Comply

I. Failure to Report

- Use Schedule Listing or FTR Listing to determine FTRs.
- DOCUMENT all missed appointments - **FTR and date**.
- Address FTRs in a timely manner.
- Use available Phone numbers to contact the defendant first.
- Document all attempted phone calls.
- Send FTR post card to last known address.
- Set defendant's next oc at least seven days out.
- Make copy of FTR card for file.
- If defendant misses the appointment or the post card comes back undeliverable, set case aside for a Warrant and Tolling.

II. Failure to Pay

- Use various styles of case management to achieve compliance. (Encouragement, Assertiveness, Team Work to "make a plan")
- Remind defendant of his/her financial responsibility and any arrears at each office visit.
- Use proper scheduling. Have defendants report with payments by the 15th of each month (preferably).
- Use weekly reporting or bi-weekly reporting.
- Help to determine those who are truly indigent and allow Community Service in lieu of fines if applicable.
- Schedule compliance Hearings for those who are 60-90 days in arrears on their minimum monthly fine payments.
- DO NOT issue Warrants for failure to pay ALONE. (Bearden v. GA)
- No case should be allowed to expire with a fine balance.

III. Failure to Complete other Conditions

- Completion of Special Conditions is just as important as payment compliance.
- Defendants should be given deadlines for all special conditions.
- Schedule compliance Hearings for those defendants who refuse to complete any Special Condition.
- No case should be allowed to expire with outstanding conditions.

Keith Ward

From: Clay Cox [ccox@ppsinfo.net]
Sent: Monday, March 23, 2015 8:50 AM
To: ppsstaff@ppsinfo.net
Subject: Offender Financial Packet- Indigency Refresher
Attachments: PPS Indigency Packet and Order revised 031915.docx

PPS Staff:

As each of you know from your Basic Training Course, PPS, since our founding in 1992, has supervised court-ordered indigent offenders at no cost. This has been in our contracts with each of our courts from the very beginning. Additionally, upon our identifying probationers who have an inability to pay their fines, we take steps to ask the court to convert monies to community service or other options. Just as efforts to develop resumes and assist with job placement has become somewhat localized from PPS' office to PPS office, so too, it seems, has the processes by which each of your courts approaches the issue of indigency.

The rule of thumb (refresher, I know)- no offender can be revoked or even threatened with revocation for an in-ability to pay, and it is our responsibility to identify folks under our supervision who possess this actual inability to pay, which is different, as we all know, than a refusal to pay. In an effort to streamline procedures, please find attached an offender financial packet, which is a great tool that each of you should give to an offender who claims an inability to pay. Be prepared to assist those probationers who may need assistance in completing the information when necessary. Also attached as part of the packet, is a sample order that can function, if allowed by your courts, to modify a case by converting monies to community service, or even reducing/eliminating fine balances. This order may be submitted for signature without a formal hearing as the offender's financial packet is also a sworn affidavit, again if allowed by your courts.

Thanks again for doing what you do, and for making PPS the benchmark in professional and ethical offender management.

Gratefully,
Clay

Clay Cox, CEO
PPS Corporate Center
1770 Indian Trail Road, Suite 350
Norcross, Georgia 30093
P. 678-218-4100
F. 678-218-4104
C. 404-395-3609



Professional Probation Services, Inc.

Financial Review Package

Case #: _____ In the _____ Court of _____

Probationers Last/ First Name: _____

You have either requested a reduction of the court ordered financial obligations of your probation or you have expressed that you cannot afford to pay the court-ordered financial obligations resulting from your conviction due to a state of personal indigency.

In order for us to review your case, we need you to complete the following form (no exceptions) and provide the required documents no later than _____.

Let your Probation Officer know if you need assistance to completing the form.

_____	_____	_____
Probationers Signature	Date Affidavit was given	(by) PPS Staff Member

Complete financial affidavit reviewed and verified

By _____ on _____

PPS Manager

Date

Proposed Resolution (NOTE: all material modifications of a sentence of probation must be court-ordered with the attached order form):

Please attach this form to the financial package and documents and scan it to the probation case.

Financial Affidavit

Client's Name _____

Case Number _____

Date _____

Income

1) Are you employed? _____ yes _____ No

If yes-

Employer Name _____ Salary \$ _____ : Weekly _____ Biweekly _____ Monthly _____

If No-

Are you able to work? _____ If not, reason (explain why you are not able to work):

Are you currently looking for a job? _____

When was the last date you were employed? _____

Please provide a copy of your resume to your Probation Officer. He may be able to give you an opinion on how to improve it. You may also request a sample resume if you do not have one.

2) Additional Income (in USD):

_____ AFDC, _____ Disability, _____ Alimony, _____ Workman's comp,

_____ Child Support, _____ Food Stamps, _____ Pension, _____ Trust Fund,

_____ Unemployment, _____ Investments Dividends, _____ Lottery Winnings,

_____ Settlements (Civil or Insurance), _____ Spouse Income, _____ Social Security,

_____ Other Income

Total Income (add 1 and 2) _____

Expenses

You must provide documentation regarding your expenses including, but not limited to, a complete copy of your billing statement, lease, payment agreement, or policy.

Please write the amount you contribute to each item. It may be different from the total amount shown on the bill you provided.

_____ Rent, _____ Electric, _____ Gas, _____ Water/ Sewer, _____ Garbage pickup, _____ Home Phone, _____ Cell Phone, _____ Internet Service, _____ Car payment, _____ Insurance, _____ Gasoline, _____ Child Support, _____ Alimony Payment, _____ Medical Insurance, _____ Medical expense, _____ Food (groceries), _____ Clothing, _____ School, _____ Child Care, _____ Credit cards, _____ Personal Loans, _____ other (_____), _____ Other, (_____)

Total Expenses _____

Total Income _____

Total Expenses _____ (indicate only the amount you contribute)

Net Income _____

If your net income is less than zero, please explain how you now provide for yourself and your dependents.

Assets**Real Estate**

Fair Market Value \$ _____ Less amount Due (if any) \$ _____ Equity = \$ _____

Automobile

Fair market Value \$ _____ Less amount Due (if any) \$ _____ Equity = \$ _____

Additional Assets (property, boat, vehicle, stocks, bonds, jewelry)

Description _____ Cash Value \$ _____ Less amount due \$ _____ Equity \$ _____

Description _____ Cash Value \$ _____ Less amount due \$ _____ Equity \$ _____

Description _____ Cash Value \$ _____ Less amount due \$ _____ Equity \$ _____

Savings Account Balance \$ _____ Checking Account Balance \$ _____

Retirement Account Balance \$ _____ Credit Union Account Balance \$ _____

Other \$ _____

Total Net Worth _____**Statement of Purpose:****By requesting this financial review, what are your expectations or your intentions?**

- 1) Do you desire to have your court ordered fines and court costs converted to Community Service? ____ Yes ____ No
 How much of your fines do you desire to work off by performing community service at the rate of \$10/hour? \$ _____
 Total owed \$ _____
- 2) Do you desire to have your probation fees waived? ____ Yes ____ No
- 3) Do you desire to have your probation fees reduced? ____ Yes ____ No
 How much can you afford to pay per month for probation fees \$ _____

Carefully review this package prior to submitting it for review. Please attach the proper documentation. Failure to provide the necessary information or documentation will result in a delay in reviewing your financial ability.

I hereby attest that the information contained in this affidavit is true and correct. I acknowledge that failure to make a complete and truthful report may constitute a violation of probation.

 Probationer's signature_____
 Date

IN THE _____ COURT OF _____
STATE OF _____

Finding of Indigency of a Probationer and Modification of
Sentence of Probation

Case #(s) _____

The State _____

vs.

Whereas on the _____ day of _____, 20____ this court ordered said defendant in the above styled case to serve _____ months on probation subject to various conditions of probation including the payment of a fine(s) and court costs totaling \$ _____; with the outstanding balance of said fine(s) currently being \$ _____;

Whereas, said defendant has presented to this Court evidence of his/her state of indigency in the attached financial affidavit submitted with valid supporting documentation;

Therefore, the original sentence (attached hereto) is modified as follows:

(Valid if Checked):

☐ Any remaining fine balance(s) is vacated in its entirety;

or,

☐ Defendant's remaining fine balance is modified and reduced to \$ _____;

or,

☐ The defendant is hereby ordered to complete _____ hours of community service at the rate of \$ _____ per hour at the direction of Professional Probation Services, Inc. (PPS), the Courts contracted probation services provider, in lieu of payment of the remaining fines.

So Ordered, this _____ day of _____, 20____.

Judge _____

Common Steps in Conducting a Drug Test

- Preparation
- Sample Collection
- Testing
- Follow up
- Documentation

Drug Detection Periods

Drug detection periods vary due to:

- The type of drug tested
- The type of drug test used to identify drug use
- Certain drugs take longer to break down and be eliminated
- The user: Chronic or heavy user vs. light user

Examples of Drug Types and Detection Times

<u>Drug Name</u>	<u>Approximate Detection Time</u>
Methamphetamine	3-5 days
Cocaine	2-7 days
Opiates, Morphine, & Heroin	2-4 days
Methadone	6-12 days
PCP	7-14 days
Benzodiazepines	1-6 weeks
TEH THC	14 days to 11 weeks

(<http://www.uritoxmedicaltesting.com/drugfacts.html>)

Types of Specimen Tampering

Substitution: Sample is not consistent with offender urine.

The replacing of one's urine with that of another or with a non-biological substance other than urine.

Using another person's urine.

Interference/Adulteration: Adding something to a sample.

Household items: Bleach, vinegar, salt, soap, etc.

Commercial products: Klear, Stealth, THC Free, Urine Luck, Urinaid: \$30-\$75

Drinking these does not flush, mask, alter, or absorb drugs.

Dilution: Reducing the concentration of the drug in a sample.

Internal Dilution: Drinking large amounts of liquids

Golden Seal Tea

Vitamins to add color

External Dilution: Adding water to a sample

If enough water is added, either internally or externally, the sample may test negative.

PPS Drug Screen Procedures

Items of note:

- 1) If a defendant is ordered to abstain from illegal drugs, he/she should be drug screened once every 60 days (every other month).
- 2) DO NOT collect drug screen money from a defendant unless you are prepared to screen the defendant THAT same day (no pre-payments).
- 3) If the defendant is not prepared to pay for screen that day, document that the defendant owes for screen and make sure the SCRNs balance is accurate in the OTS accounting system.

How to administer a Drug Screen:

- 1) Explain to the defendant that he/she will be screened today.
- 2) COMPLETELY fill out the Drug Screen/Urinalysis Form.
- 3) Make sure to document ANY drug use (illegal or prescription) in the last the 30 days.
- 4) Have defendant sign the form.
- 5) Make sure that the defendant does not take any "foreign" products or substances into restroom that could be used to contaminate or dilute the sample.
- 6) Remind defendant not to run water and/or flush toilet while providing sample.
Note: Allow the defendant to close the door for all "opposite sex" screenings. If the officer and the defendant are of the same sex, then the officer should feel free to stand in the restroom or leave the door cracked for observation.
- 7) Have defendant provide urine sample.
- 8) Follow the *Manufacturer's Instructions* for your particular "screening device."
Note: Make sure that you are properly trained and certified for that device.
- 9) Document results on Drug Screen Form and put it in defendant's hard file.
- 10) Document results in Drug Screen Log.
- 11) Document results in the OTS case notes.
- 12) Make sure to document ANY admissions or change in the defendant's testimony after the results are revealed.
- 13) Take appropriate actions on all **POSITIVE** screens (see SOP).

PROFESSIONAL PROBATION SERVICES, INC

IDENTIFICATION

PROBATIONER'S NAME _____

SEX _____ RACE _____ D.O.B. _____

COURT _____

LOCATION _____

OFFICER _____

STATEMENT

I am neither under the influence of any drugs or medication nor have I taken any drugs or medication in the past three (3) weeks other than those listed below. I certify that the urine sample is my own, has not been tampered with by myself or anyone else, and the container has been sealed in my presence.

MEDICATION IN PAST THREE WEEKS _____

ILLEGAL DRUGS WITH IN THE PAST THREE WEEKS _____

Probationer's signature X _____

Container sealed by: _____

Sample date: _____

TYPE OF DRUG SCREEN REQUESTED

() ROUTINE SCREEN

() INTAKE SCREEN

() FOLLOW UP SCREEN

() SUSPECT SCREEN

() RETEST

() OTHER _____

TEST RESULTS

THC(marijuana) () NEGATIVE () POSITIVE () NOT TESTED

COCAINE () NEGATIVE () POSITIVE () NOT TESTED

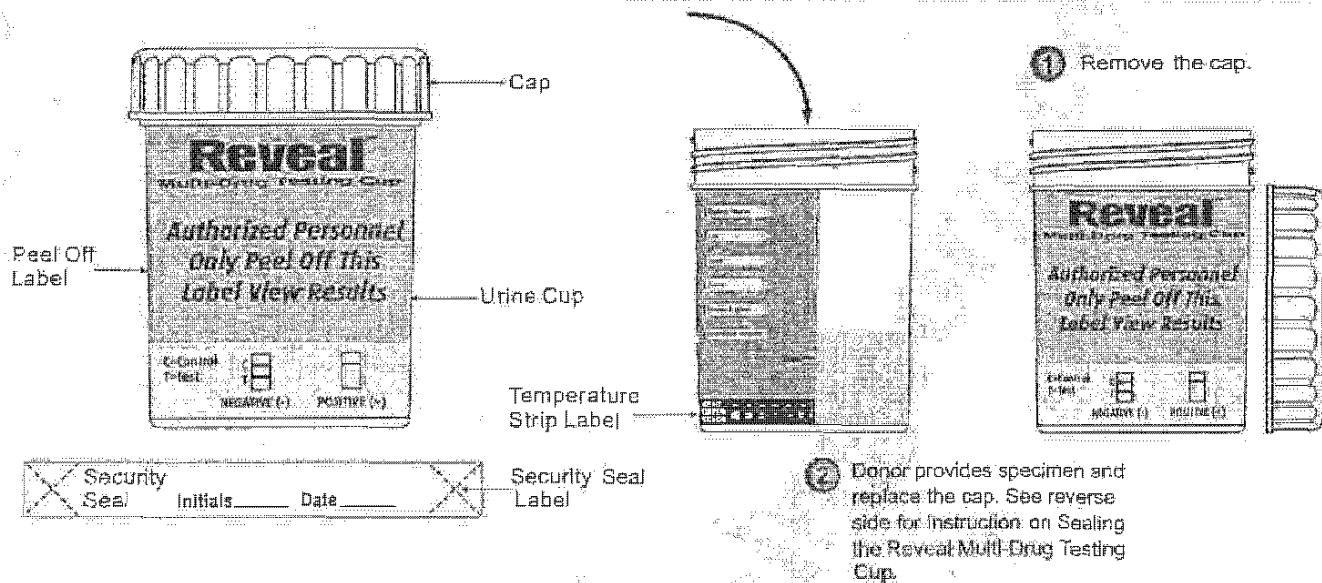
METH () NEGATIVE () POSITIVE () NOT TESTED

MORPHINE () NEGATIVE () POSITIVE () NOT TESTED

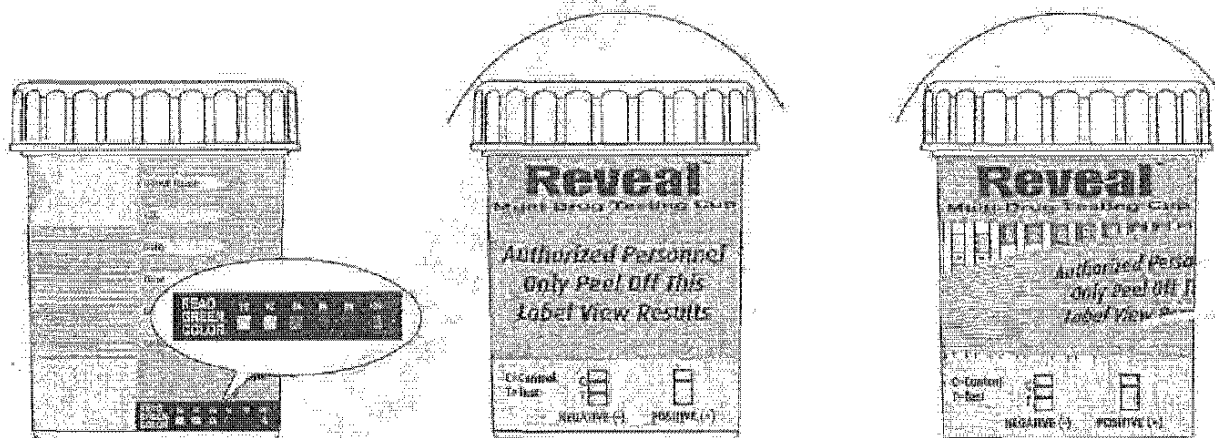
COMMENTS _____

DEFENDANT OWES \$ _____ FOR SCREEN

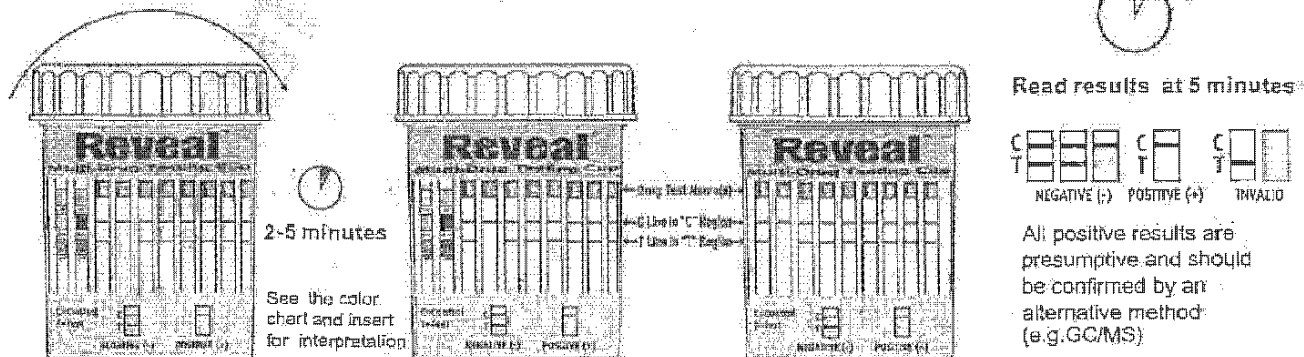
Reveal Multi-Drug Testing Cup Procedure Card



- 3 Read urine temperature between 2-4 minutes after voiding. Normal urine temperature should fall the ranges from 90°F to 100°F.
- 4 Technician secures the cap tightly while the cup is on a flat surface, and dates and initials the security seal and places the security seal over the cap.
- 5 Technician peels off the label to view the results.



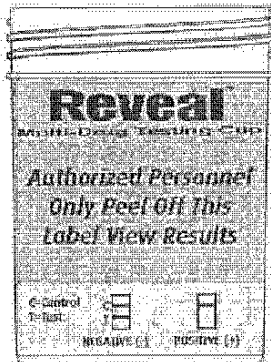
- 6 If adulteration test is included on the test cup, read the adulteration test results between 2-5 minutes.
- 7 Read the drug test results at 5 minutes.



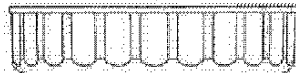
Example: Test shows positive for THC.
(See reverse side for instruction on Sealing Reveal Multi-Drug Testing Cup With The Cap)

Instruction On Sealing Reveal Multi-Drug Testing Cup With the Cap

① Pour the urine sample into the cup

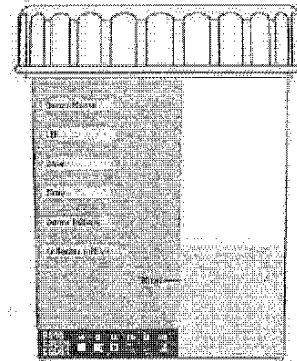
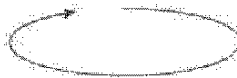


② Place the cap flat on top of the cup

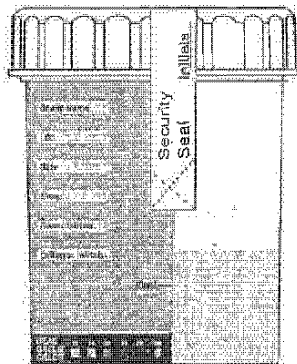


③ Twist the cap clockwise until completely tightened

④ Check to make sure the cap aligns with the top of the cup and is completely and tightly closed

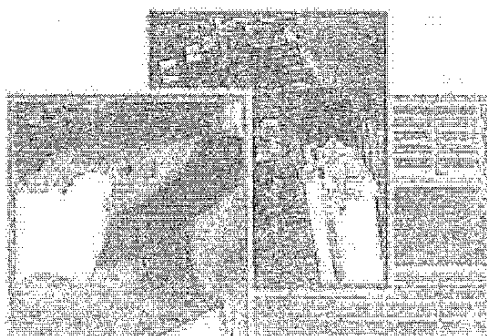
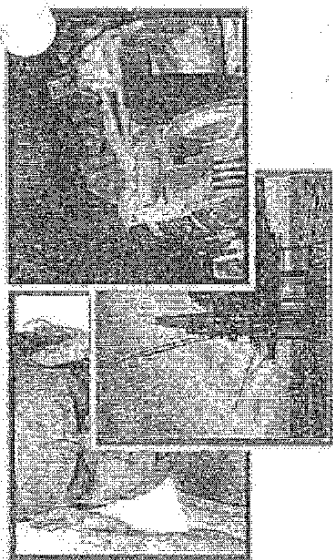


⑤ If the test result is positive, secure the cap with the Security Seal, and send the cup to laboratory for confirmation testing



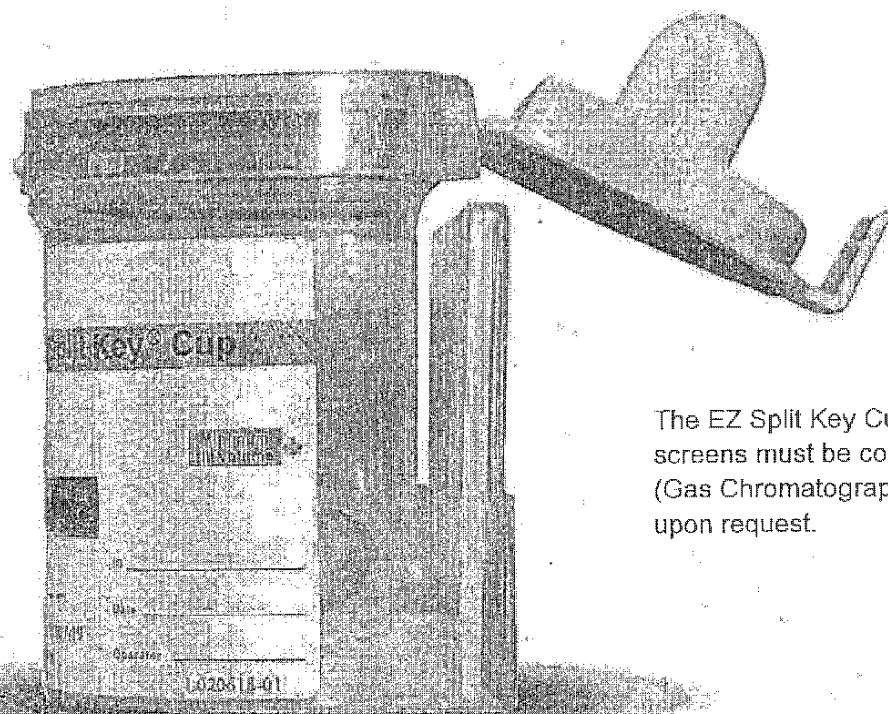
EZ Split Key Cup Drug Screen

an Inverness medical company



Product Benefits

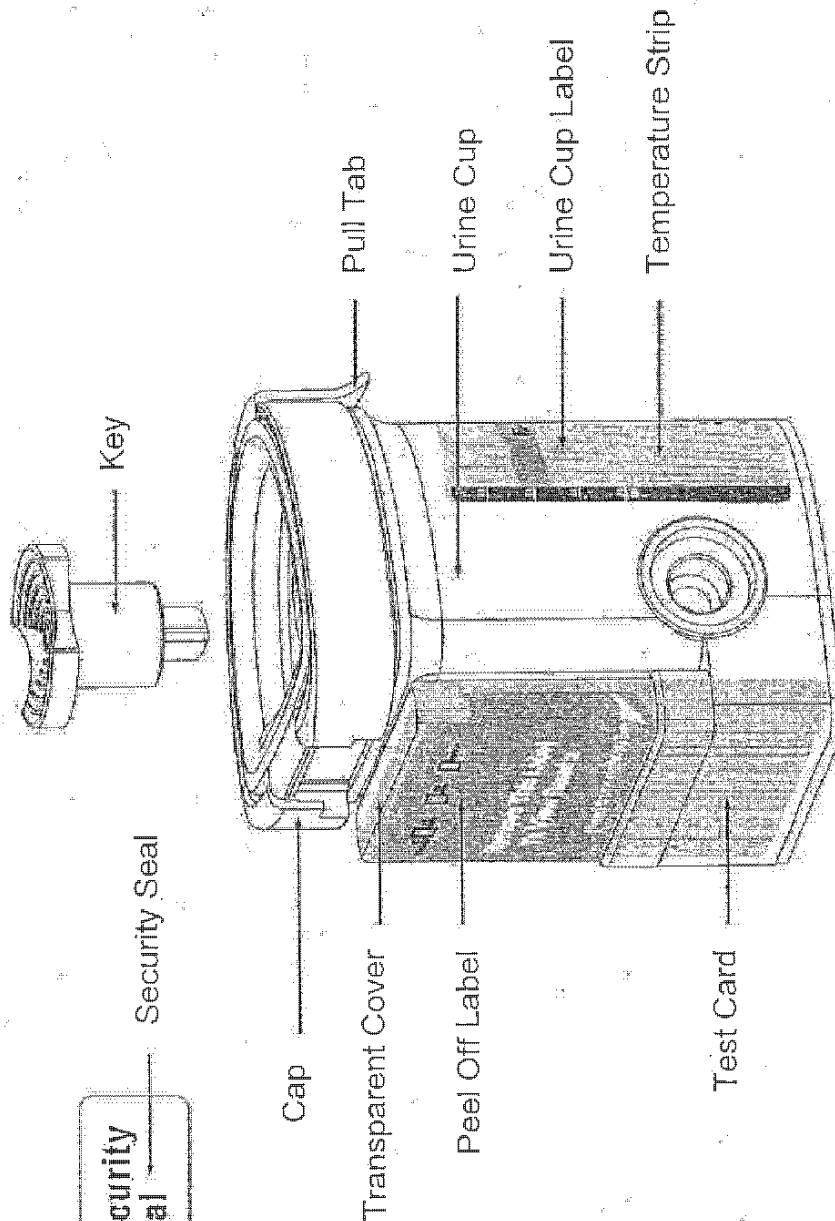
- Secure “Key” Activation
- 3-12 Drug Configurations
- Zero Exposure
- New Lid Design



The EZ Split Key Cup Drug Screen is only a preliminary screen and all positive screens must be confirmed using more definitive form of testing such as GC/MS (Gas Chromatography / Mass Spectrometry). Confirmation programs are available upon request.

EZ Split Key Cup Drug Screen

Description of Items



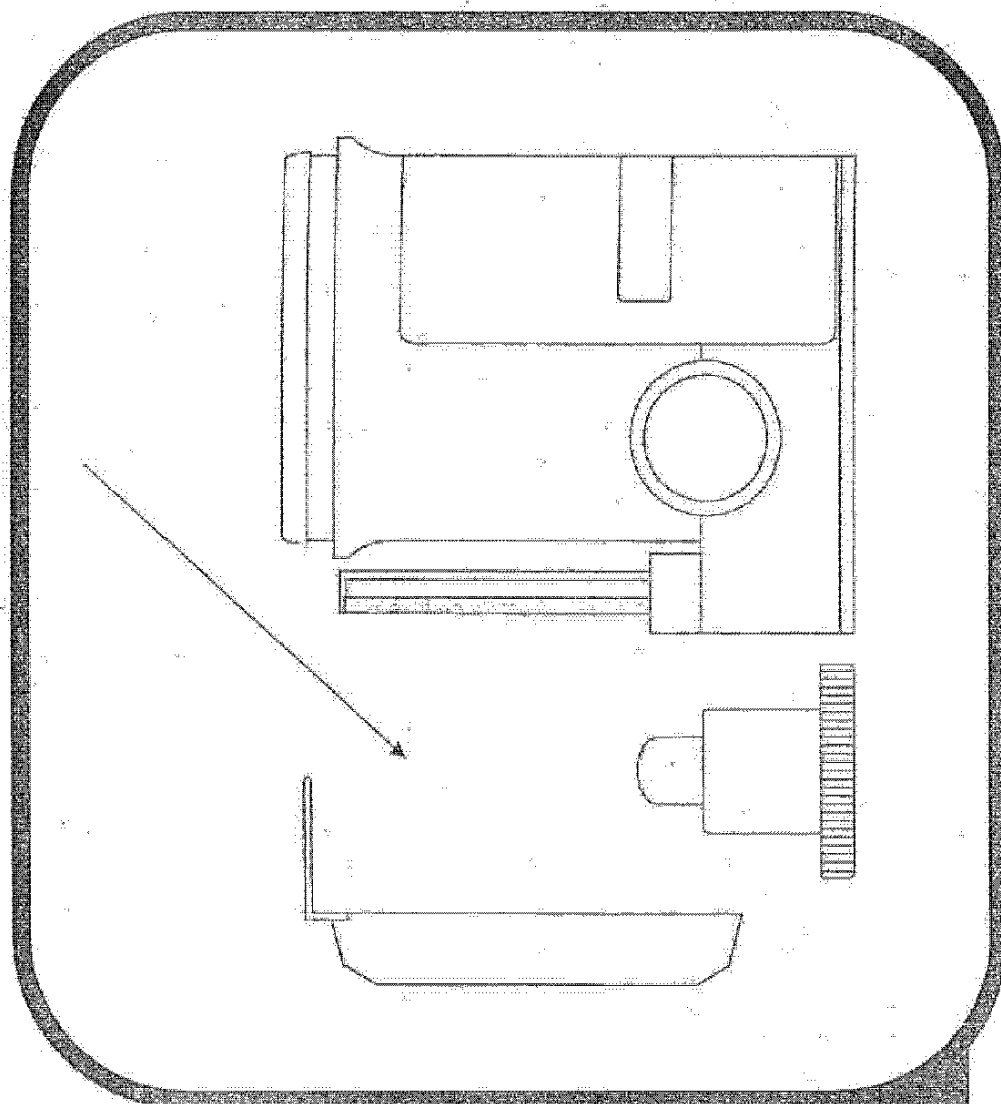
Security Seal	
Date _____	Initials _____

EZ Split Key Cup Drug Screen

Procedure

Step 1

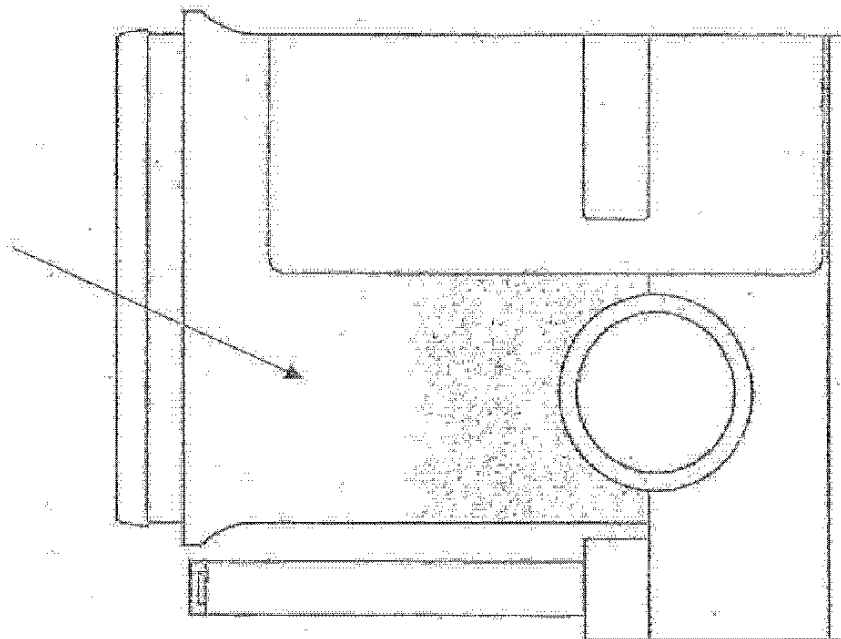
Remove the key by twisting it from the center of the cap. Open cap with the Pull Tab. (Key is held by technician.)



Procedure

Step 2

Donor provides specimen and secures cap. Note: Secure cap by pressing down on the Pull Tab until an audible click is heard.



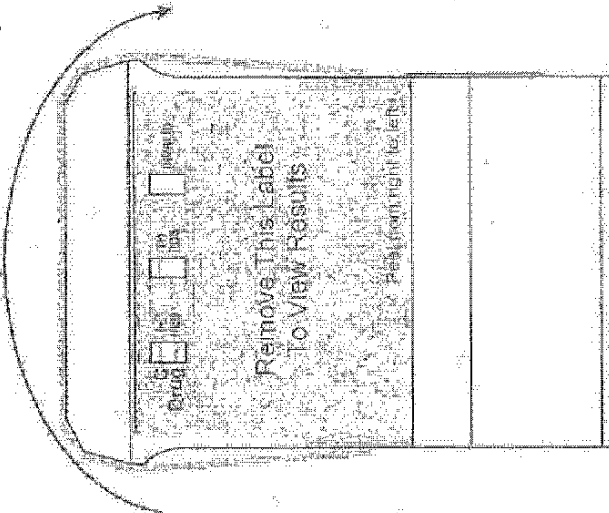
Procedure

Step 3

Check cap for tight seal. Technician dates and initials the security seal and places security seal over cap.

Date _____	Initials _____	Security Seal
------------	----------------	---------------

Place security seal over cup



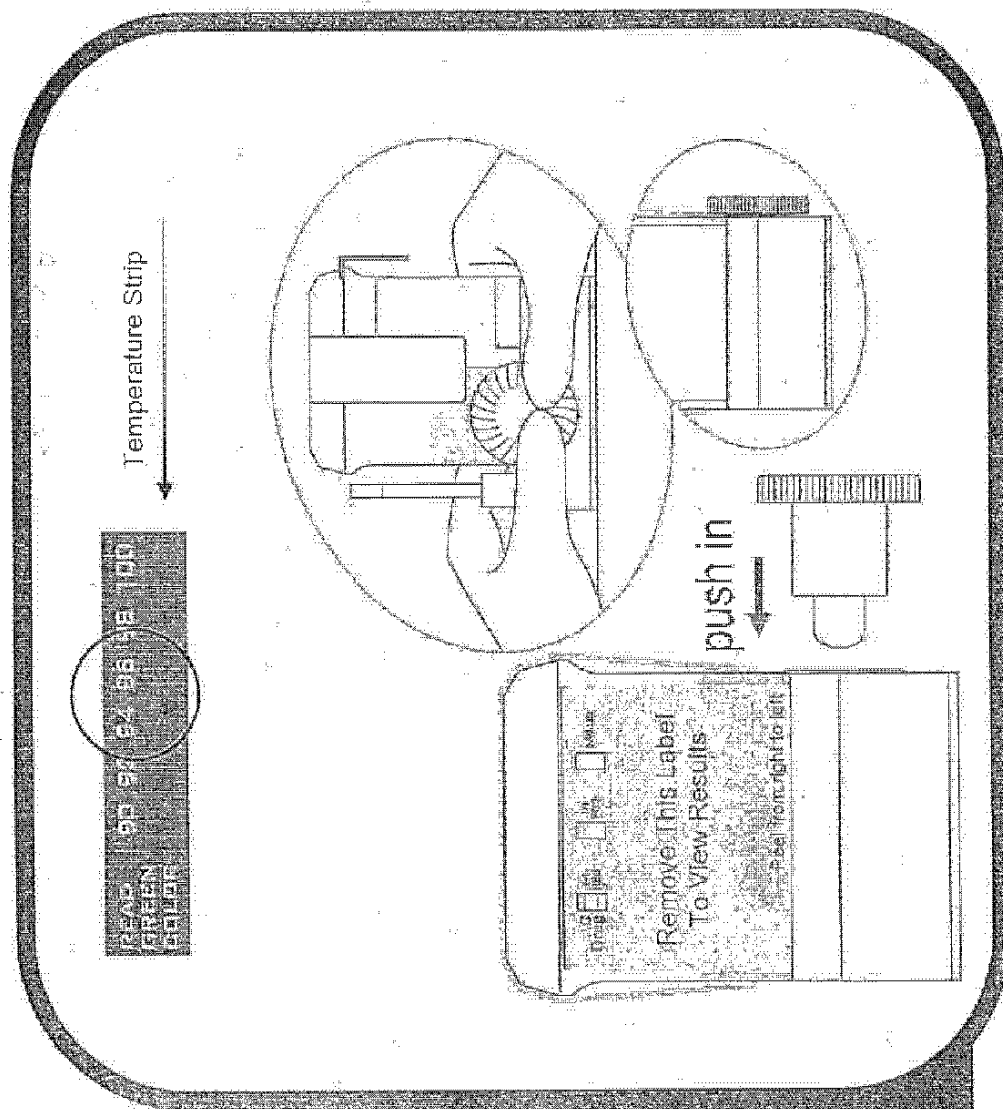
EZ Split Key Cup Drug Screen

Procedure

Step 4

Check temperature strip for adequate range.

On a flat surface, technician inserts key and pushes in.

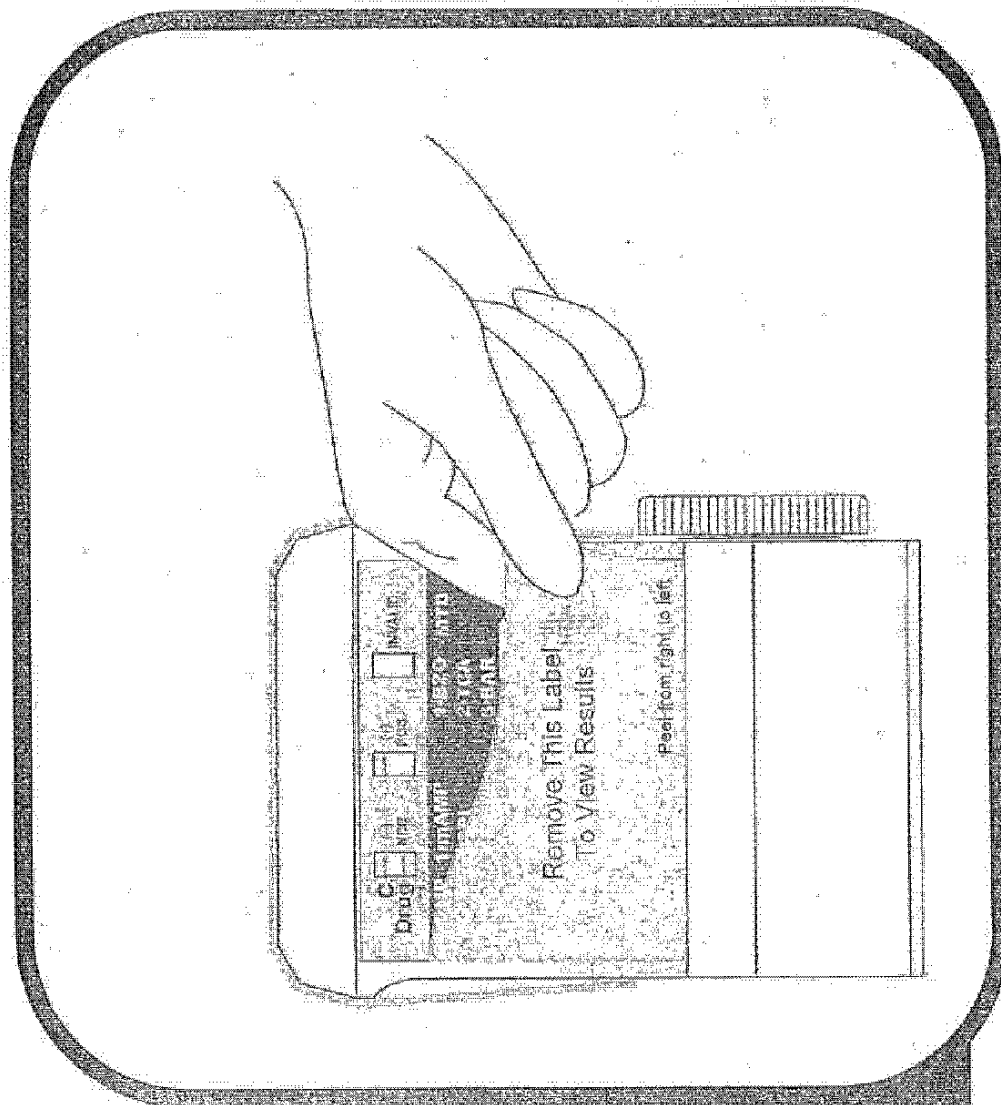


EZ Split Key Cup Drug Screen

Procedure

Step 5

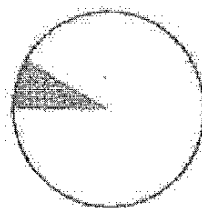
Peel off the label to view results



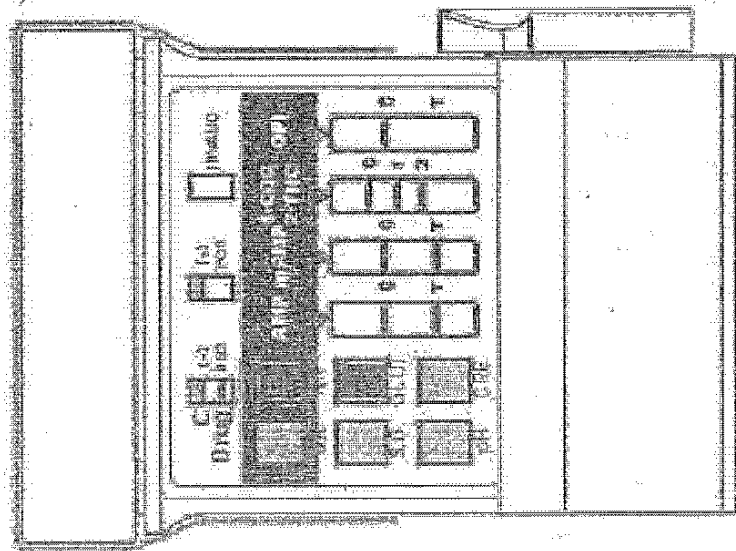
Procedure

Step 6

If the test cup includes
S.V.T., read adulteration
test results between 3 - 5
minutes.



3 - 5
Minutes



Adulteration Strips

See color chart and package insert for interpretation.

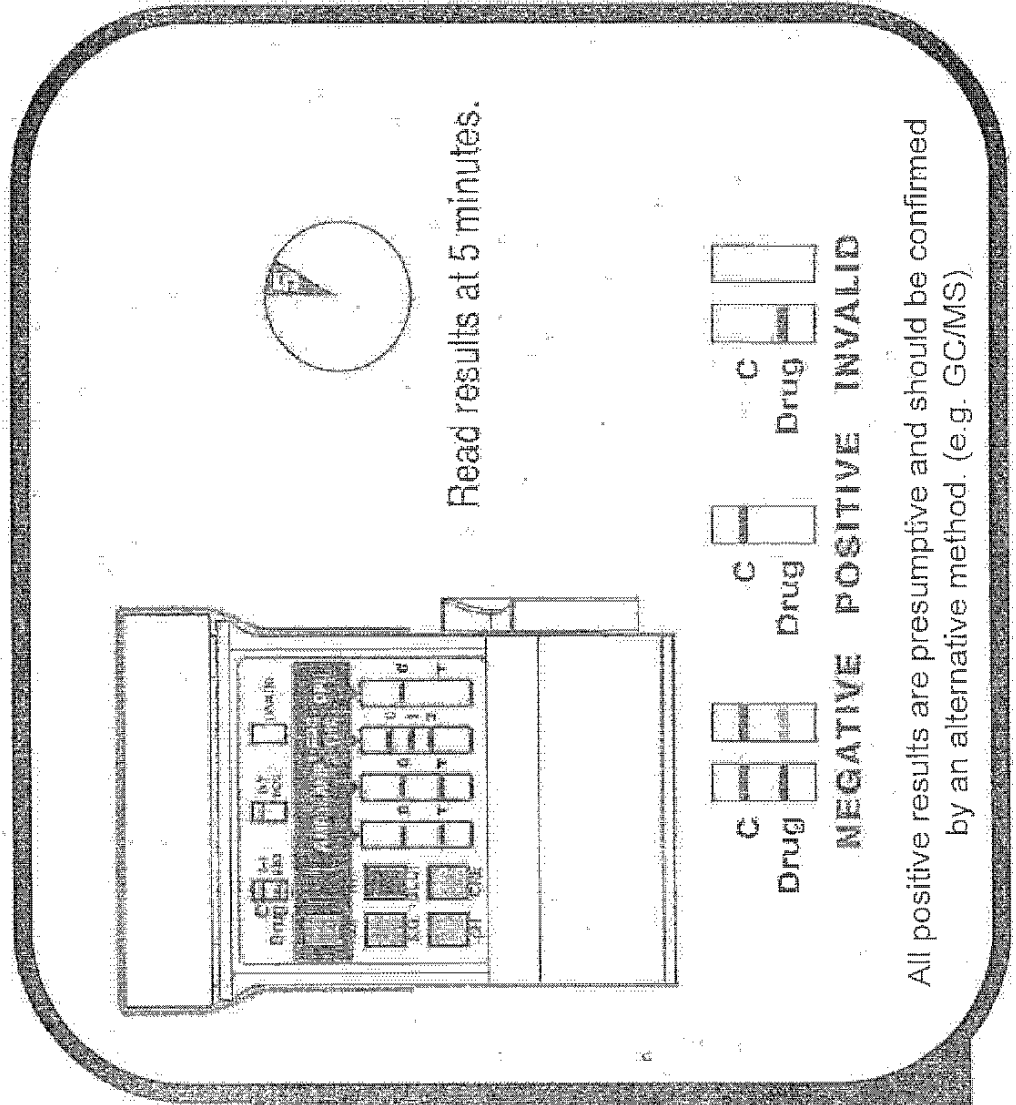
EZ Split Key Cup Drug Screen

Procedure

Step 7

Read drug test results at 5 minutes.

Example: Test shows positive for OPI.

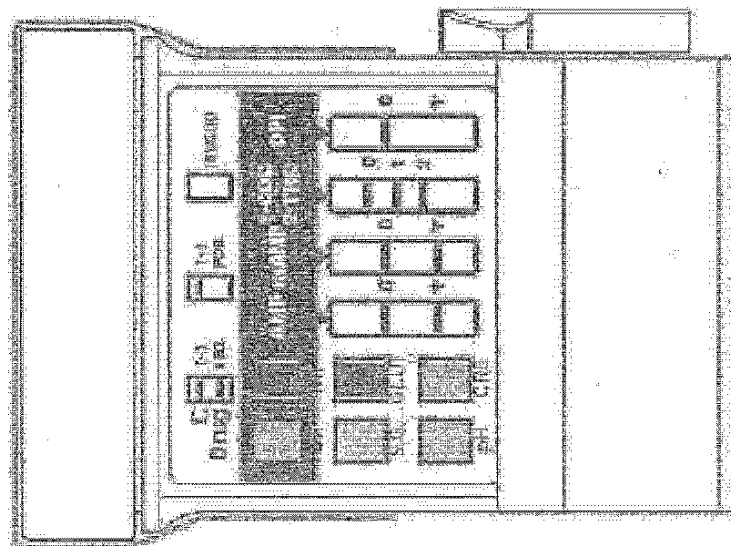


All positive results are presumptive and should be confirmed by an alternative method. (e.g. GC/MS)

Procedure

Step 8

A photocopy of the drug test results can be made by placing the entire cup with the card face down on the copier.



Types of Infectious Disease

- Tuberculosis (TB): Infection primarily in the lungs caused by bacteria
TB can remain inactive (dormant) for years without causing symptoms or spreading
One of the oldest diseases
1 person becomes infected every second
1 person dies every 15 seconds
Georgia ranks in the top 10 for TB case numbers and rates
Spread by germs that can float in the air
Person with active TB is contagious
More than 50% of untreated persons die
Curable if medication is taken as prescribed
- Hepatitis: Inflammation of the liver
Most common chronic blood borne infection in the U.S.
Very infectious
There is a vaccine to prevent Hepatitis B
There is no vaccine for Hepatitis C
- HIV/AIDS: Human Immunodeficiency Virus
A condition causing progressive failure of the immune system
Allows life threatening infections and cancers to thrive
Primarily found in blood and sexual secretion
Transmitted similarly to hepatitis: Sharing needles, sexual contact, and mother to child – NOT TRANSMITTED THROUGH CASUAL CONTACT
- Staphylococcus: Commonly known as Staph
Group of bacteria causes diseases as a result of tissue infection
Staph related illness can range from mild - requiring no treatment, to severe and potentially fatal
Over 30 different types can infect humans
Found in the nose and on the skin of 25%-30% of healthy adults
Anyone can develop a staph infection
Infections are contagious until completely resolved
Spread through direct contact
Treated with antibiotics

Universal Precautions

- Universal precautions were developed by the CDC
- Emphasis on practicing universal precautions on all potentially infectious bodily fluids and tissues
- Make it a practice to wear non-porous articles such as medical gloves, goggles, and/or face shields when dealing with any bodily fluids

DISEASE TRANSMISSION

DIRECT AND INDIRECT DISEASE TRANSMISSION

What is DIRECT AND INDIRECT DISEASE TRANSMISSION?

Contact transmission is the most common form of transmitting diseases and virus. There are two types of contact transmission: direct and indirect.

Direct contact transmission occurs when there is physical contact between an infected person and a susceptible person.

Indirect contact transmission occurs when there is no direct human-to-human contact. Contact occurs from a reservoir to contaminated surfaces or objects.

How do infections spread?

Direct contact infections spread when disease-causing microorganisms pass from the infected person to the healthy person via direct physical contact with blood or body fluids. Examples of direct contact are touching, kissing, sexual contact, contact with oral secretions, or contact with body lesions.

Indirect contact infections spread when an infected person sneezes or coughs, sending infectious droplets into the air. If healthy people inhale the infectious droplets, or if the contaminated droplets land directly in their eyes, nose or mouth, they risk becoming ill. Droplets generally travel between three and six feet and land on surfaces or objects including tables, doorknobs and telephones. Healthy people touch the contaminated objects with their hands, and then touch their eyes, nose or mouth.

STANDARD PRECAUTIONS

1. Wash hands immediately if they become contaminated with blood or body fluids. Wash your hands routinely before and after contact with a patient and after you take off your gloves.
2. Use STANDARD PRECAUTIONS with all patients regardless of their diagnosis, and with all contaminated equipment and materials.
3. Wear gloves when your hands are likely to be in contact with blood or body fluids, mucous membranes, skin that has open cuts or sores or contaminated equipment or surfaces.
4. Wear a protective gown or apron when you are likely to soil your clothes with blood or body fluids.
5. Use caution when handling contaminated sharps. Dispose of them immediately after use in a puncture resistant container. Do Not Recap needles.
6. Wear gloves when handling lab specimens and tubes of blood. Check to see that the specimen is sealed.
7. While performing procedures use techniques that minimize the spraying or splashing of body fluids. Use protective goggles and masks as needed.
8. Do not eat, drink, apply lipstick or handle contact lenses in an area where exposure is likely.
9. Use a pocket mask or other device when giving CPR.
10. Clean up spills of blood or body fluids promptly using gloves, a towel and disinfectant or a spill kit, following directions on the kit.
11. Place soiled linen in an impermeable bag and close it or tie it shut.
12. Clean, disinfect or sterilize contaminated equipment between uses and before sending out for repairs if it is re-usable.
13. If your job duties pose a reasonable risk of exposure to blood or body fluids, get the hepatitis B vaccine. Be up to date on all other vaccinations.
14. Report any blood or body fluid exposures promptly to your supervisor.
15. In addition to Standard Precautions used with all patients, use other isolation precautions as appropriate for the particular patient.

Professional Probation Services, Inc.

Guidelines for Home Visits

Unless otherwise authorized, home visits should be conducted during daylight hours.

Officers should schedule home visits and employment visits with defendants, in advance, if possible.

Home visits must be performed by two staff members. Officers are never to make home visits alone.

An itinerary must be left with the office manager verifying the names and corresponding addresses that will be visited during the day. An approximate order of visitation should be established and reported in writing to the office manager.

While conducting home visits, all officers must carry a working cellular telephone. Your cell phone number must be given to your office manager in writing, prior to your departure. If you do not have a cellular telephone, please notify your supervisor so that one may be issued to you.

Identification badges must be worn while conducting home visits. If available, clothing with the PPS emblem/logo should be worn for further identification.

Upon arrival at the offenders residence, park your vehicle in an open, conspicuous area. Preferably park in the offenders driveway or in the street directly in front of the offenders residence.

Before approaching the residence, take an overview of the property and its surroundings. Watch for traffic and children that might be in the area. Also, beware of dogs or other animals that might be in the area or on the offenders property. If you are uncomfortable or feel it is not safe to conduct the home visit for any reason, leave the area. Telephone the offender from your vehicle and ask the offender to meet you outside his/her residence. Notify your supervisor of your concerns upon your return to the office. **Officer safety is the top priority.**

Approach the front door of each residence. Be respectful of private property and/or landscaping. Travel on clearly defined walkways, whenever possible.

Once you have knocked on the door/rung the doorbell, stand to the side (not in front) of the door. Look and listen for someone approaching the door from the inside. When appropriate, identify yourself in a loud and clear voice. For example, "Good afternoon, this is Officer _____ of the _____ County Misdemeanor Probation Office."

Never enter an offenders residence if you are alone. Ask the offender to meet with you outside of their residence. Never meet with an offender of the opposite sex inside their private residence, unless you are accompanied by another PPS staff member or a member of local law enforcement.

Do not give any specific information about the offender's case to the offender's family if the offender is not at the residence and does not give you permission to do so.

Do not accept food or drink or anything that might be considered a "gift" from the offender or a member of his/her family.

Do not perform tasks for the offender or his/her family.

Upon contacting the offender, make inquiries regarding his/her progress on complying with and/or completing the conditions of the probated sentence. Ask any other questions that give you a better understanding of the offender.

Alco-sensor tests may be performed on the offender during the home visit.

If the offender is not at home or does not come to the door, leave your business card on or about the offenders front door advising him/her of the date and time of your visit. Do not "peek" in windows and searching for alternate points of entry/exit.

Upon the conclusion of your home visit, document in your field notes what was discussed during the visit. Be sure to note the offenders specific responses and behaviors. Also, be sure to note if anything unusual or out of the ordinary occurred during the home visit.

In case of an emergency during a home visit, call 9-1-1 immediately. Further, contact your supervisor or the Corporate Office as soon as possible.

If the offender has a complaint regarding a home visit, refer the offender to your immediate supervisor.

Transfer Cases

All managers need to pick **one** individual in each office to handle all incoming transfer cases. The "Transfer Officer" should keep these cases in a **separate** notebook labeled "Transfer Cases".

1) When to Transfer a Case:

- a. When your Judge or your supervisor personally requests that a case to be transferred to another location.
- b. You, as the probation officer, determine that the defendant is an appropriate candidate to be transferred out to another office. Appropriate cases are defined as those that are living in an area that is closer to another existing P.P.S. Probation Office, the defendant is current and compliant on fees, fines, and other Special Conditions and the defendant must not have excessive FTR's.

2) How to Transfer a Case:

- a. Once you have determined that a defendant is appropriate for transfer, you need to call the Officer that handles transfer cases in the office in which you would like to send the case. Ask that Officer if he/she will accept the transfer and determine a convenient time and date for the defendant's next o.c. Remember, the acceptance of transfer cases is a courtesy, not an obligation.
- b. Next, give the defendant a map to the "new" office with their "new" officer's name and their next o.c. date on it. Remind the defendant of the privilege of being transferred and their obligation to remain compliant in all their Probation Conditions. Make sure you document **everything** in your notes.
- c. Now you need to print and fax the defendant's **complete** case notes to the accepting Officer. You should also fax any other pertinent documents that may be helpful to the new Officer's supervision (like the Sentence Sheet). Remember that this case is still yours and you are ultimately responsible for it.

3) How to Handle a Transfer Case:

- a. If you do accept a transfer case you are to supervise the case just like it was your own. However, if the transfer case has any major violations (i.e. stopped reporting, fell behind on payments, is not compliant on Special Conditions, or commits a new offense), then the case must be sent back to the original officer. Do this by first calling directly to the original officer and notifying him/her of the violation and then faxing back all the case notes. **Don't just fax back the notes, make sure you call first.**
- b. If a transfer case can be Suspended Upon Completion and has completed all obligations (including paying all fines and fees in full), then call the original officer and fax back all the case notes in order for the case to be properly terminated.
- c. If you receive case notes back from a case that you transferred out, you need to take the appropriate action immediately. You may need to terminate the case. Or, if there is a violation, you may need to set a Revocation Hearing or even issue a Warrant. The case is now yours again and should not be transferred back out until the case is in good standing.

4) How to Handle Payments for Transfer Cases:

- a. All transfer cases are required to pay with **MONEY ORDER** when they report to the "new" office. The Transfer Officer will be responsible for mailing the money order to the defendant's original Probation Office. PPS will provide the envelope and stamp and will mail it for the defendant.
- b. Use the **Transfer Mail-in Form** as a receipt for the defendant. Fill the form out **COMPLETELY** and attach the original money order to the bottom of the form. Make two copies of the Transfer Mail-in Form. One copy will be provided to the defendant and the other copy is retained by the Transfer Officer in the casebook. The Transfer Officer should mail off the original with the money order ASAP. The officer can make a request to the original office at a future date if the defendant requests a computer generated receipt.

Transfer Mail-in Form

Defendant's name: _____

Docket # _____

Amount of Money Order: _____

Date Money Taken: _____

Date Money Mailed Out: _____

From: Officer: _____
Office: _____

To: Office: _____
Court: _____

PROFESSIONAL PROBATION SERVICES, INC.

Corporate Office
1770 Indian Trail Rd., Suite 350
Norcross, GA 30093
Phone- 678-218-4100
Fax- 678-218-4104
Toll Free- 1-877-288-8119

GEORGIA OFFICES

Revised- 8/1/2016

PPS-Cartersville

178 West Main Street (Physical)
P.O. Box 932 (Mailing)
Cartersville, GA 30120
Phone-770-386-7001
Fax- 770-386-8040

PPS-Decatur

4280 Memorial Drive
Suite B
Phone- 404-373-6337
Fax- 404-373-6357

PPS-Doraville

3688 Clearview Ave.
Suite 150
Atlanta, GA 30340
Phone- 770-455-6880
Fax- 770-455-6875

PPS- East Point

3465 North Desert Drive
Building 4, Suite 450
East Point, GA 30344
Phone- 404-209-0682
Fax- 404-209-8109

PPS-Fayetteville/Peachtree City

117 Governor's Square, Suite A
Fayetteville, GA 30215
Phone-770-692-9470
Fax- 770-692-9739

PPS-Forest Park

532 A Forest Parkway
Forest Park, GA 30297
Phone- 404-361-5367
Fax- 404-363-3922

PPS- Gainesville

747 Queen City Parkway
Suite A
Gainesville, GA 30501
Phone- 770-531-0770
Fax-770-531-0082

PPS-Garden City

1448 Dean Forest Parkway
Suite A
Garden City, GA 31405
Phone-912-344-4270
Fax-912-344-4684

PPS-Gwinnett

225-B Scenic Highway
Lawrenceville, GA 30045
Phone-678-990-5407
Fax-678-990-5489

PPS-House Arrest

Director- Shannon Buchanan
80 Horizon Drive, Suite 403
Suwanee, GA 30024
Phone- 678-810-1721
Fax-770-765-6566

GEORGIA OFFICES

PPS-IT Office

Director- Larry Shurling
101 Commerce Place, Suite 4
Barnesville, GA 30204
Phone-770-358-2286
Fax- 770-358-6482

PPS-Kennesaw

3782 Cherokee Street
Kennesaw, GA 30144
Phone- 678-290-5775
Fax-678-290-5763

PPS-Suwanee

80 Horizon Drive, Suite 403
Suwanee, GA 30024
Phone-678-810-1721
Fax-678-765-6566

PPS- Union City

5039 Union Street
Union City, GA 30291
Phone- 770-969-5400
Fax- 770-969-4411

PPS-Winder

15 Stafford Street, Suite E
Winder, GA 30680
Phone-770-868-1103
Fax-770-868-1153

PPS-Woodstock

101 Emma Lane
Suite 100
Woodstock, GA 30189
Phone- 678-213-5100
Fax-678-213-5003

ALABAMA OFFICES

PPS-Bibb County

40 Court Square East
Centreville, AL 35042
Phone- 205-926-4427
Fax- 205-926-4703

PPS-Gardendale

1126 Main Street (Physical)
P.O. Box 1114 (Mailing)
Gardendale, AL 35071
Phone-205-608-0994
Fax-205-608-0737

PPS-Monroeville

48 South Mt. Pleasant Ave.
Monroeville, AL 36460

PPS-Opelika

2214-G Gateway Drive
Opelika, AL 36801
Phone-334-821-7900
Fax-334-363-2956

PPS-Phenix City

1212 7th Avenue, Suite A
Phenix City, AL 36867
Phone- 334-448-0943
Fax-334-448-0889

FLORIDA OFFICES

PPS-Belle Glade

1540 NW Ave. L
Suite 106
Belle Glade, FL 33430
Phone-561-992-7695
Fax-561-992-9325

PPS-Brevard

571 Haverty Court
Suite J
Rockledge, FL 32955
Phone-321-252-4774
Fax- 321-251-4703

PPS-Delray Beach

4731 West Atlantic Ave.
Suite B-1
Delray Beach, FL 33445
Phone-561-381-9072
Fax-561-381-9076

PPS-Hernando County

328 W. Jefferson Street
Brooksville, FL 34601
Phone-352-796-8181
Fax-352-540-4769

PPS- Key West

1111 12th Street, Suite 410
Key West, FL 33040
Phone-305-330-9136
Fax-305-998-4364

PPS-Marathon

2945 Overseas Hwy
Marathon, FL 33050
Phone-305-587-2642
Fax- 305-998-4076

PPS- Sumter County

217 N. Florida Street
Suite 1
Bushnell, FL 33513
Phone-352-793-0255
Fax- 352-568-6655

PPS- Tavernier

89240 Overseas Hwy
Suite 5
Tavernier, FL 33070
Phone- 305-330-9140
Fax- 305-440-2748

PPS-West Palm Beach

1280 N. Congress Ave.
Suite 210
West Palm Beach, FL 33409
Phone-561-800-1719
Fax-561-800-1723

MISSISSIPPI OFFICES

PPS-Clarksdale

130 Desoto Ave., Suite 1 & 3
Clarksdale, MS 38614
Phone- 662-592-5066
Fax-662-624-9015

PPS-Gautier

721 Hwy 90, Suite D
Gautier, MS 39553
Phone-228-471-5408
Fax-228-471-5409

PPS-Greenville

1024 Washington Ave., Suite 201
Greenville, MS 38702
Phone-662-743-9816
Fax-662-743-9815

PPS-Greenwood

117 Fulton Street
Greenwood, MS 38930
Phone-662-595-4790
Fax-662-644-5068

PPS-Olive Branch

6911 Parkwood Drive
Olive Branch, MS 38654
Phone-662-893-7086
Fax-662-893-7108

PPS-Oxford

2627 West Oxford Loop, Suite I
Oxford, MS 38655
Phone-662-234-9933
Fax-662-234-9934

PPS-Picayune

967 Memorial Blvd
Picayune, MS 39466
Phone-769-926-2023
Fax-769-305-2749

PPS-Ruleville/Sunflower County

P.O. Box 2132
Indianola, MS 38751
Phone-662-878-9031

PPS-Tishomingo

1008 Battleground Drive, Rm. 108
Iuka, MS 38852
Phone- 662-656-0878
Fax-662-228-4161

PPS-Yazoo

333 North Main St., Suite D
Yazoo City, MS 39194
Phone- 662-716-7059
Fax-662-716-7060

UTAH OFFICES

PPS-Brigham City

148 North Main
Brigham City, UT 84302
Phone-435-723-7273
Fax-435-723-7768

PPS-Logan

550 North Main
Suite 221
Logan, UT 84321
Phone-435-787-1830
Fax-435-755-7657

PPS-Ogden

893 24th Street
Suite 100
Ogden, UT 84401
Phone-801-689-0334
Fax-801-689-0337



Interstate Commission for Adult Offender Supervision
Ensuring Public Safety for the 21st Century

ICAOS Rules

General information

Effective Date
March 01, 2012



Introduction

The Interstate Commission for Adult Offender Supervision is charged with overseeing the day-to-day operations of the Interstate Compact for Adult Offender Supervision, a formal agreement between member states that seeks to promote public safety by systematically controlling the interstate movement of certain adult offenders. As a creature of an interstate compact, the Commission is a quasi-governmental administrative body vested by the states with broad regulatory authority. Additionally, the Interstate Compact for Adult Offender Supervision has congressional consent under Article I, § 10 of the United States Constitution and pursuant to Title 4, Section 112(a) of the United States Code.

Through its rulemaking powers, the Commission seeks to achieve the goals of the compact by creating a regulatory system applicable to the interstate movement of adult offenders, provide an opportunity for input and timely notice to victims of crime and to the jurisdictions where offenders are authorized to travel or to relocate, establish a system of uniform data collection, provide access to information on active cases to authorized criminal justice officials, and coordinate regular reporting of Compact activities to heads of state councils, state executive, judicial, and legislative branches and criminal justice administrators. The Commission is also empowered to monitor compliance with the interstate compact and its duly promulgated rules, and where warranted to initiate interventions to address and correct noncompliance. The Commission will coordinate training and education regarding regulations of interstate movement of offenders for state officials involved in such activity.

These rules are promulgated by the Interstate Commission for Adult Offender Supervision pursuant to Article V and Article VIII of the Interstate Compact for Adult Offender Supervision. The rules are intended to effectuate the purposes of the compact and assist the member states in complying with their obligations by creating a uniform system applicable to all cases and persons subject to the terms and conditions of the compact. Under Article V, Rules promulgated by the Commission "shall have the force and effect of statutory law and shall be binding in the compacting states[.]" All state officials and state courts are required to effectuate the terms of the compact and ensure compliance with these rules. To the extent that state statutes, rules or policies conflict with the terms of the compact or rules duly promulgated by the Commission, such statutes, rules or policies are superseded by these rules to the extent of any conflict.

To further assist state officials in implementing the Compact and complying with its terms and these rules, the Commission has issued a number of advisory opinions. Additionally, informal opinions can be obtained from the Commission as warranted. Advisory opinions, contact information and other important information, can be found on the Commission's website at <http://www.interstatecompact.org>.

Rule 2.105 Misdemeanants

- (a) A misdemeanor offender whose sentence includes 1 year or more of supervision shall be eligible for transfer, provided that all other criteria for transfer, as specified in Rule 3.101, have been satisfied; and the instant offense includes 1 or more of the following—
- (1) an offense in which a person has incurred direct or threatened physical or psychological harm;
 - (2) an offense that involves the use or possession of a firearm;
 - (3) a 2nd or subsequent misdemeanor offense of driving while impaired by drugs or alcohol;
 - (4) a sexual offense that requires the offender to register as a sex offender in the sending state.

References:

ICAOS Advisory Opinion

- 4-2005 [Misdemeanant offender not meeting criteria of 2.105 may be transferred under Rule 3.101-2, discretionary transfer]
- 7-2006 [There are no exceptions to applicability of (a)(3) based on either the time period between the first and subsequent offense(s) or the jurisdiction in which the convictions occurred]
- 16-2006 [If the law of the sending state recognizes the use of an automobile as an element in an assault offense and the offender is so adjudicated, Rule 2.105 (a)(1) applies]
- 2-2008 [Based upon the provisions of the ICAOS rules, offenders not subject to ICAOS may, depending on the terms and conditions of their sentences, be free to move across state lines without prior approval from the receiving state and neither judges nor probation officers are prohibited by ICAOS from allowing such offenders to travel from Texas to another state]
- 1-2011 [All violations involving the use or possession of a firearm, including hunting, are subject to Compact transfer.]

History: Adopted November 3, 2003, effective August 1, 2004; amended March 12, 2004; amended October 26, 2004, effective January 1, 2005.



Interstate Commission for Adult Offender Supervision

In-State Misdemeanant Supervision Survey Results - March 2005

STATE	Does your state supervise your own misdemeanants?	COMMENTS
Alabama	Yes	The Alabama Board of Pardons and Paroles supervises mostly felony offenders, but does supervise some misdemeanors. Local community corrections programs supervise most misdemeanors. Those community corrections programs are not affiliated in any way with the primary supervising authority in Alabama, which is the Alabama Board of Pardons and Paroles. In Alabama, the Interstate Compact is a division of the Alabama Board of Pardons and Paroles.
Alaska	No	
Arizona	Yes	
Arkansas	No	
California	No Response	
Colorado	Yes	Our departments do supervise misdemeanors that are sentenced to probation or that receive a deferred judgment supervised by probation. In addition, in many of our districts, we have contracts with private probation to supervise lower risk offenders and DUI/DWI offenders. These can be felons or misdemeanants. Probation generally makes the decision as to who goes to private probation and who stays with State probation. Occasionally the court will sentence directly to Private Probation. Of course the practices vary all over the state due to the varying needs, but in every case, ALL CLIENTS supervised by the entity that has the private probation contract in a jurisdiction, are ultimately the responsibility of the State probation department and are shown on our caseloads as such.
Connecticut	Yes	
Delaware	No Response	
District of Columbia	Yes	
Florida	No	The State Department of Corrections does not supervise misdemeanor cases. This is handled by the various counties within Florida.
Georgia	No	

Officer Collection Report (Fee Incentive)

1.) Terminate Cases and Run Report

Managers need to zero out and sign off on all terminated cases before running the Officer Collection reports at the end of the calendar month. Run the report **WITHOUT WARRANTS**.

2.) Update Statuses and Audit Caseload

Each officer should use his/her collection report to do a personal audit of all cases that are assigned to his/her caseload. You should look for obvious mistakes such as cases that are missing or those names that show up on the report that are not assigned to you. Further, each officer should spend some time updating defendants' statuses in the system. All mistakes should be fixed immediately and a new report can be run if necessary.

3.) Identify all Non-collectable Cases

Your first goal in completing the officer collection report is to identify all cases that are considered "Non-collectable". The majority of your non-collectable cases will be printed on your report for you (if the status has been updated). The following designations will be accepted as the **ONLY** approved "handwritten" excuses for "Non-collectable" cases. Each designation is followed by the proper symbol that should be used to identify these cases.

WARRANT

CUSTODY

ELEC= on GPS or Electronic Monitoring with PPS

PENDING= New Case that has not started yet (write start date)= **START 04/01/2013**

CONSECUTIVE

TREATMENT= defendant is in Full-time treatment or hospitalized.

WAIVED= FEES are WAIVED by the Court.

All other excuses need a manager's initials/signature.

NOTE: Never should a case be marked with one of these designations, unless you are completely sure of the case's current status. For example, you should not write (or change the status to) a "WARRANT" unless you are **SURE** it is in fact an active warrant, not just a pending warrant.

4.) Count the Non-collectable Cases

Now you need to count every "Non-collectable" case and write the totals at the bottom of **EVERY** page of the report (this is **NOT** a fraction). You then need to total up each page of the report and write the grand total of Non-collectable cases in the box designated as **Non-collectable** on the final page. Please make sure that you **DO NOT** count any cases as Non-collectable that paid at least \$30. These cases will be designated with ** and are automatically credited in your final **Paid** count. (Example: If a defendant paid fines and fees earlier in the month, then was put in custody for new charges and the officer changed the status to **Custody, the officer should allow this to be called a paid case and **NOT** count it as Non-collectable).

5.) Do the Math

Your total case count is **provided** for you. Work the math by **subtracting** the Non-collectable cases from the total case count to get your "Collectable" case count. Notice that your number of paid cases (**paid at least \$30**) is also **provided** in order for you to create a final fraction. Now write the paid cases **over** the "Collectable" cases as a fraction. Divide this fraction in order to get your collection percentage.

(Example- $234/259 = 90\%$) *Please document this final fraction and percentage on the front page of the report.*

6.) Home Confinement Accountability Listing

An ELEC Accountability Report will be included as a supplement to the collection report. Every probation officer should use this report as an audit tool to ensure each defendant's financial compliance while on House Arrest. Officers need to document an excuse next to every defendant on their report that did not pay at least **\$150** toward ELEC during that calendar month. The Dept. of Standards will review these excuses and create a fraction that will be added to and included in, your final collection percentage.

7.) Turn in the Report

After you have completed your collection report, turn it in to your Office Manager for review. If you work in an office that is outside of the metro Atlanta area, please fax or email your report directly to David Jacobs at the PPS Kennesaw Probation office **fax: 678-290-5763 email: djacobs@ppinfo.net**. All defendants who did not pay a fee should be "looked into" in order to identify the reason. This is the real goal of the Fee Incentive Program, to identify, find, and fix problems in your case load, not just to give out bonus money.

Bonus Plan:

Only caseloads with over 100 "collectable" cases will be eligible for bonus compensation. However, **all** caseloads are expected to maintain the minimum standards, regardless of caseload size. Further, offices that are **NOT PROFITABLE** are **NOT** eligible for bonus compensation for any month that the office/cost center does not make a profit (please discuss your cost center's profitability with your State V.P.). Bonuses are generally paid out on the second pay check of the month.

96% or greater - \$150.00 bonus

90% - 95% - \$100.00 bonus

86% - 89% - \$50.00 bonus

70% - minimum acceptable (no bonus compensation)

69% or less - unacceptable collection rate- can be placed on 30-day probationary period in order to bring % up to 70%.

Note: Failure to complete the Officer Report as instructed could result in a \$50 reduction in compensation.

Feel free to contact David Jacobs, Senior V.P. of Standards to check on your monthly percentage or to ask any questions concerning the Officer Collection (Fee Incentive) Program. He can normally be reached at the Kennesaw Probation Office at **678-290-5775** or by email djacobs@ppinfo.net

Current Fee Collection

For Officers:

Court	Name	ID	Ordered	Paid	Balance	Current Collected	Next Rpt Date	Notes
Fayetteville	BUTRAGO-GONZALEZ, MARIELI	136226	420.00	35.00	385.00	35.00	2009-10-26	
Fayetteville	BYNUM, RICKY	137794	420.00	35.00	385.00	35.00	2009-10-23	
Fayetteville	CHESSON, BRIAN	145260	420.00	35.00	385.00	35.00	2009-10-22	
Fayetteville	COTTON, DERRICK	139902	420.00	35.00	385.00	35.00	2009-10-08	
Fayetteville	DUKES, THOMAS	139880	420.00	35.00	385.00	35.00	2009-10-23	
Fayetteville	GRAY, TIMOTHY	138976	420.00	0.00	420.00	0.00	2009-09-28	
Fayetteville	MORRIS, ROBERT D	143685	420.00	35.00	385.00	35.00	2009-10-23	
Fayetteville	PRESLEY, DEREK	138114	420.00	35.00	0.00	35.00	2009-09-25	** CLOSED
Fayetteville	SIMPSON, DAVID	144558	420.00	35.00	385.00	35.00	2009-10-23	
Fayetteville	SMITH, LLOYDIUS	139974	420.00	35.00	385.00	35.00	2009-10-15	
FAYETTE CO SUPERIOR COURT	ADAMS, MARQUEZ SYMILLE	2008R0087	840.00	455.00	385.00	35.00	2009-10-15	
FAYETTE CO SUPERIOR COURT	ALLEN, LLYOD	03R0272	35.00	0.00	35.00	0.00		WARRANT
FAYETTE CO SUPERIOR COURT	AMEY, AKIMBLE LASHAWN	2007R0212	840.00	595.00	245.00	0.00	2009-09-28	
FAYETTE CO SUPERIOR COURT	BANKS, OLIVER JARMAINE	2008R0389	840.00	420.00	420.00	35.00	2009-09-29	
FAYETTE CO SUPERIOR COURT	BEASLEY, ROBERT LEE	2009RBAIL	420.00	0.00	420.00	0.00	2009-07-15	WARRANT
FAYETTE CO SUPERIOR COURT	BELL, ANDRE	09R-0067-A	420.00	0.00	420.00	0.00	2009-10-06	
FAYETTE CO SUPERIOR COURT	BITHELL, BRITANY	07R0253	1,260.00	735.00	525.00	35.00	2009-10-23	
FAYETTE CO SUPERIOR COURT	BROUGHTON, ROBERT DEMITRI	07R0227	1,120.00	735.00	385.00	35.00	2009-10-15	
FAYETTE CO SUPERIOR COURT	BROWN, DOMINIQUE JAMELLE	08R-0214	420.00	350.00	70.00	35.00	2009-10-15	
FAYETTE CO SUPERIOR COURT	BROWN, WILLIE	07R250	1,120.00	722.00	398.00	22.00	2009-10-22	
FAYETTE CO SUPERIOR COURT	CALZARETTA, MATTHEW	09R-0347	840.00	0.00	840.00	0.00	2009-10-23	
FAYETTE CO SUPERIOR COURT	CARDOZO-REYES, RICARDO	09R0039	350.00	35.00	315.00	0.00	2009-04-20	WARRANT
FAYETTE CO SUPERIOR COURT	CARVAJAL, LUIS EDUARDO	2008R0477B	420.00	245.00	175.00	35.00	2009-10-15	

** Do not count this case as a Non-Collectable. This case will be reflected in the Paid count.

Current Fee Collection

For Officer:

Court	Name	ID	Ordered	Paid	Balance	Current Collected	Next Rpt Date	Notes
FAYETTE CO SUPERIOR COURT	EASAR, BRANDY	06R0293	315.00	66.00	249.00	0.00	2009-10-15	
FAYETTE CO SUPERIOR COURT	CHAPPELL, STARR G.	08R-0419	420.00	0.00	420.00	0.00	2009-10-08	PENDING
FAYETTE CO SUPERIOR COURT	CLEVENGER, WHAYLEN B.	2009R-CLEVENGER	220.00	70.00	350.00	35.00	2009-10-08	
FAYETTE CO SUPERIOR COURT	CONNELL, GRADY THOMAS	2008R0364A	420.00	245.00	175.00	35.00	2009-10-15	
FAYETTE CO SUPERIOR COURT	CONNELL, JUDIETH LEE	2008R0100	840.00	490.00	350.00	35.00	2009-10-19	
FAYETTE CO SUPERIOR COURT	COOPER, MELISSA	04R0004	385.00	0.00	385.00	0.00		WARRANT
FAYETTE CO SUPERIOR COURT	COURSEY, GINGER	2008R0334	1,260.00	245.00	1,015.00	35.00	2009-10-23	
FAYETTE CO SUPERIOR COURT	CRADDOCK, MICHAEL	04R0087	175.00	0.00	175.00	0.00		WARRANT
FAYETTE CO SUPERIOR COURT	CUDSIK, CLAIR	2009R-0020-B	420.00	35.00	385.00	35.00	2009-10-22	
FAYETTE CO SUPERIOR COURT	CUMENTO, ANDREW JOSEPH	2008R0160	840.00	490.00	350.00	35.00	2009-10-22	
FAYETTE CO SUPERIOR COURT	CZICK, GEORGE PATRICK	08R0296	1,260.00	455.00	805.00	35.00	2009-10-15	
FAYETTE CO SUPERIOR COURT	DAVIS, GEORGE E	2008R0305	630.00	175.00	455.00	0.00	2009-08-24	WARRANT
FAYETTE CO SUPERIOR COURT	DORSEY, THOMAS REGINALD	09R-0348	1,680.00	35.00	1,645.00	35.00	2009-10-23	
FAYETTE CO SUPERIOR COURT	DUBLIN, MICHAEL B.	07R0308	735.00	735.00	0.00	35.00	2009-09-25	** CLOSED
FAYETTE CO SUPERIOR COURT	FERNANDEZ, IGNACIO	07R0505	385.00	0.00	385.00	0.00		WARRANT
FAYETTE CO SUPERIOR COURT	FRANKLIN, RADARIUS ANDREA	07R0285B	840.00	665.00	175.00	35.00	2009-10-15	
FAYETTE CO SUPERIOR COURT	GAINES, LAWRENCE	05R0505	132.00	0.00	132.00	0.00		WARRANT
FAYETTE CO SUPERIOR COURT	GARDNER, ANDONIYAH	2009R79	420.00	210.00	210.00	0.00	2009-09-29	
FAYETTE CO SUPERIOR COURT	GAROFALO, SALVATORE	06R0465	1,680.00	735.00	945.00	35.00	2009-10-23	
FAYETTE CO SUPERIOR COURT	GLASER, NEIL	2008R0386	1,260.00	455.00	805.00	35.00	2009-10-23	
FAYETTE CO SUPERIOR COURT	GOMEZ, AGUSTIN	05R0507	175.00	0.00	175.00	0.00		WARRANT
FAYETTE CO SUPERIOR COURT	GUEVARA, RAUL VILLANUEVA	08R0311	1,260.00	210.00	1,050.00	0.00	2009-04-30	WARRANT
FAYETTE CO SUPERIOR COURT	HAMILTON, LARAY	08R0076	1,260.00	665.00	595.00	35.00	2009-10-23	

** Do not count this case as a Non-Collectable. This case will be reflected in the Paid count.

Current Fee Collection

For Officers:

Court	Name	ID	Ordered	Paid	Balance	Current Collected	Next Rpt Date	Notes
FAYETTE CO SUPERIOR COURT	HEALEY, DARREN	2008R037B	420.00	35.00	385.00	0.00	2008-10-22	WARRANT
FAYETTE CO SUPERIOR COURT	HEARD, GLORIA ANN	02R0045	185.00	0.00	185.00	0.00		WARRANT
FAYETTE CO SUPERIOR COURT	HOWARD, THOMAS WILLIAM	2008R0429B	420.00	245.00	175.00	35.00	2009-10-23	
FAYETTE CO SUPERIOR COURT	JOHNSON, MARVIN	JOHNSON	420.00	0.00	420.00	0.00	2009-09-15	CUSTODY
FAYETTE CO SUPERIOR COURT	JONES, JEFFERY	2009R-0119	420.00	35.00	385.00	35.00	2009-10-08	
FAYETTE CO SUPERIOR COURT	KELLY, RESHAR KENDALL	08R-0092	840.00	385.00	455.00	0.00	2009-04-30	WARRANT
FAYETTE CO SUPERIOR COURT	LUCIANO, NICHOLAS	2008R0387	1,680.00	490.00	1,190.00	70.00	2009-10-23	
FAYETTE CO SUPERIOR COURT	LUGHAS, ALLISON CHIMEKEA	2007R031D	420.00	105.00	315.00	0.00	2008-06-04	WARRANT
FAYETTE CO SUPERIOR COURT	MANN, COREY SCOTT	08R-0440	840.00	385.00	455.00	35.00	2009-10-23	
FAYETTE CO SUPERIOR COURT	MCCLELLAN, SARAH	2009R-0100-B	420.00	0.00	420.00	0.00	2009-10-15	
FAYETTE CO SUPERIOR COURT	MCGREGOR, JAMIE	2008R0104	420.00	245.00	175.00	35.00	2009-10-15	
FAYETTE CO SUPERIOR COURT	MILLER, JASON	08R-0247A	420.00	140.00	280.00	0.00	2009-10-09	
FAYETTE CO SUPERIOR COURT	MOBLEY, RODNEY SCOTT	2008R0377	840.00	280.00	560.00	35.00	2009-10-08	
FAYETTE CO SUPERIOR COURT	MONTGOMERY, STEPHEN	2008R0244C	420.00	210.00	210.00	35.00	2009-10-23	
FAYETTE CO SUPERIOR COURT	MOSELEY, WILLIAM DANIEL	2009R-0127	420.00	0.00	420.00	0.00	2009-08-06	WARRANT
FAYETTE CO SUPERIOR COURT	MOSLEY, STEVEN A.	2008R0380	840.00	455.00	385.00	35.00	2009-10-22	
FAYETTE CO SUPERIOR COURT	MURPHY, TYSESE	2009R-0102	1,260.00	0.00	1,260.00	0.00	2009-10-22	PENDING
FAYETTE CO SUPERIOR COURT	MYLES, ANTONIO P.	08R-0480	420.00	0.00	420.00	0.00	2009-06-04	CUSTODY
FAYETTE CO SUPERIOR COURT	RNDORFF, BRITTANY R	2009RA	420.00	245.00	175.00	35.00	2009-10-15	
FAYETTE CO SUPERIOR COURT	PATRICK, STEPHEN	2008R0292	1,260.00	210.00	1,050.00	35.00	2009-10-22	
FAYETTE CO SUPERIOR COURT	PECK, CHARLES GEROME	2008R0059B	840.00	245.00	595.00	140.00	2009-09-29	** CUSTODY
FAYETTE CO SUPERIOR COURT	PEPPERS, RODNEY	2008R-0086	420.00	175.00	245.00	35.00	2009-10-22	
FAYETTE CO SUPERIOR COURT	ROBINSON, KALI	2009R-0288	420.00	35.00	385.00	35.00	2009-10-08	

*** Do not count this case as a Non-Collectable. This case will be reflected in the Paid count.

Current Fee Collection

For Officer:

Court	Name	ID	Ordered	Paid	Balance	Current Collected	Next Rpt Date	Notes
FAYETTE CO SUPERIOR COURT	SAUNDERS, JOSHUA MAURICE	2009R0235	1,260.00	0.00	1,260.00	0.00	2009-09-04	WARRANT
FAYETTE CO SUPERIOR COURT	SETRAM, AKIEL	2009R0077	420.00	245.00	175.00	35.00	2009-09-28	
FAYETTE CO SUPERIOR COURT	STINSON, JACKIE	07R0164	315.00	0.00	315.00	0.00		WARRANT
FAYETTE CO SUPERIOR COURT	THEPPHASON, SACKDA	BATTERY	420.00	35.00	385.00	35.00	2009-10-22	
FAYETTE CO SUPERIOR COURT	THOMAS, ALEXANDER	2009R-0190	1,260.00	105.00	1,155.00	35.00	2009-10-07	
FAYETTE CO SUPERIOR COURT	WALLOCH, JAMES	CRIM	840.00	35.00	805.00	35.00	2009-10-15	
FAYETTE CO SUPERIOR COURT	WEST, CLAYTON	07R0069	735.00	735.00	0.00	35.00	2009-08-27	
FAYETTE CO SUPERIOR COURT	WIMBUSH, DAVID	2008R0467B	420.00	140.00	280.00	0.00	2009-07-15	CUSTODY
FAYETTE CO SUPERIOR COURT	WRIGHT, LAGARY	09R-0038	350.00	0.00	350.00	0.00		CUSTODY
FAYETTE CO SUPERIOR COURT	YATES, KIM K	2008R0282	420.00	210.00	210.00	35.00	2009-09-15	

79

Count

Non-Collectable

Collectable

Paid: 47

Number Warrants: 17

Do not count this case as a Non-Collectable. This case will be reflected in the Paid count.



House Arrest Division
 Shannon Buchanan, Director
 80 Horizon Drive, Suite 403
 Suwanee, Georgia 30024
 770-402-4806

Device	What it Does	Landline Required?	Cost to Offender
Random Breath Alcohol Monitoring	Defendant is summoned randomly to a <i>SCRAM REMOTE BREATH DEVICE</i> to give a breath test.	NO	\$9.00 per day + 50.00 ACTIVATION FEE
GPS Monitoring	A GPS device whose movements are actively monitored 24/7 by satellite. Can set exclusionary and inclusionary zones.	NO	\$10.00 per day + 50.00 ACTIVATION FEE
Transdermal Alcohol Monitoring	Defendant's alcohol consumption is monitored 24/7. Monitoring done through cellular receiver	NO	\$12.00 per day + 50.00 ACTIVATION FEE

3M Electronic Monitoring

Portable Breath Alcohol Monitoring



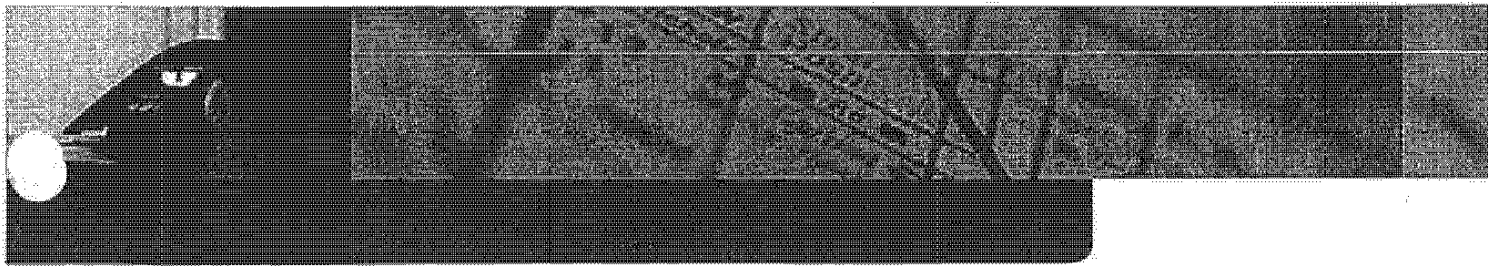
SCRAM™ Remote Breath Alcohol Testing Device

The most trusted names in electronic monitoring—3M and Alcohol Monitoring Systems, Inc.—come together to bring you one of the smallest breath alcohol devices that provides big peace of mind for corrections and law enforcement officers managing alcohol monitoring programs.

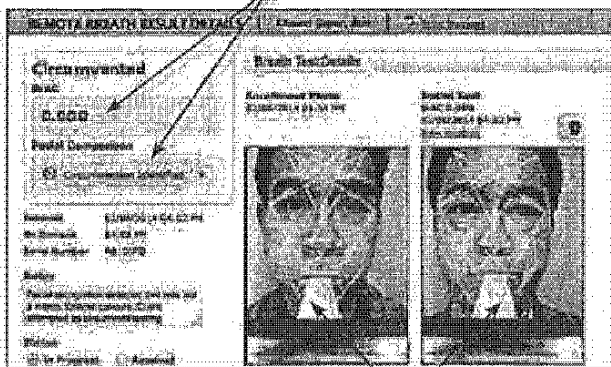
SCRAM Remote Breath is a handheld, wireless, breath alcohol device that provides automated facial recognition and GPS location tracking with each test.

3M

Confidential
PPS RFP Docs 000285



PASSED BrAC
FAILED Identification



AF caught mismatch on photos
when subject's cousin attempted
to take scheduled test for him.



Features

- One-piece, handheld device is rugged, portable and easy to use
- Automated facial recognition software helps confirm whether the correct individual is taking the test
 - Intelligent biometric confirmation system and automated matching—reduces manual review of photos
 - High-resolution images
- Immediate notification of both breath alcohol level and positive client identification
 - Significantly reduces staff time required to confirm identities
 - Real-time notifications with automated, simultaneous client verification
- Device-initiated testing—automatically turns on and prompts clients for tests
 - Helping ensure clients always know when it is time to test
 - Flexible testing schedule options—random, scheduled and on-demand
 - Optional reminders and notifications sent to client's cell phone
- Store and forward up to 48,000 test results
 - Stores test results when out of cell coverage and forwards them when service is reacquired, so you'll never lose test data
- GPS location with every test—even missed tests
 - GPS locations provide more supervision data, especially on missed tests

An Industry Leader

3M Electronic Monitoring is a developer and manufacturer of industry leading GPS, RF and Alcohol monitoring technologies, providing monitoring equipment and related field services specifically for the corrections, law enforcement and security industries. Since 1994, 3M Electronic Monitoring has been serving U.S. agencies and service providers, bringing them invaluable field support experience and engineering expertise. 3M Electronic Monitoring systems are further deployed by private operators and government agencies worldwide. 3M Electronic Monitoring is ISO 9001:2008 certified and is part of 3M's Traffic Safety and Security Division.



3M Electronic Monitoring (USA)

1838 Gunn Hwy.
Odessa, FL 33556
Toll Free: 888-677-6278
Fax: 813-749-5474

visit us at: www.3m.com/electronicmonitoring

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98-0503-2040-1

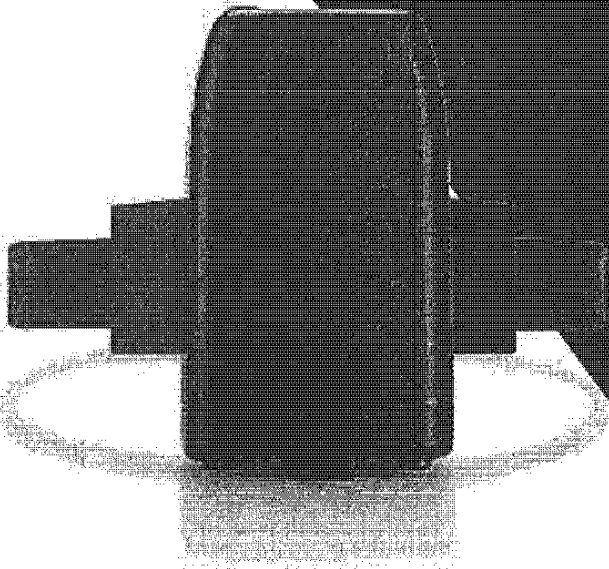
3M is a trademark of 3M Company. Used under license in Canada.
All other trademarks are the property of their respective owners.
Warranty information is available upon request.

Confidential
PPS RFP Docs 000286



A tracking system for those who know it's about more than tracking.

Flexible and simplified. The latest 3M™ One-Piece Tracking Device 4 lets
you focus more on your monitoring program and less on your equipment.



3M™ One-Piece Tracking Device 4



Flexible Software

Multiple Supervision Levels

Switches easily between active, hybrid and passive modes

Custom Program Configurations

Allows specific program rules to be set for each offender

Simple Activation

Sets up in less than 5 minutes



Home Curfew

Optional Indoor Beacon

Improves location accuracy while allowing offenders to move freely indoors without signal loss or interruption

Adjustable Indoor Range

RF tethering between the beacon and offender device allows for custom range settings up to 250 ft.



Simplified Design

Single-Use Strap

Improves comfort, cleanliness and the potential for compliance

Tamper Resistance

Strap materials prevent stretching and reveal tampering

Waterproof

Strap and device resist water up to 68 ft. in depth

Battery Life

Lasts more than 38 hours on a 2.5 hr. charge

Certified Safe

Meets all necessary safety standards and FCC certifications

Slim Profile

Weighs in under 6.5 oz.



Reliable Hardware

CDMA Network

Supports cellular communication and tower based tracking (TBT) to provide the most reliable coverage nationwide

Two-Way Communication

Notifies offenders with LED lights and vibration alerts

Data Backup

If the signal is lost, the device stores up to 30 days of data

If the battery enters low-power mode, the device stores up to 3 days of data

On-Board Processing

Program rules remain stored for faster notification delivery

Update Compatibility

The device houses enough storage and processing power for future system updates to be pushed and installed wirelessly

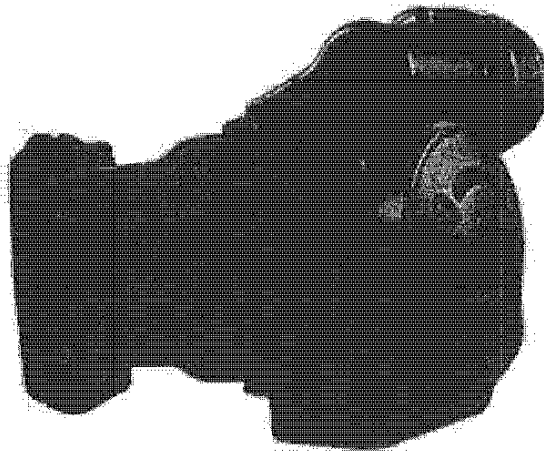


3M Electronic Monitoring
1838 Gunn Hwy.
Odessa, FL 33556
Toll Free: 888-677-6278
Fax: 813-749-5474
visit us at:

www.3m.com/electronicmonitoring

Working on the Science of Safe and Sound

For more than 20 years, 3M has been committed to helping agencies and companies improve the security of people worldwide. This mission continues with a growing line of products and services, all designed to protect lives, preserve property and manage budgets efficiently.



BI TAD
More Than Just
Alcohol Monitoring

[Overview](#)

[Technical Specs](#)

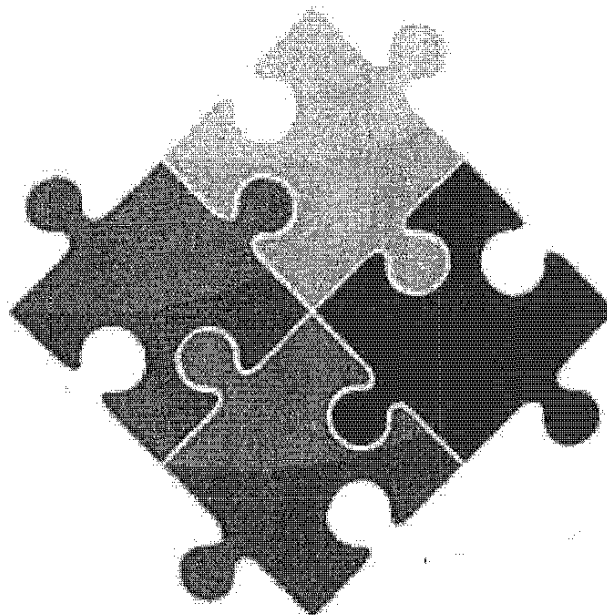
[Request a Demo](#)

Continuous Alcohol Monitoring And More

BI TAD[®], the Transdermal Alcohol Detector, was the industry's first device to offer continuous alcohol monitoring and radio frequency in a single device. As a result, judges and community corrections officers can monitor sobriety and curfews with one, easy-to-use and reliable device.

KEY FEATURES

- Dual Capabilities
- Advanced Technology
- Court Admissible
- Tamper-Resistant Features
- Monitoring Operations

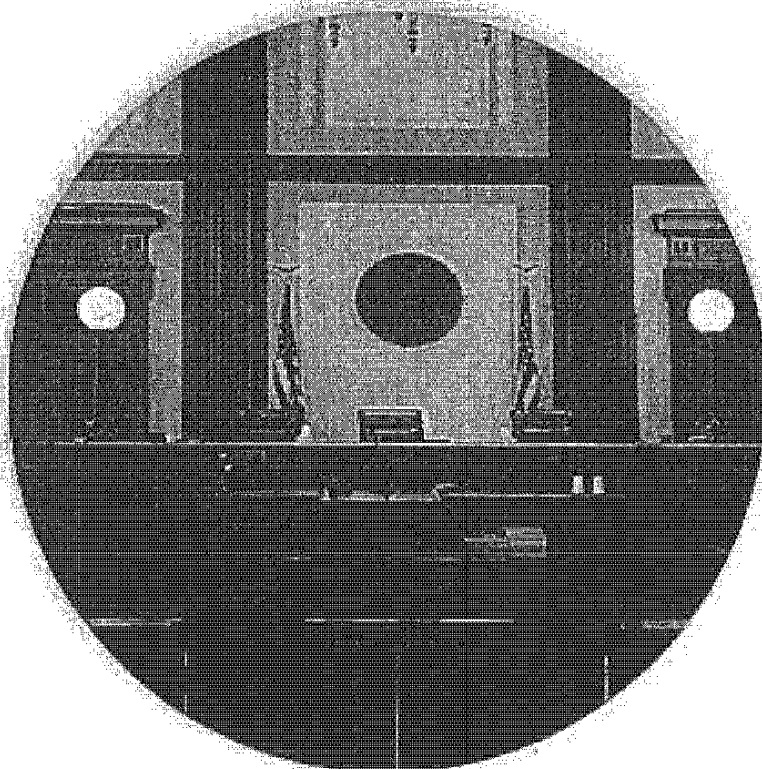
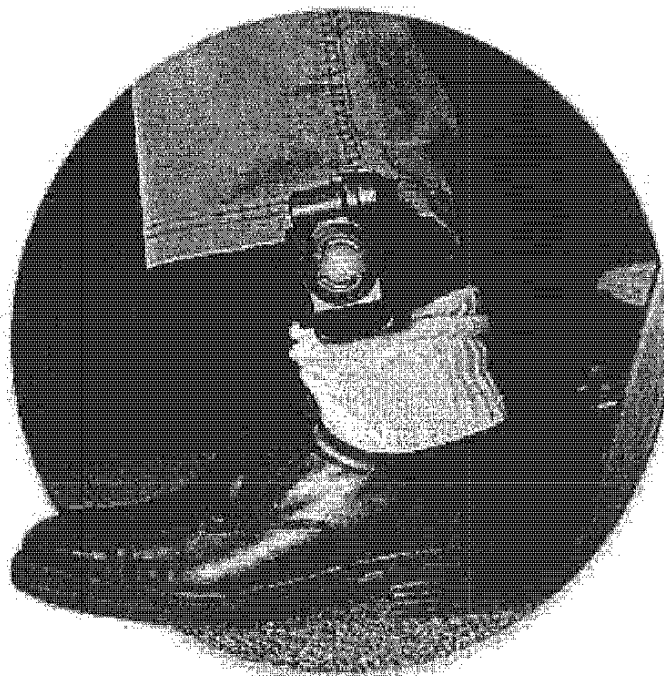


One System—Two Capabilities

By combining alcohol and radio frequency monitoring in one system, agencies save. And, TAD offers so much more: around-the-clock officer login; variable range settings for curfew monitoring; and a lightweight (less than 8 ounces) long-lasting, field-replaceable battery.

Advanced Technology, Yet Simple To Use

TAD is a water-resistant, battery-operated device that measures ingested alcohol through a sensor resting firmly on the client's leg. This continuous alcohol monitoring device measures offender alcohol use via vaporous or insensible perspiration passed through the skin. TAD applies a proprietary algorithm to generate a baseline for each individual and enhance testing accuracy.

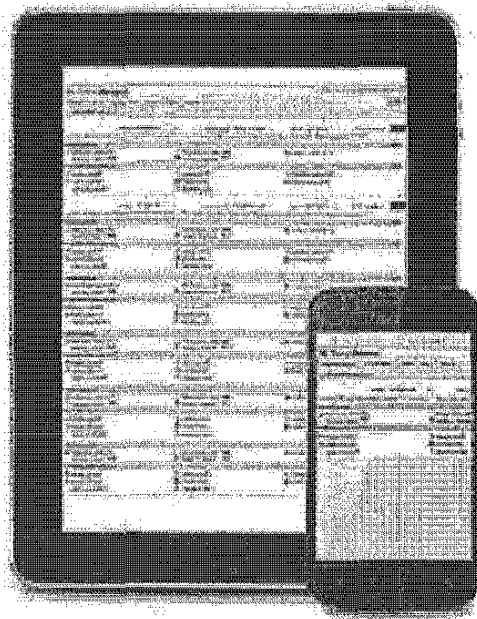


Meeting the Daubert Standard for Courts

TAD is a water-resistant, battery-operated device that detects ingested alcohol through a sensor resting firmly on the client's leg. Results generated by TAD stand alone—no secondary or backup testing is needed.

7 Tamper Detection Features

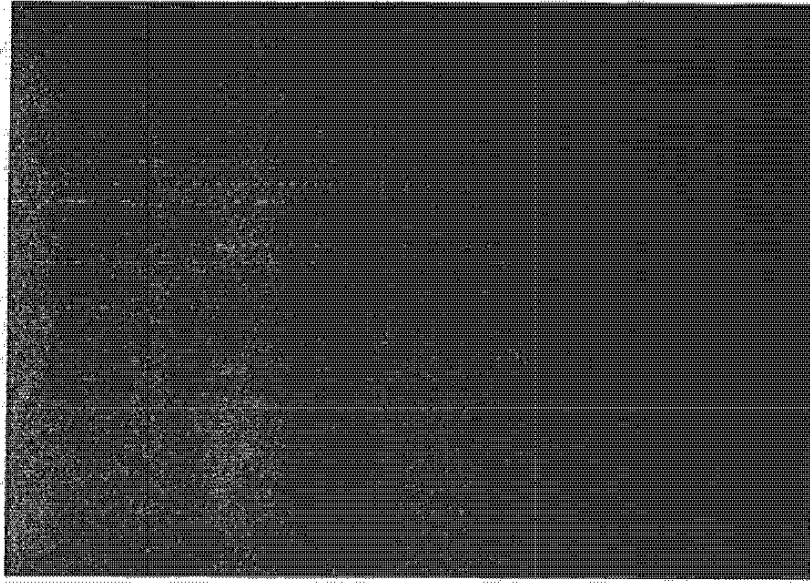
TAD has seven tamper-resistant features to ensure reliability and accuracy, including proximity, motion, skin-contact sensors, fiber-optic strap detection, and more. Officers can also be alerted to violations via email, smartphone, or tablet. Combined, these technologies deliver comprehensive protection against client tampering and help ensure system integrity.



Backed By The Best

Overview: House Arrest

- House Arrest: Allowing a person who is sentenced to a jail term spend the time at home as an alternative to incarceration
- As crime increases and prisons are overcrowded, the U.S. Government is taking measures to prevent overcrowding while deterring crime
- As of 2002, approximately 120,000 individuals out of a 3 million inmate population were electronically monitored
- Three Primary Rationales for Electronic Monitoring
 - Detention
 - Restriction
 - Surveillance

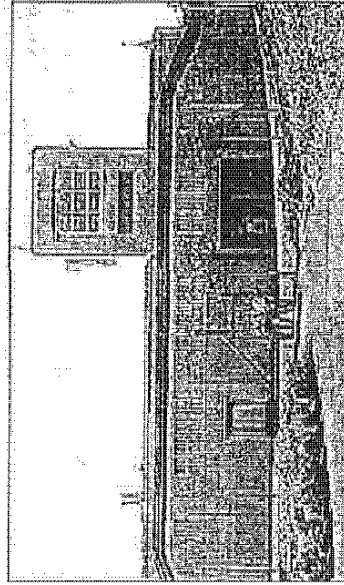


Actsoft[™] Inc.
Wireless Data Innovators

Overview: House Arrest

- Cost Effective Alternative to Overcrowding Prisons and Jails
 - Reduce Labor Costs of Overtime and New Officers
 - Reduce Costs of building new Prisons and Jails
 - Reduce Public Tax Burden by allowing Offenders to work and pay for Electronic Monitoring Costs
- Passive System: Offender answers a telephone and speaks to a Case Officer or inserts a Transmitter in to a Home Monitoring Device (HMD)
- Active System: Track Offender's location on a continuous basis as transmitters emit repeated signals to the HMD and the HMD Alerts the Central Monitoring Center

- The most advanced Active Systems use GPS to monitor the Offender 24 hours per day



ActsoftTM Inc.
Wireless Data Innovators

Sample Forms



Probationer Case Information Sheet

Personal Information

Court: _____ Probation Officer: _____ Min. Payment: \$ _____
Waived Fee: Y / N

First Name: _____ Middle: _____ Last: _____
Alias: _____
DOB: _____ Sex: _____ Race: _____
Height: _____ Weight: _____ Eyes: _____ Hair: _____
DL# _____ State: _____ SSN: _____
Markings: _____

Home Address: _____ City: _____
e: _____ Zip: _____ Home Phone: _____ Cell: _____

Emergency Contact Information

Contact #1: _____ Relationship: _____
Address: _____ City: _____ State: _____ Zip: _____
Phone: _____

Contact #1: _____ Relationship: _____
Address: _____ City: _____ State: _____ Zip: _____
Phone: _____

Work Information

Employment Status: Y / N Employer: _____
Employer Address: _____
Employer Phone: _____

es: Sentence: _____ Start: _____ End: _____ Term/Months: _____
ge: _____ First Office Contact Date: _____

Intake Officer: _____

Date: _____

COMMUNITY SERVICE INTAKE FORM

NAME _____ SEX _____ AGE _____ SSN _____
 MEDICAL DISABILITIES/PROBLEMS _____
 OFFENSE _____ DOCKET _____ JUDGE _____
 SENTENCE DATE _____ TERMINATION DATE _____
 NUMBER OF HOURS _____ DEADLINE _____

COMMUNITY SERVICE RESPONSIBILITIES AND REQUIREMENTS

1. You must complete no less than (8) hours of community service work each consecutive week. Of course, you may do more each week to finish sooner.
2. Your community service must be accomplished with a positive and cooperative attitude and the work should be accomplished on the established schedule with quality workmanship.
3. Failure to show up for community service will not be tolerated without prior approval. This includes being late or leaving early. You must report to the on-site supervisor when you arrive or leave site.
4. Any unexcused absence, failure to perform work as instructed, insubordination, intoxication, illegal drug use, or any act disruptive to the work crew will result in you being immediately dismissed from the work detail, and the reason for dismissal reported to the sentencing Judge.
5. No one except the sentencing Judge and the Probation Officer has the authority to excuse you from community service work.
6. The only acceptable excuse is a written doctor's excuse that has been verified by your Probation Officer. Other excuses will only be accepted after the facts have been verified.
7. You are responsible for providing your own transportation to your community service site.
8. Clothing requirements should be based on weather, type of service, and site location.
9. Problems that arise while performing community service should be brought to the attention of the on-site supervisor.

I certify that the information in this document is true to the best of my knowledge. I further certify that I accept placement in a community service agency to perform community service and I understand my responsibilities for proper performance of community service work. I authorize Professional Probation Services, Inc. to release the above information to the agency to which I am assigned to perform community service work. I understand that this consent shall expire upon my satisfactory performance and completion of court-ordered community service hours. I further, understand that this consent may not be revoked by me until there has been a formal and effective termination or revocation of my probation.

CONSENTED TO THIS _____ DAY OF _____, 20____.

X _____
 Probationer

 Witness

STATE OF ALABAMA
COUNTY OF _____

COMMUNITY SERVICE AGREEMENT

1. Probationer agrees to perform community service for any court approved agency, hereinafter called AUTHORITY as part of a court ordered sentence. For the purpose of this Agreement, AUTHORITY means the County/City of, _____ Professional Probation Services Inc., and any court approved agency, its employees, agents, officials, and supervisors including his /her successors in office.

2. The PROBATIONER Covenants, Agrees and Promises the following:

- a. I will perform such community service in a proper and workmanlike manner.
- b. I will assume liability for any bodily or personal injury received as a result of performing this community service. I will not institute any proceedings against the AUTHORITY or its Insurers, Court Officials, Probation Officials or any Federal Court, Administration Court or Worker's Compensation Board because of any injury arising out of this community service or because of any injury sustained while going to or from any location where such community service is or is to be performed.
- c. I will not be considered an employee of said AUTHORITY while performing such community service and understand I am not to be paid any compensation whatsoever for the community service I shall perform.
- d. I herein declare no disability or handicap which will prevent the performance of my assigned community service hours. I will promptly provide to the court written documentation which fully describes any disability or handicap should such occur in the future. Exemption from community service can only be declared by the Court.
- e. I understand that if I do not satisfactorily perform community service, my sentence imposed by the Court may be revoked.
- f. I understand and have reviewed the conditions agreed to by the AUTHORITY.
- g. I understand that I am to complete _____ hours of community service.

IN WITNESS WHEREOF, PROBATIONER HAS HERE ONTO SET HIS HAND

on this the _____ day of _____, 20_____.

Signed in the presence of:

Probationer

Witness

Date

RE: COMMUNITY SERVICE PLACEMENT

You have been sentenced to complete _____ hours of community service. You have been assigned to the following agency to complete this work:

You are directed to contact _____ at _____ within five days to begin this service.

You will be required to work a minimum of 8 hours of community service every consecutive week until all hours are completed. If you fail to complete a minimum of 8 hours per week your assignment will be returned to your Probation Officer for action.

It is your responsibility to have your hours documented on the timesheet provided to you and to return this timesheet to your Probation Officer upon completion of all hours. Failure to comply with these instructions or the instructions of this agency is a violation of the conditions of your probation. This service should be completed by _____.

Any questions or problems regarding this assignment should be directed to me or to your Probation Officer.

Sincerely,

Community Service Coordinator

Date

ATTN: _____

RE: COMMUNITY SERVICE REFERRAL

Dear _____:

Please be advised that _____ was referred to your agency to complete _____ hours of community service. He/She was instructed to contact you within five days to begin this service.

The offender will be responsible for providing documentation to your agency's supervisor and having his/her hours recorded for each day worked. The offender will further be required to complete a minimum of 8 hours of service every consecutive week until all hours are completed and their completed timesheet is returned to their Probation Officer. The offender has been instructed to complete this service by _____.

Please contact me should you have any questions or problems.

Sincerely,

Community Service Coordinator

PROFESSIONAL PROBATION SERVICES, INC. PROBATION DELINQUENCY REPORT

Name: _____

Date: _____

Case No(s): _____

To: _____

Offense(s): _____

From: _____

Sentence Date: _____

Court: _____

Expiration Date: _____

County: _____

=====
Circumstances of Delinquency:

Summary of Behavior Under Supervision

Probation Supervisor's Recommendations (Explain Why):

☐ Issuance of Warrant

☐ Revocation Hearing

Due to the above stated violations, it is respectfully recommended that . . .

Probation Supervisor (Signature)

(Date)

REQUEST FOR URINALYSIS DRUG SCREEN**PART I****IDENTIFICATION**

PROBATIONER'S NAME _____

Last

First

Middle

SEX _____

RACE _____

DOB _____ / _____ / _____

COURT _____

CASE# _____

LOCATION _____

(Office Address)

PROBATION OFFICER'S NAME _____

PART II**STATEMENT**

I am neither under the influence of any drugs or medication nor have I taken any drugs or medication in the past three (3) weeks other than those listed below. I certify that the urine sample is my own, has not been tampered with by myself or anyone else, and the container has been sealed in my presence.

Medication within past three (3) weeks: _____

Illegal drugs within past three (3) weeks: _____

Probationer's Signature: _____

Container sealed by: _____

Sample Date: _____

PART III**TYPE OF DRUG SCREEN REQUESTED**

- RDS () Routine Drug Screen
 INT () Intake Screen (within first three weeks)
 FUS () Follow-up Screen (on weekly follow-up status)
 SDS () Suspect Drug Screen [Drug(s) suspected]: _____
 RSS () Random Selection Survey (Selected at random from population/caseload)
 TPS () Total Population Survey (Total population/caseload being screened)
 RET () RETEST (Subject has had at least one positive result)
 OTH () OTHER: _____

PART IV**TEST RESULTS**

Tested by: _____

Date: _____

THC(Marijuana) () Negative () Positive () Not Tested

COCAINE () Negative () Positive () Not Tested

AMPHETAMINES () Negative () Positive () Not Tested

BARBITURATES () Negative () Positive () Not Tested

HEROIN () Negative () Positive () Not Tested

Comments: _____

EXPIRATION LIST ☺

MONTH DATE	CT.	NAME	NOTES	STATUS

MONTH DATE	CT.	NAME	NOTES	STATUS

PROFESSIONAL PROBATION SERVICES, INC.

Court ~ Community ~ Offender

Date: _____

Mr./Ms. _____

You failed to report as directed to your assigned probation officer on _____ As you are aware, this is a violation of the conditions of your probation.

You are now directed to report to my office on _____ at _____ am/pm. Failure to report for this appointment will result in the issuance of a warrant for your arrest. Please conduct yourself accordingly to avoid further legal action.

Any questions regarding this matter should be directed to my office at 246 Sycamore Street, Suite 255 Decatur, Georgia 30030; telephone number (404) 373-6337.

Sincerely,

Brian Drake
Probation Officer

[illegible]

Professional Probation Services House Arrest Candidate Worksheet

- ◆ Do you have a job? How long have you been working at this job?
- ◆ Do you have a permanent residence? How long have you been living there?
- ◆ Do you have a working telephone? Do you pay the bill on time? You may only have cell waiting as a special feature, nothing else.
- ◆ This program is \$9.00 to \$10.00 a day depending on the sentence that you will receive. You will be responsible for paying every month that you are on this program in advance. Do you feel that you are capable of handling these payments?
- ◆ If you participate in this program it will consist of wearing an ankle transmitter and being tested for alcohol through your phone system. You are allowed to work and perform any duties ordered by the court with a set schedule, otherwise you are confined to your home. Do you feel that you are capable of performing these duties without being revoked?

Monthly Income

\$ _____

Monthly Expenses

House Arrest cost	\$270.00
Housing and utilities	_____
Auto	_____
Meals	_____
Fines, etc.	_____
Total	_____

I acknowledge that participation in this program is Court Ordered as a voluntary alternative to incarceration, and no member of P.P.S. House Arrest has made any stated or implied promises of considerations or coerced me in any way whatsoever to participate in this program. By signing, I the probationer, agree to all terms and conditions of this program. I hereby state that all information provided to P.P.S. is true and accurate to the best of my knowledge.

Probationer

Date

Witness

Date



PPS HOUSE ARREST DIVISION Equipment Receipt / Return

The following Electronic Monitoring equipment has been assigned to and received by:

Client Name _____

FMD _____ Transmitter _____ Cell _____

Base Station _____ Tracking Unit _____ Sobriotor _____

The above referenced equipment is the property of PPS and has been temporarily assigned to me by PPS for the purpose of my electronic monitoring. PPS's current list price for replacement of the equipment is:

ExacuTrack	Base Station	FMD/Transmitter	9000
	Tracking Unit		9010
	Transmitter		HomeGuard
	Box		HGS
	Power Supply		Power Supply
		Cellular	Unit
		Sobriotor	Unit

I understand and agree that I have financial responsibility for the above listed equipment until such time that I return the equipment to PPS. Any problems or damage to the equipment is my responsibility, and I will report this immediately to PPS. I understand and agree that I will pay an initial "hook-up" fee, all monitoring fees, and reimburse PPS for any loss and or damage of the above listed equipment. I agree to return the equipment to PPS upon request or the completion of my house arrest / home confinement sentence. In the event that I fail to return the equipment, I understand **that I may be charged with a criminal offense of felony theft** and/or pursued by PPS for reimbursement through civil proceedings.

Receipt of Equipment

I have received the above stated equipment on this date.

Signature of Client _____ Date _____ Witness _____

Signature of PPS Staff _____ Date _____

Return of Equipment

I have returned the above stated equipment on this date.

Signature of Client _____ Date _____ Witness _____

Signature of PPS Staff _____ Date _____

PETITION FOR MODIFICATION/REVOCATION OF PROBATION

THE CITY OF AUBURN

NO. _____

Vs.

Now comes _____, Probation Officer in the name and behalf of the City of Auburn and brings this action against _____ in after called the Defendant, and shows:

I

That the Defendant entered a plea of guilty to (was convicted of) the offense of _____ Term 201 _____

II

That this Court on the _____ day of _____, 201 _____ did sentence the Defendant to serve as follows: 24 months probation; Probation fee of \$35.00 every month; Pay fines in the amount of \$ _____ .00.

III

That this Court, by proper order, however, permitted the Defendant to serve said sentence on probation, the terms and conditions of which are fully set forth in the copy of said sentence which is attached hereto, marked Exhibit "A", and specifically incorporated herein.

IV

That the Defendant has violated the terms and conditions of probation in the following particulars:

The defendant is in violation of CONDITION #1 of his/her probated sentence, in that he/she is \$105.00 in arrears on his/her probation supervision fee. The defendant is in violation of CONDITION #4, in that, he/she failed to report on May 19, 2012; May 21, 2012; June 18, 2012; June 30, 2012; July 18, 2012; July 30, 2012; August 20, 2012. The defendant is in arrears on his/her fine payments resulting in a balance of \$714.50.

WHEREFORE, the City prays that the citation for modification/ revocation of probation be served on the Defendant and that the Defendant be directed to appear before this Court on a day to be fixed by the Court and at that time to show cause why probation should not be modified/revoked.

_____ day of _____, 201 _____

P.O. _____

STATUS CHANGE FORM

DATE: _____

DEFENDANT: _____

COURT: _____

OFFICER: _____

DOCKET: _____

CHANGE AS FOLLOWS:

☐ WARRANT ISSUED: _____☐ TOLLING ISSUED: _____☐ UNTOLLING ISSUED: _____☐ CHANGE START DATE: _____☐ CHANGE END DATE: _____☐ _____ HOURS OF COMMUNITY SERVICE IN LIEU OF \$ _____ COURT FINE☐ COMPLETED _____ ORDERED HOURS OF COMMUNITY SERVICE ON _____☐ COMPLETED RISK REDUCTION COURSE ON - _____ - CERT. # _____☐ D/A EVALUATION COMPLETED ON - _____ - TX COMPLETED ON - _____☐ _____ MONTHS MINIMUM PROBATION SUPERVISION COMPLETED☐ REVOCATION HEARING - ~~REVOKED~~ - DATE OF HEARING _____☐ ORDER OF TERMINATION - DATE SIGNED - _____☐ SPECIAL TOLLING ISSUED - DATE SIGNED - _____☐ SPECIAL UNTOLLING ISSUED - DATE SIGNED - _____☐ PIF/SOP - MODIFY FEE BALANCE TO ZERO

EXPLANATION OF CHANGES (if applicable)

ENTERED INTO COMPUTER _____ (initials)

WARRANT FOR ARREST OF PROBATIONER CITY OF AUBURN, LEE COUNTY

CITY OF AUBURN

vs.

OFFENSE : _____

DOCKET : _____

WARRANT # _____

CASE # _____

To any lawful Officer of the State of Alabama GREETINGS:

Whereas, on the _____ day of _____, 201____ the Municipal Court of the City of Auburn sentenced

of the following address: _____

to a sentence of probation, and;

Whereas, said Defendant is charged with violating his/her probation, in willful disregard of a Court Order, specifically as follows The defendant is in violation of CONDITION #1 of his/her probated sentence, in that he/she is \$105.00 in arrears on his/her probation supervision fee. The defendant is in violation of CONDITION #4, in that he/she failed to report on April 23, 2012; April 30, 2012; May 15, 2012; May 25, 2012; June 25, 2012; nor any time since. The defendant is in arrears on his/her fines and costs in the amount of \$240.00.

You are therefore commanded in the name of the City of Auburn to arrest said defendant and to commit him/her to the Lee County jail, and safely hold him/her until further order of the Judge of the City of Auburn Municipal Court, Lee County, or until he/she may be returned to this Court, there to answer a charge of violating the conditions of probation as specified above.

Issued this _____ day of _____, 201____.

Judge
Auburn Municipal Court

Probation Officer

WARRANT INFORMATION

MISD.: X FELONY: DATE:

NAME:

PHONE: _____

PHYSICAL DESCRIPTION

SEX: M_____ F_____ RACE: _____ HEIGHT: _____
WEIGHT: _____ EYES: _____ HAIR: _____

SCARS/TATOOS:

D.O.B. _____ SS# _____

DRUG/ALCOHOL PROBLEMS: BIRTH STATE:

EMPLOYER NAME: _____

ADDRESS: _____

PHONE:

FAMILY/FRIEND NAME: _____

ADDRESS: _____

PHONE:

COURT DATA:

CURRENT OFFENSE :

SENTENCE:

PAST CRIMINAL HISTORY (ADMITTED):

OFFENSE:

DATE/SENTENCE: _____

ADDITIONAL INFORMATION:

PROFESSIONAL PROBATION SERVICES, INC.

238 Auburn Avenue, NE-5th Floor-Atlanta, Georgia 30303-2609

MEMORANDUM

TO:

City Court of Atlanta

FROM:

Professional Probation Services, Inc.

DATE:

RE:

REQUEST FOR RECALL OF PROBATION WARRANT

Please be advised that a probation violation warrant issued for the following subject is being requested to be recalled for the below stated reason(s):

Subject's Name: _____

D.O.B. _____

SSN: _____

Sex: _____

Race: _____

Date Warrant Issued: _____

Judge Issuing Warrant: _____

Reason for recall request: _____

VERIFICATION

Notice of recall received by: _____

Signature _____

Date received: _____

Time: _____

Return verification via FAX number _____

to P.P.S.

cc: Probationer's File



ANNUAL IN-SERVICE TRAINING RECORD

Name: _____

Course Title: _____

Date: _____ Credit Hours: _____

Location of Training: _____

Signature of Instructor: _____

Signature of Participant: _____

Upon completion of training, please fax a copy of this form to the Corporate Office.



PPS, INC.

Professional Probation Services, Inc.
Decatur Office- Albany Plaza Office Park, Suite 10
801 Church Street NE Decatur, AL. 35601
Phone 256-355-5711 Fax 256-355-5765

I certify that the intake information is true to the best of my knowledge. I further certify that I accept placement in community service and I understand my responsibilities for proper performance. I authorize PPS, Inc. to release my intake information to the agency to which I am assigned to perform community service. I understand that this consent shall expire upon my satisfactory performance and completion of court-ordered community service hours. I further understand that this consent may not be revoked by me until there has been a formal and effective termination or revocation of my probation.

CONSENTED TO THIS _____ DAY OF _____, 20_____

DEFENDANT SIGNATURE

PROBATION OFFICER



PPS



Professional Probation Services, Inc.
Decatur Office ~ Albany Plaza Office Park Suite 11
801 Church Street NE Decatur, AL 35601
Phone (256) 355-5711 ~ Fax (256) 353-5765

NAME: _____

[illegible]



PPS, INC

Professional Probation Services, Inc.

Decatur Office- Albany Plaza Office Park, Suite 10

801 Church Street NE Decatur, AL 35601

Phone 256-355-5711 Fax 256-355-5765

COMMUNITY SERVICE INTAKE FORM

Name: _____ Sex: _____ Age: _____
Address: _____
Home Phone: _____ Cell Phone: _____
Employment: _____ Work Phone: _____
Work Schedule: _____
Medical Problems/Disability: _____
Offense: _____ Docket: _____ Judge: _____
Sentence: _____ Probation Officer: _____
Begin Probation Date: _____ End Probation Date: _____
Number of hours/days sentenced to community service: _____

COMMUNITY SERVICE RESPONSIBILITIES AND REQUIREMENTS:

1. You must complete no less than eight (8) hours of community service each consecutive week. Of course you may do more each week to finish earlier.
2. Your community service must be accomplished with a positive and cooperative attitude and the work should be accomplished on the established schedule with quality workmanship.
3. Failure to show up for community service will not be tolerated without prior approval. This includes being late or leaving the worksite early. You must report to the onsite supervisor when you arrive or leave the site.
4. Any unexcused absence, failure to perform work as instructed, insubordination, intoxication, illegal drug use, or any act of disruption to the work crew will result in you being immediately dismissed from the work detail. Any reason for dismissal will be reported to the sentencing Judge.
5. No one except the sentencing Judge and Community Service Coordinator has the authority to excuse you from community service work.
6. The only acceptable excuse is a written doctor's excuse that has been verified by your Probation Officer or the Community Service Coordinator. Other excuses will only be accepted after the facts have been verified.
7. You are responsible for providing your own transportation to and from the worksite or the designated reporting location. You are responsible for your own meals.
8. Clothing requirements should be based on weather, type of service, and site location.
9. Problems that arise while performing community service should be brought to the attention of the onsite supervisor.



PPS

Professional Probation Services, Inc.

Decatur Office- Albany Plaza Office Park, Suite 10
801 Church Street NE Decatur, AL 35601
Phone 256-355-5711 Fax 256-355-5765

COMMUNITY SERVICE AGREEMENT

1. Probationer agrees to perform community service for any court approved agency, hereafter called **AUTHORITY** as a part of a court ordered sentence. For the purpose of the Agreement, **AUTHORITY** means the City of Decatur, PPS, Inc., any court approved agency, its employees, agents, officials, and supervisors including his/her successors in office.
2. The **PROBATIONER** Covenants, agrees and promises the following:
 - a. I will perform such community service in a proper and workmanlike manner. I will also obey all safety regulations of said **AUTHORITY**.
 - b. I will assume liability for any bodily or personal injury received as a result of performing this community service. I will not institute any proceedings against the **AUTHORITY** or its Insurers, Court Officials, Probation Officials or any party associated with the community service in law or equity in any Federal Court, State Court, Administrative Court or Worker's Compensation Board because of any injury arising out of this community service or because of any injury sustained while going to or from any location where such community service is or is to be performed.
 - c. I will not be considered an employee of said **AUTHORITY** while performing such community service and understand I am not to be paid any compensation whatsoever for the community service I shall perform.
 - d. I herein declare no disability or handicap which will prevent the performance of my assigned community service hours. I will promptly provide to the Court written documentation which fully describes any disability or handicap should such occur in the future. Exemption from community service can only be declared by the Court.
 - e. I understand that if I do not satisfactorily perform community service, my sentence imposed by the Court may be revoked.
 - f. I understand and have reviewed the conditions agreed to by the **AUTHORITY**.
 - g. I understand that I am to complete _____ hours of community service as directed by the Court.

IN WITNESS WHEREOF, PROBATIONER HAS HERE ONTO SET HIS HAND ON THIS

The _____ day of _____, 20_____.

Probationer

Witness



PPS

Professional Probation Services, Inc.

Decatur Office- Albany Plaza Office Park, Suite 10

801 Church Street NE Decatur, AL. 35601

Phone 256-355-5711 Fax 256-355-5765

I understand that Professional Probation Services, Inc. has given me the opportunity to complete community service in lieu of paying my court ordered fines. I understand that by refusing to complete community service and that by not paying my fines, The Municipal Court in Decatur, Alabama, may issue a warrant for my arrest.

Defendant Signature

Date

Probation Officer Signature

Date



PPS

Professional Probation Services, Inc.

Decatur Office- Albany Plaza Office Park, Suite 10

801 Church Street NE Decatur, AL. 35601

Phone 256-355-5711 Fax 256-355-5765

_____ has requested that he/she be granted permission to complete community service in lieu of paying his/her court ordered fines. He/she was in court on _____ and was ordered to pay fines in the amount of \$ _____. He/she has agreed to complete _____ hours of community service at \$10.00 per hour which will be the total of his/her fine balance.

Defendant Signature

Date

Probation Officer Signature

Date

Judge Cook Signature

Date

Case Numbers:



PPS

Professional Probation Services, Inc.

Decatur Office- Albany Plaza Office Park, Suite 10

801 Church Street NE Decatur, AL 35601

Phone 256-355-5711 Fax 256-355-5765

PENDING WARRANT REQUEST

Name: _____

Date: _____

Case #: _____

REASON FOR REQUEST (Check One):

FTR

90 DAYS ARREARS \$ _____

_____ Phone attempts made

_____ FTR Postcard sent

Last FTR: _____

Last Office Contact: _____

FTR Dates: _____

Fine/restitution balance owed:

Officer Signature

Supervisor Signature

ACTION TAKEN:

Returned to active probation: _____

Warrant request issued: _____

Addressing
Violations

GENERAL CONSIDERATIONS
PROBATION REVOCATION

1. No right to a jury trial on the question of revocation, but entitled to due process in the proceeding
2. No right to discovery pursuant to a Brady motion
3. No double jeopardy protection against revocation of probation, and a probationer may be prosecuted in successive actions for probation revocation based on violations which were part of the same conduct
4. A revocation proceeding may be held before the disposition of the criminal case which precipitated the revocation proceeding
5. Judge may revoke a probated sentence which is to begin in the future, but may not revoke a probated sentence which has expired at the time of revocation hearing
6. Probation may be revoked even though the Defendant is found not guilty of the crime which is the basis of the revocation
7. Probation may be revoked even though the probationer is not indicted or formally charged with the offense which is the basis of the revocation
8. A defendant's probation may be revoked solely on a certified copy of his criminal conviction even if the case is being appealed
9. However, if the revocation proceeding is based on a conviction of another crime and the other conviction is reversed, this in effect reverses the probation revocation
10. No evidentiary hearing required on a Defendant's motion to modify probation pursuant to

RIGHT TO LEGAL COUNSEL
PROBATION REVOCATION HEARING

A probationer is entitled to be represented by a lawyer in a revocation proceeding if he is able to employ one.

INDIGENT PROBATIONER: Guidelines for Determining
Indigent's Right to Counsel

'Presumptively, it may be said that counsel should be provided in cases where, after being informed of his right to legal counsel, the probationer makes such a request based on a timely and colorable claim

- (1) that he has not committed the alleged violation of the conditions upon which he is at liberty; or
- (2) that, even if the violation is a matter of public record or is uncontested, there are substantial reasons which justified or mitigated the violation and make revocation inappropriate, and that the reasons are complex or otherwise difficult to develop or present.

In passing on a request for appointment of counsel, the responsible agency also should consider, especially in doubtful cases, whether the probationer appears to be capable of speaking effectively for himself. In every case in which a request for counsel at a preliminary or final hearing is refused, the grounds for refusal should be stated succinctly in the record." Gagnon v. Scarpelli, 411 U.S. 778 (1973).

REVOCATION DUE TO NON-PAYMENT
OF FINE OR RESTITUTION

Defendant must be given an opportunity to establish his inability to pay a fine or make restitution when such payments are not paid pursuant to a condition of probation. The circumstances of the individual must be taken into consideration in determining whether revocation is warranted.

Before probation can be revoked, a determination must be made:

- (1) probationer failed to make sufficient bona fide efforts to pay; or
- (2) alternative forms of punishment do not exist.

REQUIREMENTS FOR REVOCATION OF PROBATION
AND
LIMITATION ON SUPERVISION

- (a) The term "special condition of probation" means a condition of a probated or suspended sentence which:
- (1) Is expressly imposed as part of the sentence in addition to general conditions of probation and court ordered fines and fees; and
 - (2) Is identified in writing in the sentence as a condition the violation of which authorizes the court to revoke the probation and require the defendant to serve up to the balance of the sentence in confinement.
- (b) No court may revoke any part of any probated sentence unless the defendant
- (1) admits the violation as alleged; or
 - (2) unless the evidence produced at the revocation hearing establishes by a preponderance of the evidence the violation or violations alleged
- (c) Upon proof that the defendant has violated any general provision of probation (other than by commission of a new felony offense), the court shall consider the use of alternatives to include:
- (1) community service
 - (2) intensive probation
 - (3) diversion centers
 - (4) probation detention centers
 - (5) special alternative incarceration
 - (6) any other alternative to confinement deemed appropriate by the court or as provided by the state or county

Alternatives to Incarceration

Why do we need alternatives?

- Jail/prison overcrowding
- Budget restraints and costs

As of 2013, it costs \$50.17 per day to incarcerate an offender.

Factors to consider:

Is revocation of the offender the appropriate course of action?

Is the offender an appropriate candidate for continuation of probation?

Which alternative to revocation is appropriate for this offender (community service, electronic monitoring, intensive probation, short term incarceration, etc.)?

Hearing Preparation and Testimony

Pre-Hearing Responsibilities:

- Ensure due process (see Gagnon v. Scarpelli)
- Verify pertinent information
- Prepare hearing notice/petition/waiver
- Present hearing notice/petition/waiver
- Notices are to be served at least 72 hours (3 days) prior to the Revocation/Modification Hearing

Supporting Documents for Testimony:

Technical Violations

- Employment documentation
- Residence documentation
- Treatment letters/Program attendance letters
- Certificates of completion
- Community service timesheets & verification letters
- Payment/receipt history

Criminal Charges

- Police reports
- Supplemental reports
- Sentencing documents
- Photos
- Witness subpoenas (if necessary)

Strong supporting documents are difficult to argue against.

Recommendations:

- Be consistent and fair
- The interest of public safety should be a top consideration
- Know your recommendation prior to the hearing
- Be able to provide an explanation supporting the recommendation

VIOLATIONS

The defendant violated CONDITION #___ of his/her probated sentence, in that, he/she failed to report as directed on _____.
(always spell the month)

The defendant violated CONDITION #___ of his/her probated sentence, in that, he/she committed the offense(s) _____
on _____ in _____. (spell the state)

*The defendant violated CONDITION #___ of his/her probated sentence, in that, he/she failed to pay all of his/her fines within _____ days, resulting in \$_____ arrearage on his/her Court-ordered fine.

*Further, the defendant is \$_____ in arrears on his/her Court-ordered fine and \$_____ in arrears on his/her probation supervision fee.

The defendant is in violation of CONDITION #___ of his/her probated sentence, in that, he/she failed to maintain suitable employment.

*The defendant violated CONDITION #___ of his/her probated sentence, in that, he/she changed his/her place of residence without notifying his/her probation officer.

*The defendant violated CONDITION #___ of his/her probated sentence, in that, he/she left the state without notifying his/her probation officer on (or about) _____.

The defendant violated CONDITION #___ of his/her probated sentence, in that, he/she failed to avoid alcohol intoxication on _____ in _____ as evidenced by registering _____ BAC on the Alco Sensor III.

The defendant violated CONDITION #___ of his/her probated sentence, in that, he/she failed to avoid dangerous drugs as evidenced by testing positive for (the drug used) on _____ in _____. (the defendant must consent to screen if not ordered to abstain)

Special CONDITIONS

The defendant violated Special CONDITION #___ of his/her probated sentence, in that, he/she failed to abstain from the use of alcohol and/or drugs as evidenced by testing positive for (the drug used) on _____ in _____.

The defendant is in violation of Special CONDITION #___ of his/her probated sentence, in that, he/she failed to submit to an alcohol and drug use evaluation and follow the directives of treatment.

The defendant is in violation of Special CONDITION #___ of his/her probated sentence, in that, he/she failed to successfully complete_____ hours of community service, as directed, only completing _____ hours.

Qualities of a Good Report

- Clarity
- Use of concise words
- Avoid legal terms
- Be careful with abbreviations

Proper Style

- Legibility
- Proper spelling
- Proper grammar

EDITING AND REWRITING

Rewrite or edit the following, eliminating unnecessary words or materials:

1. The enclosed form, which is for your signature, is being sent in this package.
2. In view of the fact that the instructor performed poorly we feel he should be afforded another opportunity in the near future to demonstrate his ability.
3. The Curriculum Committee could not reach an agreement on the matter.
4. Consideration is being given to this matter by the Evaluation Division.
5. They promised that they would reach a decision by Monday.
6. Men who are industrious will succeed.
7. Could this be written in a different way?
8. You can cut the costs of correspondence through the use of automatic typewriters.
9. Tom's father joined the Army when he was only six years old.
10. This workbook was prepared by us to aid our students.

IN THE MUNICIPAL COURT OF DECATUR STATE OF GEORGIA

CITY OF DECATUR

Sally Joe Smith

Plea Guilty	Name Cont.	Verdict Guilty	OFFENSE	CITATION	FINE	S/C	COST(S)	TOTAL
<input checked="" type="checkbox"/>	[]	[]	Shoplifting (3 rd)	68214	700	50	20	770
[]	[]	[]						
[]	[]	[]						
[]	[]	[]						
[]	[]	[]						

SENTENCE OF PROBATION

WHEREAS, the above disposition has been made against the above named defendant, the defendant is hereby sentenced to confinement for a period of 12 months and ordered to pay a total fine in the amount of \$770.00 dollars (including all applicable surcharges).

HOWEVER, it is further ordered by the Court that the above sentence may be served on probation, subject to the following conditions: The Defendant is ordered to:

1. Pay a monthly probation service fee of \$30.00 to Professional Probation Services, Inc., The Court's probation service contractor authorized by O.C.G.A. Section 42-8-100;
- 1a. Pay a monthly Crime Victims Compensation Program fee of \$9.00;
2. Pay all fines and surcharges within 10 700 days at a rate of \$ 77.00 per month;
3. Not violate the laws of any governmental unit;
4. Report to the probation supervisor as directed and behave in a truthful and respectful manner;
5. Work faithfully at suitable employment insofar as may be possible;
6. Not change his/her present place of abode, or leave the State without permission of the probation supervisor;
7. Support his/her legal dependants to the best of his/her ability;
8. Avoid injurious and vicious habits-especially alcoholic intoxication, narcotics and other dangerous drugs unless prescribed lawfully;
9. Avoid persons and places of harmful or disreputable character;
- The following conditions are applicable only if checked:
- ☒ 10. Abstain from the use of alcohol and drugs, and submit to random alcohol/drug testing;
- ☐ 11. Submit to an alcohol and drug use evaluation as directed and follow all further directives for treatment or counseling;
- ☐ 12. Complete a Risk Reduction course conducted by an agency licensed by the State of Georgia;
- ☒ 13. Successfully complete _____ hours of community service as directed by the probation supervisor;
- ☒ 14. Probation to be terminated upon payment of the fine and completion of all other obligations and conditions; except probation shall be a minimum of 6 months regardless of date of payment of fine or completion of other obligations and conditions set forth herein;
- ☐ 15. Pay restitution in the amount of \$ _____ for Citation # _____;
- ☒ 16. Serve 10 Days months in the DeKalb Co. Jail; and/or serve _____ days on house arrest;
- ☐ 17. Complete P.P.S.E.'s; _____ Anger Control; _____ Youthful Offender; _____ Resume-Job Workshop(s);
- ☐ 18. Attend _____ A.A.; _____ N.A. meetings per week and verify attendance with the probation department;
- ☐ 19. _____

UPON THE VIOLATION of any of these conditions, probation may be revoked and the sentence of confinement executed. The Defendant is subject to arrest upon the violation of any condition of probation. IT IS SO ORDERED, this 2nd day of February, 20 03

Judge, Municipal Court
City of Decatur Georgia

This is to certify that a true and correct copy of this sentence has been delivered in person to the Defendant who has been duly instructed regarding the conditions of probation.

This 2nd day of February, 20 03
[Signature]
Probation Officer

White - Clerk of Court

Yellow - Probation

[Signature]
Defendant
Pink - Defendant

Professional Probation Services, Inc.
Case History/Field Sheet

I. Personal Information

Name: (Last) <u>Smith</u>	(First) <u>Sally</u>	(Middle) <u>Joe</u>
SSN: <u>256-18-2672</u>	D.O.B. <u>2-17-67</u>	
Address: <u>1221 Concord Rd. Apt # E-6</u>	Phone Number: (<u>770</u>) <u>432-3178</u>	
City/State/Zip <u>Smyrna, GA 30180</u>	County: <u>Cobb</u>	
Employer: <u>Unemployed</u>	If Unemployed check here: <input checked="" type="checkbox"/>	
Address:	Work Phone: ()	
sex <u>F</u>	race <u>B</u>	height <u>5'4"</u> weight <u>130</u> eyes <u>Brn</u> hair <u>B/K</u>
[] Physical/Mental Disabilities [] Alcohol/Drug Addictions [] Scars/marks/tattoos [] r/w		
<u>None Advised</u>		

II. Court Data

Offense	Fine	Docket	Term	Count	Dates
<u>shoplifting</u>	<u>770</u>	<u>68214</u>	<u>12</u>	<u>1</u>	Sentence: <u>2-2-03</u>
					Start: <u>2-2-03</u>
					End: <u>2-2-04</u>
					Tolling: Untolling:

Sentence: _____ months probation (non-term) 12 months probation (sop)
Minimum of 6 months 10 months to pay

Court <u>Declar</u>	Judge <u>Carriere</u>	Solicitor
---------------------	-----------------------	-----------

III. Special Conditions

Ordered to pay <u>Monthly</u>	Fine: \$ <u>770.00</u> \$ <u>70.00</u>	Rest: \$ <u>0</u> \$ _____	Fund: \$ <u>108.00</u> <u>\$300</u> 9.00	Fee: \$ <u>360.00</u> \$ <u>30.00</u>
-------------------------------	---	-------------------------------	---	--

[] Community Service: _____ Hours Agency: _____ Completed: _____
 [] Alcohol and Drug Assessment: Agency: _____ Completed: _____
 [] Risk Reduction Course: Level: [] 1 [] 2 Completed: _____
 Jail Time: 10 hours/days Completed: 2/17/03
 Abstain from alcohol/drugs [] AA meetings _____ /week

Officer: Daniels, D.Total Monthly Payment: 109.00

NAME: Smith, Sally Joe EXP. DATE: 2-2-04C/S: _____ R/R: _____ D/A: _____ A/A: _____ N/A: _____ GED: _____ H/A: _____ D/S: ☒

NOTES: _____

Date	Amt. Paid	Notes
2-18-03	\$50	oc 4:00 pm Δ pd \$50 fine Fine = 700 No charges/arrests Δ completed Jail time 2/17/03 Δ has new job at Wal-Mart Next oc 3/14/03 at 4:00 pm DD
2-18-03		TC w/ DeKalb Co. Jail - confirmed that the Δ did complete 10 days to serve. DD
3-14-03	0	oc at 4:00 pm Δ pd \$0.00 Fine = 700 No charges Δ states she was arrested on 3-10-03 in Cobb Co. for Felony Poss. of Cocaine. Δ further advises she bonded out 3/12/03. DD
3-14-03		TC to Cobb Co. Police Records - verified arrest. Received arrest/booking sheet via fax (file). DD
3-14-03		TC w/ Judge Carriere. Judge Carriere will sign warrant for Δ's arrest at City Hall. DD
3-14-03		Warrant signed by Judge Carriere. DD
3-14-03		TC w/ Decatur PD - advised dispatch of active warrant on Δ in our office unit dispatched DD

IN THE CITY COURT OF ATLANTA STATE OF GEORGIA

THE STATE

VS.

John Doe

Plea	Nolo	Verdict	OFFENSE	CITATION	FINE
Guilty	Cont.	Guilty			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	DUI	49857	\$660.00
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No Insurance	49858	\$363.00
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			

SENTENCE OF PROBATION

WHEREAS, the above disposition has been made against the above named defendant, the defendant is hereby sentenced to confinement for a period of 12 months and ordered to pay a total fine in the amount of \$1023.00 dollars (which includes all applicable surcharges and costs.)

HOWEVER, it is further ordered by the Court that the above sentence may be served on probation, subject to the following conditions. The Defendant is ordered to:

1. Pay a monthly probation service fee of ☐ \$25.00 Level I; ☒ \$30.00 Level II; ☐ \$35.00 Intensive to Professional Probation Services, Inc., the Court's probation service contractor authorized by O.C.G.A. Section 42-8-100;
- 1a. Pay a monthly Crime Victims Compensation Program fee of \$3.00;
2. Pay all fines which include surcharges and costs within 330 days; at a rate of \$ 93.00 per month.
3. Not violate the laws of any governmental unit;
4. Report to the probation supervisor as directed and behave in a truthful and respectful manner;
5. Work faithfully at suitable employment insofar as may be possible;
6. Not change his/her present place of abode, or leave the State without notifying the probation supervisor;
7. Support his/her legal dependants to the best of his/her ability;
8. Avoid injurious and vicious habits-especially alcoholic intoxication, and dangerous drugs unless prescribed lawfully;
9. Avoid persons and places of harmful or disreputable character;
10. Probation to be terminated upon payment of the fine and completion of all other obligations and conditions;
11. Abstain from the use of alcohol and drugs, and submit to random alcohol/drug testing;
12. Submit to an alcohol and drug use evaluation and follow all directives for treatment or counseling;
13. Complete a Risk Reduction course conducted by an agency licensed by the State of Georgia;
14. Successfully complete 40 hours of community service as directed by the probation officer;
15. Serve 2 hours (days) in the City Jail; and/or days/months house arrest; and/or days Work Release;
16. Complete P.P.S.I.'s: Anger Control Youthful offender Resume'-Job Workshop(s);
17. Attend A.A.; N.A. meetings per week and verify attendance with the probation officer;
18.
19.
20.

UPON THE VIOLATION of any of these conditions, probation may be revoked and the sentence of confinement executed. The Defendant is subject to arrest upon the violation of any condition of probation. IT IS SO ORDERED, this 10th day of

January, 19 99

Hairton
Judge, Hairton
City Court of Atlanta, Georgia

I do certify that a true and correct copy of this sentence has been delivered in person to the Defendant who has been duly instructed regarding the conditions of probation, this 10th day of January, 19 99.

John Doe
Defendant

Patricia
Probation Officer

Confidential
PPS-RFP Does 000339

Professional Probation Services, Inc.
Case History/Field Sheet

I. Personal Information

Name: (Last) <u>Doe</u>	(First) <u>John</u>	(Middle) <u>NMN</u>
SSN: <u>002 - 42 - 0762</u>	D.O.B. <u>10-16-65</u>	
Address: <u>1875 Candler Rd.</u>	Phone Number: (<u>404</u>) <u>363 - 7821</u>	
City/State/Zip <u>Decatur, GA 30182</u>	County: <u>DeKalb</u>	
Employer: <u>Jiffy Lube</u>	If Unemployed check here: []	
Address: <u>1426 Fletch Rd, Atlanta, GA 30316</u>	Work Phone: (<u>404</u>) <u>429 - 4586</u>	
sex <u>M</u>	race <u>W</u>	height <u>5'8"</u>
weight <u>180</u>	eyes <u>Brown</u>	hair <u>Brown</u>
[] Physical/Mental Disabilities [] Alcohol/Drug Addictions [] Scars/marks/tattoos [] r/w		
<u>None Admitted</u>		

II. Court Data

Case	Fine	Docket	Term	Count	Dates
<u>DUI</u>	<u>660</u>	<u>49857</u>	<u>12</u>		Sentence: <u>1-10-99</u>
<u>No Insurance</u>	<u>363</u>	<u>49858</u>	<u>12</u>		Start <u>1-10-99</u>
					End: <u>1-10-00</u>
					Tolling: <u>2-13-99</u>
					Untolling:

Sentence: 12 months probation (non-term) 12 months probation (sop)
Minimum of 11 months

Court <u>Atlanta</u>	Judge <u>Hairton</u>	Solicitor <u>Drebet</u>
----------------------	----------------------	-------------------------

III. Special Conditions

Ordered to pay: <u>Monthly</u>	Fine: \$ <u>1023</u> \$ <u>93</u>	Rest: \$ <u>0</u> \$ <u>—</u>	Fund: \$ <u>36</u> <u>\$300</u>	Fee: \$ <u>360.00</u> \$ <u>30.00</u>	(<u>\$123</u>)
[X] Community Service: <u>40</u> Hours Agency: _____				Completed: _____	
[] Alcohol and Drug Assessment: Agency: _____				Completed: _____	
[X] Risk Reduction Course: Level: [X] 1 [] 2				Completed: _____	
[] Curfew Time: <u>2</u> hours (days)				Completed: _____	
[] Abstain from alcohol/drugs [] AA meetings _____ /week				Completed: _____	

Officer: Ward, K.

Total Monthly Payment: \$126.00

Confidential
PPS RFP Docs 000340

NAME: Doe John EXP. DATE: 1-10-00C/S: 40 hrs R/R: ☒ D/A: A/A: N/A: GED: H/A: D/S: ☒NOTES:

Date	Amt. Paid	Notes
1-17-99		TC w/ Janet Glass. Ms. Glass advised P.O. that she has not seen the A in over two months. She will give A message if she sees him. KW
1-19-99		Sent letter to A's last known address (A's) instructing the A to report 1-27-99 at 3:00 pm. KW
1-27-99		FTR KW
2-10-99		Warrant / Tolling issued KW
6-30-99		TC from A. He is in Atlanta City Jail. TC A states that he was picked up on an warrant 6-29-99. KW
6-30-99		TC w/ APD records - confirmed that the A was picked up on probation warrant 6-29-99. No new charges. KW
7-3-99		Revocation Hearing: A found in violation of probated sentence. 30 days revoked. Upon release the A will return to probation under all original conditions. Instructed the A to report 8-10-99 at 3:00 pm. KW

Testimony

EXAMPLES OF IMPRESSIVE
AND
PROFESSIONAL COURTROOM DEMEANOR

1. Always dress in a professional manner.
2. Walk in quietly.
3. Maintain good posture and eye contact. Speak in a loud, confident voice.
4. Avoid facial expressions that seem to prejudice.
5. Do not chew gum, apply make-up, file nails or comb hair in Court.
6. Do not sleep in the Courtroom.
7. Stand when the Judge enters the Courtroom.
8. Stand when speaking to the Judge. Ask permission if you would like to approach the bench for any reason.
9. Refer to the Judge as "Your Honor".
10. Never argue with the Judge.
11. Always thank the Court for its time at the conclusion of your business with the Court.
12. Do not talk or carry on conversations in the Courtroom.
13. Do not read books or newspapers.
14. Be quiet. Do not rustle papers, candy wrappers or pocket change.
15. Communicate with other officers of the Court in a professional manner.

Four Physical Characteristics of a Good Witness

1. Good posture
2. Tone and clarity of voice
3. Eye contact
4. Facial expressions

Courtroom Testimony

1. Under cross examination, answer questions with a "yes" or a "no" if at all possible.
2. Do not give options.
3. Take your time in answering a questions and only respond to what is asked.
4. Pause before you answer questions.
5. Answer with facts and avoid conclusions/assumptions.
6. Tell the truth.

The Importance of Serving as a Witness

You have a very important job to do as a witness in a lawsuit. Your role is not only important to the party for whom you appear and yourself, but also for the American system of justice. For a jury or judge to make a correct and wise decision, they must decide on facts stated by witnesses who have sworn to tell the truth.

Potential witnesses sometimes assume they don't know anything relevant about the case. In reality, you may know a very important fact about the case although the information seems unimportant to you.

Do not ignore a summons to appear in court. Failure to appear in response to a subpoena could place you in contempt of court. Follow any additional instructions attached to the subpoena. For example, if there are instructions to call the lawyer who requested the summons for information as to when to appear for trial, it is important that you do so.

Being called as a witness may make you nervous. Understanding what you are expected to do and how to do it will ease your anxiety and make you a better witness.

12 Rules for a Good Witness

1. Review the case.

Go over the facts of the case before your court appearance. If it is an accident case, visit the scene of the accident. It may help refresh your memory.

2. Discuss testimony in advance.

If you are called as a witness, the lawyer calling you will undoubtedly discuss the case with you before the trial. There is nothing improper in this. The lawyer has to find out in advance what you know about the case. If asked while testifying, do not hesitate to say that you have discussed the case with the attorney who called you as a witness.

3. Dress appropriately.

You should be comfortable and appropriate for the courtroom. If you are in doubt about what to wear, ask your attorney.

4. Tell the truth.

You are under oath when testifying and can be prosecuted for perjury if you lie. Don't let your personal judgment of who should win or lose color your testimony. Simply tell what you know.

5. Take your time.

Remember to think before you speak. You may be nervous, so don't answer questions before you fully understand them.

6. Speak clearly.

Answer all questions clearly and loudly enough so everyone in the courtroom can hear you. A low tone of voice not only detracts from the value of your testimony, but also may make the court and jury assume you aren't sure about what you're saying. Talk at a moderate rate, and don't slur or mumble your words.

7. Listen carefully.

Don't attempt to guess at questions you don't hear or understand. In those instances, ask that the question be repeated or explained. If you don't know the answer to a question, simply state that you don't know.

8. Answer questions directly.

Give a simple answer only to the question asked. If a question can be answered with a "yes" or "no," do so. If you make a mistake when answering a question, correct it immediately. Don't volunteer information.

9. Don't lose your cool.

Never argue with the lawyer asking the questions.

10. Stop your testimony.

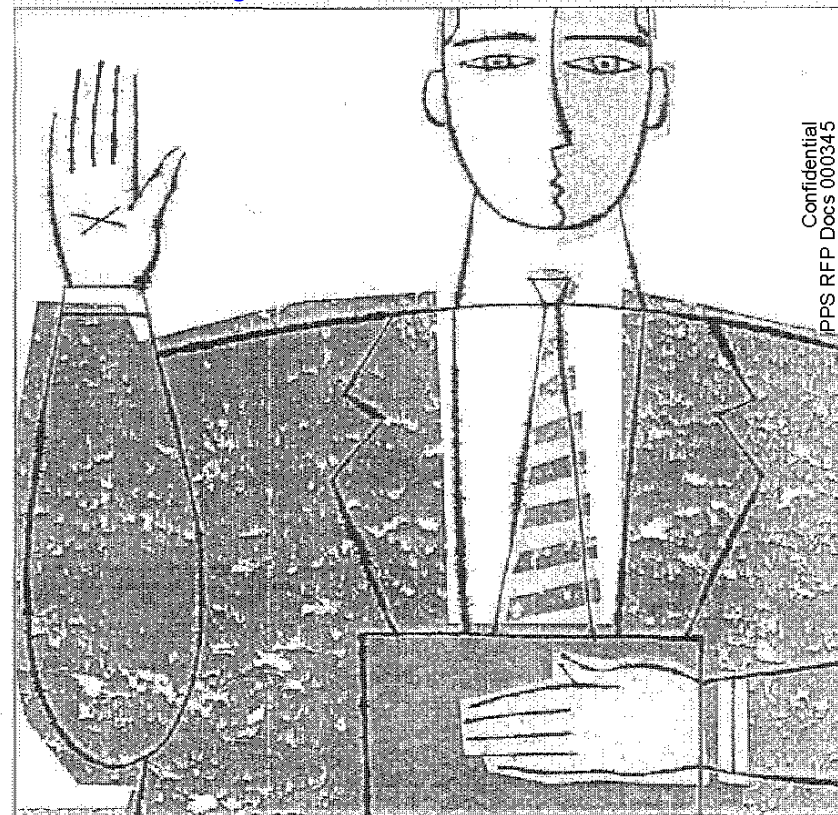
If an objection is made by one of the lawyers, or if the judge speaks, stop your testimony immediately. Don't try to complete your answer. Listen to the objection so you understand why it is being made.

11. When you estimate, say so.

If questions arise about distances, time or speed, and you estimate, make sure to say that your answer is only an estimate.

12. Be yourself.

Be natural and relax. If you tell the truth and remember you are just talking to some neighbor on the jury, you will get along fine.



Confidential
PPS RFP Docs 000345

What About Depositions?

A deposition is a testimony that is given outside the courtroom. Depositions are used to help attorneys determine what potential witnesses know about a particular matter. Lawyers for both sides and a court reporter are present. You are sworn in, just as in a courtroom, and everything you say is under oath. In many instances you will be called to serve as a witness after the attorneys have reviewed your deposition. Both sides have a copy of your testimony provided in the deposition. If you change your story when later appearing in court, you will lose your credibility as a witness.

If you lie while giving a deposition, you may be prosecuted for perjury just as you would if you lie while under oath on the witness stand.

Defense Attorney Tactics

1. Rapid-fire Questioning-
Response: Take your time, consider questions carefully.
2. Condescending Counsel- Benevolent in his approach, ridicule
Response: Firm decisive answers
3. Friendly Counsel- to lull the witness into a false sense of security where he or she will give answers favorable to defense.
Response: Stay alert; remember the purpose of defense is to discredit or diminish your testimony.
4. Badgering- to make the witness angry so that he/she loses his/her sense of logic and calmness.
Response: Stay calm; speak in a deliberate voice giving the prosecutor time to make appropriate objections.
5. Mispronouncing Officer's Name- to draw the officer's attention to this mistake rather than keeping his/her attention on the question.
Response: Ignore the mistake, concentrate on the question.
6. Leading Questions- to suggest a desired answer favorable to the defense.
Response: Concentrate carefully on the facts. Ignore the suggestion and answer the question.
7. Demanding a Yes or No Answer- to prevent pertinent and mitigating details from being considered by the Hearing Officer or Board Member.
Response: Explain the answer to the question; if stopped by counsel, wait until the Hearing Officer or Board Member instructs you to answer in your own words.
8. Reversing Witness's Words- to confuse the witness or demonstrate a lack of confidence.
Response: Listen carefully when counsel repeats something you have said. If counsel makes an error, correct him or her.
9. Repetitious Questions- the same question is asked several times with slight rephrasing to get you to give inconsistent or conflicting answers.
Response: Listen carefully and state, "I have just answered that question."
10. Conflicting Answers- to show investigation has some inconsistencies.
Response: Remain calm. Be guarded on testimony concerning measurements, time, etc. Unless you have exact knowledge, use the term approximate.
11. Staring- Counsel will stare at the witness after he/she has answered the question as if counsel expects you to add to what you've said.
Response: Wait for the next question.

COMMON TRIAL OBJECTIONS

“Objection, your Honor, the question is ambiguous.”

A question is ambiguous if it may be misunderstood by the witness. It is objectionable on the ground that it may take on more than one meaning.

“Objection, your Honor, the question is argumentative.”

A question is argumentative if:

It is asked for the purpose of persuading the jury or the judge, rather than to elicit information;

It calls for an argument in answer to an argument contained in the question; or

It calls for no new facts, but merely asks the witness to concede inferences drawn by the examiner from proved or assumed facts.

“Objection, your Honor, the question has been asked and answered.”

A question may be objectionable on the ground that the witness has already answered a substantially similar question asked by the same attorney on the same subject matter.

“Objection, your Honor, the question assumes facts not in evidence.”

A question assumes facts not in evidence if it presumes unproved facts to be true. Example: “When did you stop beating your wife?” This question assumes that the person has beaten his wife.

“Objection, your Honor, the question is compound.”

A question is objectionable on the ground that it is compound if it joins two or more questions ordinarily joined with the word “or” or the word “and.”

Objection, your Honor, the question is too general.”

A question is too general, broad, or indefinite if it permits the witness to respond with testimony which may be irrelevant or otherwise inadmissible. Each question should limit the witness to a specific answer on a specific subject.

“Objection, your Honor, the question is hearsay.”

A question is hearsay if it invites the witness to offer an out-of-court statement to prove the truth of some matter in court.

There are many exceptions to the hearsay rule. **Example: O.C.G.A 24-3-14 – Business Writings.** This exception allows courts to admit “field notes” into evidence during probation revocation proceedings, even if the author of the notes is unable to testify.

“Objection, your Honor, the question is irrelevant.”

A question is irrelevant if it invites or causes the witness to give evidence not related to the facts of the case at hand.

“Objection, your Honor, the question is leading.”

A question is leading if it is one that suggests to the witness the answer the examining party desires. However, this question is allowed on cross-examination of a witness.

“Objection, your Honor, the question misstates the evidence.”

A question misstates the evidence if it misstates or misquotes the testimony of a witness or any other evidence produced at a hearing or at a trial.

“Objection, your Honor, the question calls for a narrative answer.”

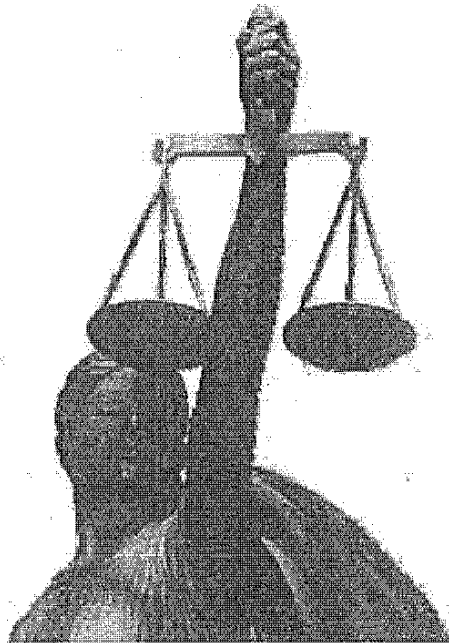
A question calls for a narrative answer if it invites the witness to narrate a series of occurrences, which may produce irrelevant or otherwise inadmissible testimony.

Question and Answer interrogation is the standard format. It allows opposing counsel to object to improper questions.

“Objection, your Honor, the question calls for speculation.”

A question is speculative if it invites the witness to speculate or answer on the basis of conjecture.

BASIC RULES OF COURT CONDUCT



If you have been ordered to appear in court, this brochure will provide important information that will assist you before your appearance. This information does not constitute legal advice. If you require legal assistance, please consult an attorney.

When Appearing in Court

- Be on time
- Throw away gum, food, and drinks before entering the courtroom
- Stand when the judge enters and leaves the courtroom
- Stand when you are speaking to the judge
- Speak clearly when you respond to the judge's questions
- Always address the judge as "Your Honor"
- Never interrupt the judge. If you are unsure of what you heard, wait until the judge or other person speaking at your hearing has finished talking before asking a question
- Enter and leave the courtroom quietly, so you do not disturb others
- Only approach the bench when instructed to do so

Dressing for Court

If you are appearing in court you should dress nicely and in a manner that shows respect for the court.

Here are some things you should **NOT** wear:

- Hats inside the courtroom (except those worn for religious purposes)
- Sunglasses
- T-shirts depicting violence, sexual acts, profanity, or illegal drugs
- Tube or halter tops/ plunging necklines/ midriffs
- Ripped or torn jeans
- Mini skirts or shorts
- Baggy pants that fall below the waist
- Muscle shirts (usually worn as undergarments)

If you are not dressed properly, you will be asked to leave the court and return at a later date. This will delay your hearing and require you to appear in court more than once.

Prohibited Item

Items that should **NOT** enter the courthouse:

- Weapons of any kind
- Electronic equipment such as video, voice recorders or cameras (unless approved by the court)
- Food, beverages, chewing gum and tobacco

Children in the Courtroom

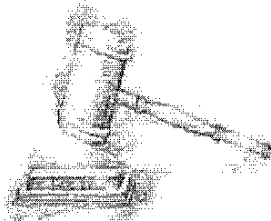
Please do not bring children to court unless the court has ordered them to be present. Many topics discussed in the courtroom are not appropriate for children and may be hurtful or confusing. Please arrange for a friend or relative to watch your child(ren) while you are in court.

Cell Phones and Pagers

The use of cell phones are not allowed in the courtroom. Your cell phone or pager must be turned off before entering so that you do not disrupt the court. If you are required to carry a phone or pager for business purposes, it must be placed on silent mode.

Security Precautions

Before entering the court you may go through a security checkpoint. In most cases, you will be asked to walk through a metal detector or an officer will use a wand to check for prohibited items. You should allow the officer to search any bags, packages or personal belongings that will be taken into the courtroom. If you refuse to cooperate, you may be denied entry to your hearing.



Respect

The courtroom is a place of order and structure. You should at all times act in a respectful manner when in the presence of the judge, court staff, attorneys, court officers and other persons attending court. Once the court has made a ruling in your case, continue to be respectful as you exit the courtroom. Attempts to disrupt the court once the judge has made a ruling may result in jail time.

Frequently Asked Questions

What time is my hearing?

If you have questions about your case such as the time or date of your hearing, you can contact the court clerk's office for assistance. You may also ask for directions to the court and the courtroom that you should appear.

What if I need special assistance?

If you have a disability, speak another language, or require special accommodations in the courtroom, please call before your hearing to allow the court time to properly assist you.

What should I do if I cannot appear at my hearing?

If you are not able to appear in court, contact the court clerk at least 48-hours before your scheduled hearing. If you do not appear at your hearing and fail to notify the court, a warrant may be issued for your arrest in criminal cases. You should also keep in mind that a judge may make a ruling in your case without you being present, such as civil matters like a divorce hearing.

COURTROOM DEMEANOR

P.P.S. expects all employees to exhibit professional behavior at all times, especially in courtroom proceedings. The following are some guidelines that probation officers should adhere to:

- Be familiar with each case - review document before Court
- Do not read from document - make eye contact with the Judge
- Speak in a loud and confident voice
- All dialogue should be directed to the Judge
- Always stand before speaking to the Judge
- * -Do not argue with the defendant
- Ask permission to speak if you wish to add any comments after the defendant has spoken
- Ask permission to approach the bench before advancing toward the Judge
- Maintain appropriate nonverbal behavior (i.e. no rolling eyes, sighs, laughter, etc.)

PRESENTATION OF HEARING

1. Present documents to Judge
2. State defendants full name
3. State date sentenced and offense(s)
4. State conditions of the sentence (i.e. 12 months probation, pay _____ in fines, community service, etc. & pay _____ monthly probation fee)
5. State alleged violation(s) of probation
6. State probation departments recommendation

Liability

Probation Officer Liability

Four Main Areas: Conditions
 Supervision
 Revocations
 Pre-sentence Investigations

Conditions:

1. As a probation officer, am I allowed to add conditions or modify conditions of probation?
2. Does it make any difference whether the probationer agrees with an emergency change in conditions?
3. Should I try to avoid a "blank check" type of condition from the Judge?
4. Is it permissible to impose a condition that seriously infringes on a fundamental right of the probationer?

Supervision:

1. Could I be found liable for carrying out the direct order of the Judge if the condition which I am enforcing turns out to be illegal?
2. Can I be sued by a victim of a crime who claims that my supervision of the probationer was too lax?
3. Can a probationer hold me liable on the grounds that my supervision was too tight?
4. Do I have a duty of confidentiality to the probationer?
5. If I have a right to search a probationer, can I enlist the aid of the police department to carry out the search?
6. Might I be taking a legal risk by either encouraging or discouraging a probationer from being a police informant?

7. Can a Judge delegate the responsibility of assessing restitution to me?
8. Am I liable for making sure that the appropriate victim receives the restitution?
9. Do I have a responsibility to the probationer to challenge what I feel are excessive restitution claims from a victim?
10. Can my help to the probationer be construed as giving legal advice? Am I liable for my actions?
11. Is it advisable for me to avoid all non-professional contact with the probationer?

Revocations:

1. In revocation proceedings, is my role that of an investigator, complainant, witness, prosecutor, law enforcement agent, and therapist?
2. Am I permitted to interrogate the probationer concerning the alleged violations?
3. Is my liability for my revocation report the same as my field notes?
4. Can I be required to give sworn testimony at a revocation hearing?
5. Can evidence which would be inadmissible in a criminal proceeding be allowed in a revocation hearing?
6. Could a victim sue me for not commencing revocation proceedings?
7. Could the probationer sue me for not revoking him sooner in order to prevent his current problems?
8. Can I withhold the identity of a confidential source from my reports or from the probationer?
9. May probation be extended?
10. Is it my duty to apply for a restoration of Civil Rights for the probationer after probation has expired?

Pre-sentence Investigations:

1. Can I be held liable for the content of my report?
2. Can I be held liable if I disclose the report to an unauthorized person or if I inadvertently disclose a confidential source or reveal confidential information?
3. Can I report rumors, uncorroborated information, speculative information, and hearsay in the report?
4. Can I include suspected criminal involvement where there has been no prior conviction? How about acquittals, reversed prior convictions, and evidence which has been excluded at the trial or previous trials?
5. Are there any areas of the defendant's personal life which can not be included in the report?
6. Might I be held legally responsible for my recommendation as to the suitability of probation for the individual? How about for my recommendations for special conditions of probation?
7. In interviewing a defendant in the preparation of a PSI, do I have an obligation to advise him on how to "put his best foot forward" at the sentencing hearing?
8. Do administrative rules and policies from my superiors have a legal effect on me?

Mitigating Liability - General Advice

A questionnaire sent by staff members of the Criminal Justice Center at Sam Houston State University in Huntsville, Texas to all offices of attorneys general in the United States included the following question:

"What three most important bits of legal advice would you give probation and parole officers to help them avoid or lessen possible legal liability in connection with their work?"

Ranked in order of response frequency, the top five answers were as follows:

1. Document your activities. Keep good records.
2. Know and follow department rules and regulations and your state statutes.
3. Arrange for legal counsel and seek legal advice whenever questions arise.
4. Act within the scope of your duties and in good faith.
5. Get approval from your supervisor if you have questions about what you are doing.

Other bits of advice were:

- Keep up with developments in your field. Ignorance of the law excuses no one.
- Use common sense.
- Review important decisions with supervisors.
- Undertake thorough investigations before making recommendations.
- Report the violations of offenders.
- Notify your supervisor immediately if you suspect that legal action against you is being contemplated.
- Have clear and comprehensive policies.
- Perform your duties on time.
- Take out insurance.
- Stick to the facts in all dealings with offenders.
- Do not get personally involved with offenders.
- Be familiar with revocation procedures.
- Keep out of politics.
- Advise officers on ethical practices.
- Do not act as a police officer.
- Avoid transporting offenders when possible.
- Insure safeguards for offender property.

Knowledge of legal responsibilities and awareness of possible liabilities can lead an officer to over caution, amounting to inaction. This should be avoided because in many cases, reluctance or failure to perform duties can be more harmful than acting incorrectly.



Drug Fact Sheet

Benzodiazepines

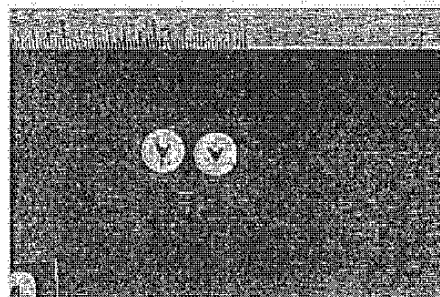
Overview

Benzodiazepines are depressants that produce sedation, induce sleep, relieve anxiety and muscle spasms, and prevent seizures.

Street names

Benzos, Downers

Looks like



The most common benzodiazepines are the prescription drugs Valium®, Xanax®, Halcion®, Ativan®, and Klonopin®. Tolerance can develop, although at variable rates and to different degrees. Shorter-acting benzodiazepines used to manage insomnia include estazolam (ProSom®), flurazepam (Dalmane®), temazepam (Restonil®), and triazolam (Halcion®). Midazolam (Versed®), a short-acting benzodiazepine, is utilized for sedation, anxiety, and amnesia in critical care settings and prior to anesthesia. It is available in the United States as an injectable preparation and as a syrup (primarily for pediatric patients). Benzodiazepines with a longer duration of action are utilized to treat insomnia in patients with daytime anxiety. These benzodiazepines include alprazolam (Xanax®), chlordiazepoxide (Librium®), clorazepate (Traxene®), diazepam (Valium®), halazepam (Paxipam®), lorazepam (Ativan®), oxazepam (Serax®), prazepam (Centrax®), and quazepam (Doral®). Clonazepam (Klonopin®), diazepam, and clorazepate are also used as anticonvulsants.

Methods of abuse

Abuse is frequently associated with adolescents and young adults who take the drug orally or crush it up and snort it to get high. Abuse is particularly high among heroin and cocaine abusers.

Affect on mind

Benzodiazepines are associated with amnesia, hostility, irritability, and vivid or disturbing dreams.

Affect on body

Benzodiazepines slow down the central nervous system and may cause sleepiness.

Drugs causing similar effects

Alcohol, barbiturates, sleeping pills, and GHB

Overdose effects

Effects of overdose include shallow respiration, clammy skin, dilated pupils, weak and rapid pulse, coma, and possible death.

Legal status in the United States

Benzodiazepines are controlled in schedule IV of the Controlled Substance Act.

Common places of origin

Benzodiazepines are only legally available through prescription. Many abusers maintain their drug supply by getting prescriptions from several doctors, forging prescriptions, or buying them illicitly. Alprazolam and diazepam are the two most frequently encountered benzodiazepines on the illicit market.



Drug Fact Sheet

Cocaine

Overview

Cocaine is an intense, euphoria-producing stimulant drug with strong addictive potential.

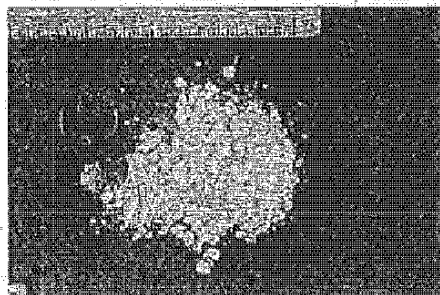
Street names

Coca, Coke, Crack, Flake, Snow, Soda Cot

Looks like

Cocaine is usually distributed as a white, crystalline powder.

Cocaine is often diluted ("cut") with a variety of substances, the most common of which are sugars and local anesthetics. It is "cut" to stretch the amount of the product and increase profits for dealers. In contrast, cocaine base (crack) looks like small, irregularly shaped chunks (or "rocks") of a whitish solid.



Methods of abuse

Powdered cocaine can be snorted or injected into the veins after dissolving in water. Cocaine base (crack) is smoked, either alone or on marijuana or tobacco. Cocaine is also abused in combination with an opiate, like heroin, a practice known as "speedballing." Although injecting into veins or muscles, snorting, and smoking are the common ways of using cocaine, all mucous membranes readily absorb cocaine. Cocaine users typically binge on the drug until they are exhausted or run out of cocaine.

Affect on mind

The intensity of cocaine's euphoric effects depends on how quickly the drug reaches the brain, which depends on the dose and method of abuse. Following smoking or intravenous injection, cocaine reaches the brain in seconds, with a rapid buildup in levels. This results in a rapid-onset, intense euphoric effect known as a "rush." By contrast, the euphoria caused by snorting cocaine is less intense and does not happen as quickly due to the slower build-up of the drug in the brain. Other effects include increased alertness and excitation, as well as restlessness, irritability, and anxiety. Tolerance to cocaine's effects develops rapidly, causing users to take higher and higher doses. Taking high doses of cocaine or prolonged use, such as bingeing, usually causes paranoia. The crash that follows euphoria is characterized by mental and physical exhaustion, sleep, and depression lasting several days. Following the crash, users experience a craving to use cocaine again.

Affect on body

Physiological effects of cocaine include increased blood pressure and heart rate, dilated pupils, insomnia, and loss of appetite. The widespread abuse of highly pure street cocaine has led to many severe adverse health consequences such as: cardiac arrhythmias, ischemic heart conditions, sudden cardiac arrest, convulsions, strokes, and death. In some users, the long-term use of inhaled cocaine has led to a unique respiratory syndrome, and chronic snorting of cocaine has led to the erosion of the upper nasal cavity.

Drugs causing similar effects

Other stimulants, such as methamphetamine, cause effects similar to cocaine that vary mainly in degree.



Drug Fact Sheet

Cocaine - cont'd.

Overdose effects

Overdose effects include agitation, increased body temperature, hallucinations, convulsions and possible death.

Legal status in the United States

Cocaine is a Schedule II drug under the Controlled Substances Act, meaning it has a high potential for abuse and limited medical usage. Cocaine hydrochloride solution (4% and 10%) is used primarily as a topical local anesthetic for the upper respiratory tract. It also is used to reduce bleeding of the mucous membranes in the mouth, throat, and nasal cavities. However, better products have been developed for these purposes, and cocaine is rarely used medically in the United States.

Common places of origin

Cocaine is derived from coca leaves grown in Bolivia, Peru, and Colombia. The cocaine manufacturing process takes place in remote jungle labs where the raw product undergoes a series of chemical transformations. Colombia produces about 90% of the cocaine powder reaching the United States. According to the 2005 Colombia Threat Assessment, 90% of the cocaine shipped to the United States comes from the Central America-Mexico corridor.



Drug Fact Sheet

Heroin

Overview

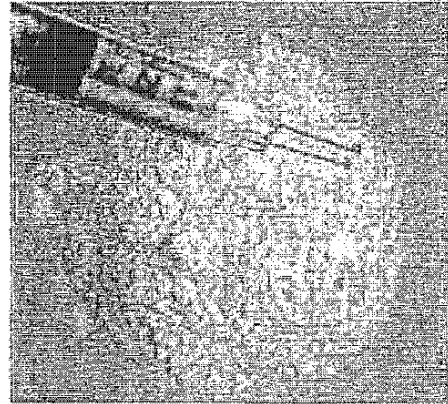
- Heroin is a highly addictive drug and the most rapidly acting of the opiates.

Street names

Big H, Black Tar, Chiva, Hell Dust, Horse, Negra, Smack, Thunder

Looks like

Heroin is typically sold as a white or brownish powder, or as the black sticky substance known on the streets as "black tar heroin." Although purer heroin is becoming more common, most street heroin is "cut" with other drugs or with substances such as sugar, starch, powdered milk, or quinine.



Methods of abuse

Heroin can be injected, smoked, or sniffed/snorted. High purity heroin is usually snorted or smoked.

Affect on mind

Because it enters the brain so rapidly, heroin is particularly addictive, both psychologically and physically. Heroin abusers report feeling a surge of euphoria or "rush," followed by a twilight state of sleep and wakefulness.

Affect on body

One of the most significant effects of heroin use is addiction. With regular heroin use, tolerance to the drug develops. Once this happens, the abuser must use more heroin to achieve the same intensity. As higher doses of the drug are used over time, physical dependence and addiction to the drug develop. Physical symptoms of heroin use include: drowsiness, respiratory depression, constricted pupils, nausea, a warm flushing of the skin, dry mouth, and heavy extremities.

Drugs causing similar effects

Other opioids such as OxyContin®, Vicodin®, codeine, morphine, methadone, and fentanyl can cause similar effects as heroin.

Overdose effects

Because heroin abusers do not know the actual strength of the drug or its true contents, they are at a high risk of overdose or death. The effects of a heroin overdose are: slow and shallow breathing, blue lips and fingernails, clammy skin, convulsions, coma, and possible death.

Legal status in the United States

Heroin is a Schedule I substance under the Controlled Substances Act meaning that it has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision.

Common places of origin

Heroin is processed from morphine, a naturally occurring substance extracted from the seed pod of certain varieties of poppy plants grown in: Southeast Asia (Thailand, Laos, and Myanmar (Burma)), Southwest Asia (Afghanistan and Pakistan), Mexico, and Colombia. It comes in several forms, the main one being "black tar" from Mexico (found primarily in the western United States) and white heroin from Colombia (primarily sold on the East Coast).



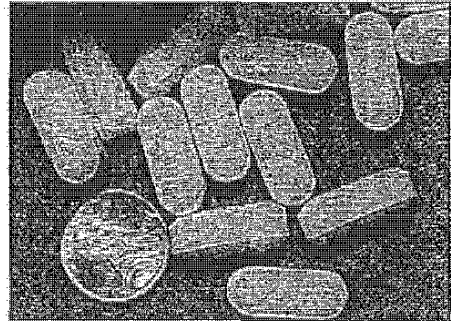
Drug Fact Sheet

Hydrocodone

Overview

Hydrocodone is the most frequently prescribed opioid in the United States and is associated with more drug abuse and diversion than any other licit or illicit opioid. It is an orally active agent most frequently prescribed for the treatment of moderate to moderately severe pain. Its analgesic potency is similar to morphine. Hydrocodone is also an antitussive (cough suppressant) agent with an efficacy similar to that of codeine.

There are numerous brand and generic hydrocodone products marketed in the United States. All are combination products. The most frequently prescribed combination is hydrocodone and acetaminophen (for example, Vicodin®, Lorcet®, and Lortab®). Other examples of combination products include those containing aspirin (Lortab ASA®), ibuprofen (Vicoprofen®) and antihistamines (Hycomine®).



Street names

Hydro, Norco, Vikes

Looks like

Hydrocodone has a chemical structure that is related to that of codeine and morphine. Hydrocodone combination products are formulated in tablets, capsules, and syrups.

Methods of abuse

Most often these drugs are abused by oral rather than intravenous administration.

Affect on mind

Hydrocodone, like most other opioids, induces euphoria, sedation and alters the perception of painful stimuli.

Affect on body

Hydrocodone can cause drowsiness, dizziness, nausea, constipation, urinary retention and in higher amounts, depressed respiration. Long term use can lead to dependence and addiction. Withdrawal symptoms include restlessness, muscle and bone pain, insomnia, diarrhea, and vomiting.

Drugs causing similar effects

Morphine, heroin, oxycodone, codeine, propoxyphene, fentanyl, and hydromorphone...

Overdose effects

Like other opioids, hydrocodone overdose is associated with cold and clammy skin, severely constricted pupils, and slow breathing that can lead to a loss of consciousness and death. Large doses of hydrocodone in combination with acetaminophen may cause severe liver damage.



Drug Fact Sheet

Hydrocodone – cont'd.

Legal status in the United States

Hydrocodone is a Schedule II narcotic that is marketed in multi-ingredient Schedule III products. The Schedule III drug products have accepted medical use in treatment and have a moderate to low physical dependence or high psychological dependence.

Common places of origin

A legitimate pharmaceutical, Hydrocodone is found in the illicit market most often in tablets, capsules and liquid form. Tablets containing acetaminophen are the most frequently encountered products. Hydrocodone can be obtained from illicit Internet sources, altered or fraudulent prescriptions, doctor-shopping, drug theft, and from friends or acquaintances.

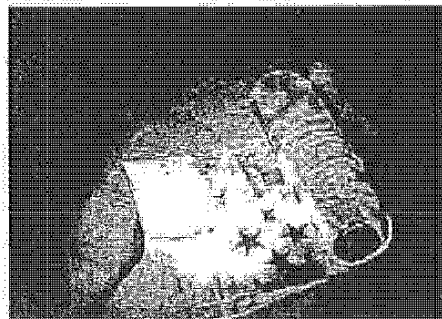


Drug Fact Sheet

Ketamine

Overview

Ketamine is a dissociative anesthetic that has some hallucinogenic effects. It distorts perceptions of sight and sound and makes the user feel disconnected and not in control. It is an injectable, short-acting anesthetic for use in humans and animals. It is referred to as a "dissociative anesthetic" because it makes patients feel detached from their pain and environment. Ketamine can induce a state of sedation (feeling calm and relaxed), immobility, relief from pain, and amnesia (no memory of events while under the influence of the drug). It is abused for its ability to produce dissociative sensations and hallucinations. Ketamine has also been used to facilitate sexual assault.



Street names

Cat Tranquillizer, Cat Valium, Jet, Jet K, K, Kit Kat, Purple, Special K, Special La Coke, Super Acid, Super K, Vitamin K

Looks like

Ketamine comes in a clear liquid and a white or off-white powder. Powdered ketamine (100 milligrams to 200 milligrams) typically is packaged in small glass vials, small plastic bags, and capsules as well as paper, glassine, or aluminum foil folds.

Methods of abuse

Ketamine, along with the other "club drugs," has become popular among teens and young adults at dance clubs and "raves." Ketamine is manufactured commercially as a powder or liquid. Powdered ketamine is also formed from pharmaceutical ketamine by evaporating the liquid using hot plates, warming trays, or microwave ovens, a process that results in the formation of crystals, which are then ground into powder. Powdered ketamine is cut into lines known as bumps and snorted, or it is smoked, typically in marijuana or tobacco cigarettes. Liquid ketamine is injected or mixed into drinks. Ketamine is found by itself or often in combination with MDMA, amphetamine, methamphetamine, or cocaine.

Affect on mind

Ketamine produces hallucinations. It distorts perceptions of sight and sound and makes the user feel disconnected and not in control. A "Special K" trip is touted as better than that of LSD or PCP because its hallucinatory effects are relatively short in duration, lasting approximately 30 to 60 minutes as opposed to several hours. Slang for experiences related to Ketamine or effects of Ketamine include: "K-land" (refers to a mellow and colorful experience), "K-hole" (refers to the out-of-body, near death experience), "Baby food" (users sink in to blissful, infantile inertia), and "God" (users are convinced that they have met their maker). The onset of effects is rapid and often occurs within a few minutes of taking the drug, though taking it orally results in a slightly slower onset of effects. Flashbacks have been reported several weeks after ketamine is used. Ketamine may also cause agitation, depression, cognitive difficulties, unconsciousness, and amnesia.



Drug Fact Sheet

Ketamine – cont'd.

Affect on body

A couple of minutes after taking the drug, the user may experience an increase in heart rate and blood pressure that gradually decreases over the next 10 to 20 minutes. Ketamine can make users unresponsive to stimuli. When in this state, users experience: involuntarily rapid eye movement, dilated pupils, salivation, tear secretions, and stiffening of the muscles. This drug can also cause nausea.

Drugs causing similar effects

Other hallucinogenic drugs such as LSD, PCP, and mescaline can cause hallucinations. There are also several drugs such as GHB, Rohypnol and other depressants that are misused for their amnesiac or sedative properties to facilitate sexual assault.

Overdose effects

An overdose can cause unconsciousness and dangerously slowed breathing.

Legal status in the United States

Since the 1970s, ketamine has been marketed in the United States as an injectable, short-acting anesthetic for use in humans and animals. In 1999, ketamine including its salts, isomers, and salts of isomers, became a Schedule III non-narcotic substance under the Federal Controlled Substances Act. It has a currently acceptable medical use but some potential for abuse, which may lead to moderate or low physical dependence or high psychological dependence.

Common places of origin

Ketamine is produced commercially in a number of countries, including the United States. Most of the ketamine illegally distributed in the United States is diverted or stolen from legitimate sources, particularly veterinary clinics, or smuggled into the United States from Mexico. Distribution of ketamine typically occurs among friends and acquaintances, most often at raves, nightclubs, and at private parties; street sales of ketamine are rare.



Drug Fact Sheet

K2 or Spice

Overview

K2 or "Spice" is a mixture of herbs and spices that is typically sprayed with a synthetic compound chemically similar to THC, the psychoactive ingredients in marijuana. The chemical compounds typically include HU-210, HU-211, JWH-018, and JWH-073. K2 is commonly purchased in head shops, tobacco shops, various retail outlets, and over the Internet. It is often marketed as incense or "fake weed." Purchasing over the Internet can be dangerous because it is not usually known where the products come from or what amount of chemical is on the organic material.



Street names

Bliss, Black Mamba, Bombay Blue, Fake Weed, Genie, Spice, Zohai

Looks like

K2 is typically sold in small, silvery plastic bags of dried leaves and marketed as incense that can be smoked. It is said to resemble potpourri.

Methods of abuse

K2 products are usually smoked in joints or pipes, but some users make it into a tea.

Affect on mind

Psychological effects are similar to those of marijuana and include paranoia, panic attacks, and giddiness.

Affect on body

Physiological effects of K2 include increased heart rate and increase of blood pressure. It appears to be stored in the body for long periods of time, and therefore the long-term effects on humans are not fully known.

Drugs causing similar effects

Marijuana

Overdose effects

There have been no reported deaths by overdose.

Legal status in the United States

On Tuesday, March 1, 2011, DEA published a final order in the Federal Register temporarily placing five synthetic cannabinoids into Schedule I of the CSA. The order became effective on March 1, 2011. The substances placed into



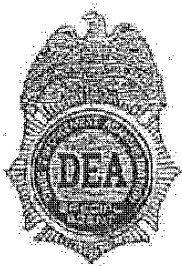
Drug Fact Sheet

K2 or Spice - cont'd.

Schedule I are 1-pentyl-3-(1-naphthoyl) indole (JWH-018), 1-butyl-3-(1-naphthoyl) indole (JWH-073), 1-[2-(4-morpholinyl) ethyl]-3-(1-naphthoyl) indole (JWH-200), 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497), and 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol; CP-47,497 C8 homologue). This action is based on a finding by the Administrator that the placement of these synthetic cannabinoids into Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety. As a result of this order, the full effect of the CSA and its implementing regulations including criminal, civil and administrative penalties, sanctions, and regulatory controls of Schedule I substances will be imposed on the manufacture, distribution, possession, importation, and exportation of these synthetic cannabinoids.

Common places of origin

Manufacturers of this product are not regulated and are often unknown since these products are purchased via the Internet whether wholesale or retail. Several websites that sell the product are based in China. Some products may contain an herb called damiana, which is native to Central America, Mexico, and the Caribbean.



Drug Fact Sheet

LSD

Overview

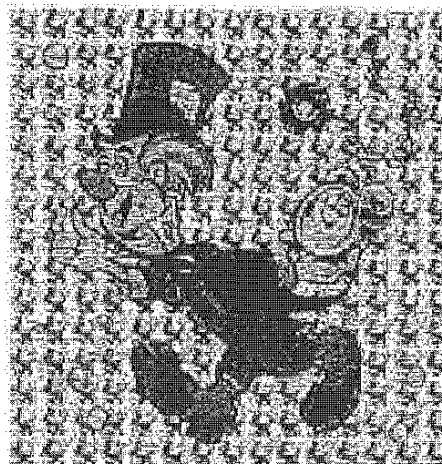
LSD is a potent hallucinogen that has a high potential for abuse, but currently has an accepted medical use in treatment in the United States.

Street names

Acid, Blotter Acid, Dots, Mellow Yellow, Window Pane

Looks like

LSD is sold on the street in tablets, capsules, and occasionally in liquid form. It is an odorless and colorless substance with a slightly bitter taste. LSD is often added to absorbent paper, such as blotter paper, and divided into small decorated squares, with each square representing one dose.



Methods of abuse

LSD is abused orally.

Affect on mind

During the first hour after ingestion, users may experience visual changes with extreme changes in mood. While hallucinating, the user may suffer impaired depth and time perception accompanied by distorted perception of the shape and size of objects, movements, colors, sound, touch and the user's own body image. The ability to make sound judgments and see common dangers is impaired, making the user susceptible to personal injury. It is possible for users to suffer acute anxiety and depression after an LSD "trip" and flashbacks have been reported days, and even months, after taking the last dose.

Affect on body

The physical effects include: dilated pupils, higher body temperature, increased heart rate and blood pressure, sweating, loss of appetite, sleeplessness, dry mouth, and tremors.

Drugs causing similar effects

LSD's effects are similar to other hallucinogens, such as PCP, mescaline, and peyote.

Overdose effects

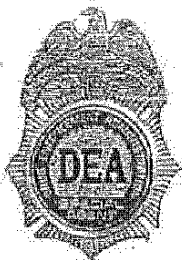
Longer, more intense "trip" episodes, psychosis, and possible death.

Legal status in the United States

LSD is a Schedule I substance under the Controlled Substances Act, meaning that it has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision.

Common places of origin

LSD is produced in clandestine laboratories in the United States.

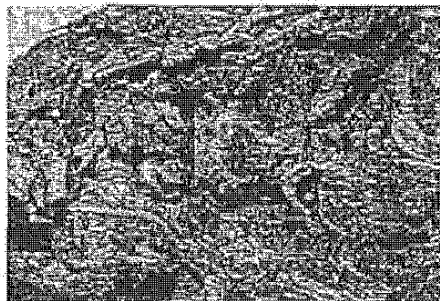


Drug Fact Sheet

Marijuana

Overview

Marijuana is a mind-altering (psychoactive) drug, produced by the *Cannabis sativa* plant. Marijuana contains over 400 chemicals. THC (delta-9-tetrahydrocannabinol) is believed to be the main chemical ingredient that produces the psychoactive effect.



Street names

Aunt Mary, BC Bud, Blunts, Boom, Chronic, Dope, Gangster, Ganja, Grass, Hash, Herb, Hydro, Indo, Joint, Kif, Mary Jane, Mota, Pot, Reefer, Sinsemilla, Skunk, Smoke, Weed, Yerba

Looks like

Marijuana is a dry, shredded green/brown mix of flowers, stems, seeds, and leaves from the *Cannabis sativa* plant. The mixture typically is green, brown, or gray in color and may resemble tobacco.

Methods of abuse

Marijuana is usually smoked as a cigarette (called a joint) or in a pipe or bong. It is also smoked in blunts, which are cigars that have been emptied of tobacco and refilled with marijuana, sometimes in combination with another drug. Marijuana is also mixed with foods or brewed as a tea.

Affect on mind

When marijuana is smoked, the THC passes from the lungs and into the bloodstream, which carries the chemical to the organs throughout the body, including the brain. In the brain, the THC connects to specific sites called cannabinoid receptors on nerve cells and influences the activity of those cells. Many of these receptors are found in the parts of the brain that influence pleasure, memory, thought, concentration, sensory and time perception, and coordinated movement. The short-term effects of marijuana include problems with memory and learning, distorted perception, difficulty in thinking and problem-solving, and loss of coordination. The effect of marijuana on perception and coordination are responsible for serious impairments in driving abilities. Long-term chronic marijuana use is associated with Amotivational Syndrome, characterized by apathy, impairment of judgment, memory and concentration, and loss of motivation, ambition and interest in the pursuit of personal goals. High doses of marijuana can result in mental confusion, panic reactions and hallucinations. Researchers have also found an association between marijuana use and an increased risk of depression; an increased risk and earlier onset of schizophrenia and other psychotic disorders, especially for teens that have a genetic predisposition.

Affect on body

Short-term physical effects from marijuana use may include sedation, blood shot eyes, increased heart rate, coughing from lung irritation, increased appetite, and decreased blood pressure. Like tobacco smokers, marijuana smokers experience serious health problems such as bronchitis, emphysema, and bronchial asthma. Extended use may cause suppression of the immune system. Because marijuana contains toxins and carcinogens, marijuana smokers increase their risk of cancer of the head, neck, lungs and respiratory track. Withdrawal from chronic use of high doses of marijuana causes physical signs including headache, shakiness, sweating, stomach pains and nausea, as well as



Drug Fact Sheet

Marijuana - cont'd.

behavioral signs including restlessness, irritability, sleep difficulties and decreased appetite.

Drugs causing similar effects

Hashish and hashish oil are drugs made from the cannabis plant that are like marijuana, only stronger. Hashish (hash) consists of the THC - rich resinous material of the cannabis plant, which is collected, dried, and then compressed into a variety of forms, such as balls, cakes, or cookie like sheets. Pieces are then broken off, placed in pipes or mixed with tobacco and placed in pipes or cigarettes, or smoked. The main sources of hashish are the Middle East, North Africa, Pakistan and Afghanistan. Hashish Oil (hash oil, liquid hash, cannabis oil) is produced by extracting the cannabinoids from the plant material with a solvent. The color and odor of the extract will vary, depending on the solvent used. A drop or two of this liquid on a cigarette is equal to a single marijuana joint. Like marijuana, hashish and hashish oil are both Schedule I drugs.

Overdose effects

No death from overdose of marijuana has been reported.

Legal status in the United States

Marijuana is a Schedule I substance under the Controlled Substances Act. Schedule I drugs are classified as having a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use of the drug or other substance under medical supervision. Marinol, a synthetic version of THC, the active ingredient found in the marijuana plant, can be prescribed for the control of nausea and vomiting caused by chemotherapeutic agents used in the treatment of cancer and to stimulate appetite in AIDS patients. Marinol is a Schedule III substance under the Controlled Substances Act. Schedule III drugs are classified as having less potential for abuse than the drugs or substances in Schedules I and II, and have a currently accepted medical use in treatment in the U.S., and abuse of the drug may lead to moderate or low physical dependence or psychological dependence.

Common places of origin

Marijuana is grown in the United States, Canada, Mexico, South America and Asia. It can be cultivated in both outdoor and in indoor settings.



Drug Fact Sheet

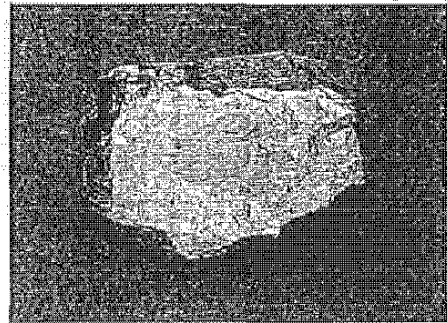
Methamphetamine

Overview

Methamphetamine (meth) is a stimulant. The FDA-approved brand-name medication is Desoxyn®.

Street names

Batu, Bikers Coffee, Black Beauties, Chalk, Chicken Feed, Crank, Crystal, Glass, Go-Fast, Hiropin, Ice, Meth, Methies, Quick, Poor Man's Cocaine, Shabu, Shards, Speed, Stove Top, Tina, Trash, Tweak, Uppers, Ventana, Vidrio, Yaba, Yellow Bam



Looks like

Regular meth is a pill or powder. Crystal meth resembles glass fragments or shiny blue-white "rocks" of various sizes.

Methods of abuse

Meth is swallowed, snorted, injected, or smoked. To intensify the effects, users may take higher doses of the drug, take it more frequently, or change their method of intake. In some cases, meth abusers go without food and sleep while taking part in a form of bingeing known as a "run." Meth users on a "run" inject as much as a gram of the drug every two to three hours over several days until they run out of meth or become too disorganized to continue.

Affect on mind

Meth is a highly addictive drug with potent central nervous system (CNS) stimulant properties. Those who smoke or inject it report a brief, intense sensation, or rush. Oral ingestion or snorting produces a long-lasting high instead of a rush, which reportedly can continue for as long as half a day. Both the rush and the high are believed to result from the release of very high levels of the neurotransmitter dopamine into areas of the brain that regulate feelings of pleasure. Long-term meth use results in many damaging effects, including addiction. Chronic meth abusers exhibit violent behavior, anxiety, confusion, insomnia, and psychotic features, including paranoia, aggression, visual and auditory hallucinations, mood disturbances, and delusions — such as the sensation of insects creeping on or under the skin. Such paranoia can result in homicidal or suicidal thoughts. Researchers have reported that as much as 50% of the dopamine-producing cells in the brain can be damaged after prolonged exposure to relatively low levels of meth. Researchers also have found that serotonin-containing nerve cells may be damaged even more extensively.

Affect on body

Taking even small amounts of meth can result in increased wakefulness, increased physical activity, decreased appetite, rapid breathing and heart rate, irregular heartbeat, increased blood pressure, and hyperthermia (overheating). High doses can elevate body temperature to dangerous, sometimes lethal, levels as well as cause convulsions and even cardiovascular collapse and death. Meth abuse may also cause extreme anorexia, memory loss, and severe dental problems.

Drugs causing similar effects

Cocaine and potent stimulant pharmaceuticals, such as amphetamines and methylphenidate, produce similar effects.



Drug Fact Sheet

Methamphetamine - cont'd.

Overdose effects

High doses may result in death from stroke, heart attack, or multiple organ problems caused by overheating.

Legal status in the United States

Methamphetamine is a Schedule II stimulant under the Controlled Substances Act, which means that it has a high potential for abuse and limited medical use. It is available only through a prescription that cannot be refilled. Today there is only one legal meth product, Desoxyn®. It is currently marketed in 5-milligram tablets and has very limited use in the treatment of obesity and attention deficit hyperactivity disorder (ADHD).

Common places of origin

Mexican drug trafficking organizations have become the primary manufacturers and distributors of methamphetamine to cities throughout the United States, including in Hawaii. Domestic clandestine laboratory operators also produce and distribute meth but usually on a smaller scale. The methods used depend on the availability of precursor chemicals. Currently, meth is mainly made with diverted products that contain pseudoephedrine. The Combat Methamphetamine Epidemic Act of 2005 requires retailers of non-prescription products containing pseudoephedrine, ephedrine, or phenylpropanolamine to place these products behind the counter or in a locked cabinet. Consumers must show identification and sign a logbook for each purchase.



Drug Fact Sheet

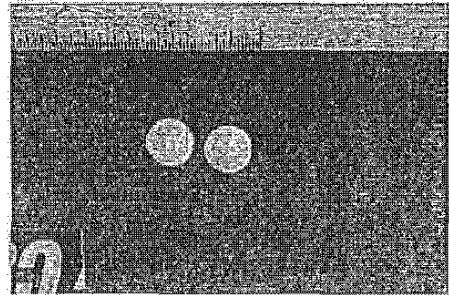
Morphine

Overview

Morphine is a non-synthetic narcotic with a high potential for abuse and is the principal constituent of opium. It is one of the most effective drugs known for the relief of severe pain.

Street names

Dreamer, Emsel, First Line, God's Drug, Hows, M.S., Mister Blue, Morf, Morpho, Unkle



Looks like

Morphine is marketed under generic and brand name products, including: MS-Contin®, oramorph SR®, MSIR®, Roxanol®, Kadian®, and RMS®.

Methods of abuse

Traditionally, morphine was almost exclusively used by injection, but the variety of pharmaceutical forms that it is marketed as today support its use by oral and other routes of administration. Forms include: oral solutions, immediate- and sustained-release tablets and capsules, suppositories, and injectable preparations. Those dependent on morphine prefer injection because the drug enters the blood stream more quickly.

Affect on mind

Morphine's effects include euphoria and relief of pain. Chronic use of morphine results in tolerance and physical and psychological dependence.

Affect on body

Morphine use results in relief from physical pain, decrease in hunger, and inhibition of the cough reflex.

Drugs causing similar effects

Drugs causing similar effects as morphine include: opium, codeine, heroin, methadone, hydrocodone, fentanyl, and oxycodone.

Overdose effects

Overdose effects include: cold, clammy skin, lowered blood pressure, sleepiness, slowed breathing, slow pulse rate, coma, and possible death.

Legal status in the United States

Morphine is a Schedule II narcotic under the Controlled Substances Act.

Common places of origin

In the United States, a small percentage of the morphine obtained from opium is used directly for pharmaceutical products. The remaining morphine is processed into codeine and other derivatives.



Drug Fact Sheet

Oxycodone

Overview

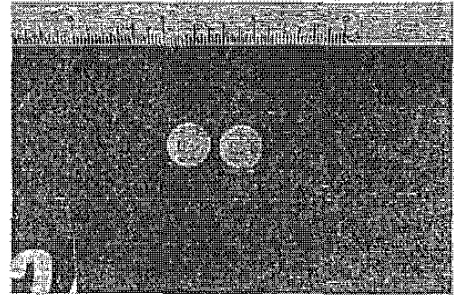
Oxycodone is a semi-synthetic narcotic analgesic and historically has been a popular drug of abuse among the narcotic abusing population.

Street names

Hillbilly Heroin, Kicker, OC, Ox, Oxy, Perc, Roxy

Looks like

Oxycodone is marketed alone as OxyContin® in 10, 20, 40 and 80 mg controlled-release tablets and other immediate-release capsules like 5 mg OxyIR®. It is also marketed in combination products with aspirin such as Percodan® or acetaminophen such as Roxicet®.



Methods of abuse

Oxycodone is abused orally or intravenously. The tablets are crushed and sniffed or dissolved in water and injected. Others heat a tablet that has been placed on a piece of foil then inhale the vapors.

Affect on mind

Euphoria and feelings of relaxation are the most common effects of oxycodone on the brain, which explains its high potential for abuse.

Affect on body

Physiological effects of oxycodone include: pain relief, sedation, respiratory depression, constipation, papillary constriction, and cough suppression. Extended or chronic use of oxycodone containing acetaminophen may cause severe liver damage.

Drugs causing similar effects

Drugs that cause similar effects to oxycodone include: opium, codeine, heroin, methadone, hydrocodone, fentanyl, and morphine.

Overdose effects

Overdose effects include: extreme drowsiness, muscle weakness, confusion, cold and clammy skin, pinpoint pupils, shallow breathing, slow heart rate, fainting, coma, and possible death.

Legal status in the United States

Oxycodone products are in Schedule II of the federal Controlled Substances Act of 1970.

Common places of origin

Oxycodone is synthesized from thebaine, a constituent of the poppy plant.



Drug Fact Sheet

PCP

Overview

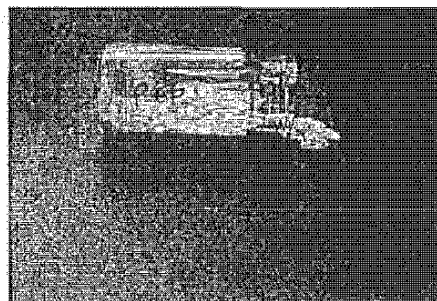
PCP is an illegal drug abused for its hallucinogenic effects.

Street names

Angel Dust, Embalming Fluid, Killer Weed, Rocket Fuel, Supergrass

Looks like

In its pure form, PCP is a white crystalline powder that readily dissolves in water. However, most PCP on the street is tan/brown in color, powdery or gummy in consistency, and is typically transported in small foil wraps. PCP is most commonly sold as a powder or liquid, and applied to a leafy material such as oregano, parsley, mint, or marijuana and then smoked.



Methods of abuse

Smoked, injected, snorted, taken orally

Affect on mind

PCP use often causes a user to feel detached, distant and estranged from his surroundings. Auditory hallucinations and severe mood disorders can occur. In some users, acute anxiety, paranoia and hostility, as well as psychosis can occur.

Affect on body

Numbness, slurred speech, and loss of coordination can be accompanied by a sense of strength and invulnerability. A blank stare, rapid and involuntary eye movements, and an exaggerated gait are among the more observable effects.

Drugs causing similar effects

PCP's effects are similar to other hallucinogens, such as mescaline and peyote.

Overdose effects

Longer, more intense "trip" episodes, psychosis and possible death.

Legal status in the United States

Originally designed as a human anesthetic and later produced only as a veterinary anesthetic, PCP is no longer produced or used for legitimate purposes.

Common places of origin

PCP is generally produced in clandestine laboratories in the United States.



Drug Fact Sheet

Steroids

Overview

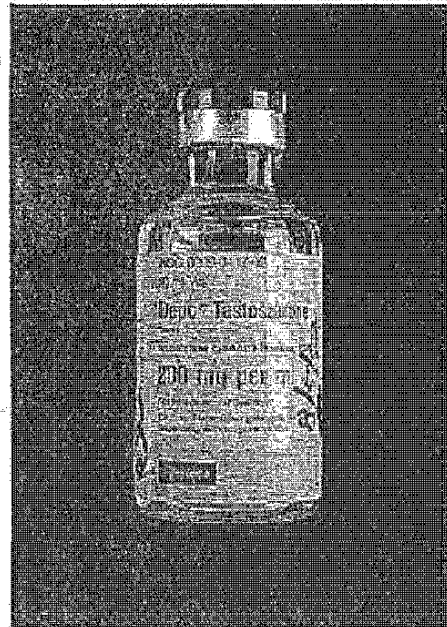
Anabolic steroids are synthetically produced variants of the naturally occurring male hormone testosterone that are abused in an attempt to promote muscle growth, enhance athletic or other physical performance, and improve physical appearance. Testosterone, nandrolone, stanozolol, methandienone, and boldenone are some of the most frequently abused anabolic steroids.

Street names

Arnolds, Juice, Pumpers, Roids, Stackers, Weight Gainers

Looks like

Steroids are available in: tablets and capsules, sublingual-tablets, liquid drops, gels, creams, transdermal patches, subdermal implant pellets, and water-based and oil-based injectable solutions. The appearance of these products varies depending on the type and manufacturer.



Methods of abuse

Steroids are ingested orally, injected intramuscularly, or applied to the skin. The doses abused are often 10 to 100 times higher than the approved therapeutic and medical treatment dosages. Users typically take two or more anabolic steroids at the same time in a cyclic manner, believing that this will improve their effectiveness and minimize the adverse effects.

Affect on mind

Case studies and scientific research indicate that high doses of anabolic steroids may cause mood and behavioral effects. In some individuals, steroid use can cause dramatic mood swings, increased feelings of hostility, impaired judgment, and increased levels of aggression (often referred to as "roid rage"). When users stop taking steroids, they may experience depression that may be severe enough to lead one to commit suicide. Anabolic steroid use may also cause psychological dependence and addiction.

Affect on body

A wide range of adverse effects is associated with the use or abuse of anabolic steroids. These effects depend on several factors including: age, sex, the anabolic steroid used, amount used, and duration of use. In adolescents, anabolic steroid use can stunt the ultimate height that an individual achieves. In boys, steroid use can cause early sexual development, acne, and stunted growth. In adolescent girls and women, anabolic steroid use can induce permanent physical changes, such as deepening of the voice, increased facial and body hair growth, menstrual irregularities, male pattern baldness, and lengthening of the clitoris. In men, anabolic steroid use can cause shrinkage of the testicles, reduced sperm count, enlargement of the male breast tissue, sterility, and an increased risk of prostate cancer. In both men and women, anabolic steroid use can cause high cholesterol levels, which may increase the risk of



Drug Fact Sheet

Steroids - cont'd.

coronary artery disease, strokes, and heart attacks. Anabolic steroid use can also cause acne and fluid retention. Oral preparations of anabolic steroids, in particular, can damage the liver. Abusers who inject steroids run the risk of contracting various infections due to non-sterile injection techniques, sharing of contaminated needles, and the use of steroid preparations manufactured in non-sterile environments. All these factors put users at risk for contracting viral infections such as HIV/AIDS or hepatitis B or C, and bacterial infections at the sight of injection. Abusers may also develop endocarditis, a bacterial infection that causes a potentially fatal inflammation of the heart lining.

Drugs causing similar effects

There are several substances that produce effects similar to those of anabolic steroids. These include human growth hormone (hHG), clenbuterol, gonadotropins, and erythropoietin.

Overdose effects

Anabolic steroids are not associated with overdoses. The adverse effects a user would experience develop from the use of steroids over time.

Legal status in the United States

Anabolic steroids are Schedule III substances under the Controlled Substances Act. Only a small number of anabolic steroids are approved for either human or veterinary use. Steroids may be prescribed by a licensed physician for the treatment of testosterone deficiency, delayed puberty, low red blood cell count, breast cancer, and tissue wasting resulting from AIDS.

Common places of origin

Most illicit steroids are smuggled into the U.S. from abroad. Steroids are also illegally diverted from legitimate sources (theft or inappropriate prescribing). The Internet is the most widely used means of buying and selling anabolic steroids. Steroids are also bought and sold at gyms, bodybuilding competitions, and schools from teammates, coaches, and trainers.

JUDICIAL INQUIRY COMMISSION

DATE ISSUED: March 4, 2014

ADVISORY OPINION 14-926

ISSUES

- (1) Is a part-time municipal judge accountable under the Canons of Judicial Ethics when the judge, court employees, and/or contract probation services engage in a pattern and practice of failing to afford constitutional rights to defendants and follow standard procedures required by the rules of court and statutes? **Answer:** Yes.
- (2) Does the fact that the judge is a part-time judge, the fact that the judge has neither hiring nor firing authority over the city magistrate-clerk, or the fact the judge is not consulted in the selection of the private probation company nor in the terms of the contract with that company alleviate the judge's ethical accountability for the actions of the clerk or the private company employees, if the judge knew or should have known in performing his/her responsibilities, that the clerk and/or the private company employees were failing to perform their duties in a manner consistent with the high standards required of judges and the court? **Answer:** No.
- (3) Can a municipal court judge ethically continue to sit as municipal judge where the procedures of the court present multiple concerns regarding the violation of defendants' fundamental constitutional rights and the judge or court personnel consistently fails to comply with the standard procedures required by the courts and statutes to ensure fairness and justice for all? **Answer:** No.

FACTS

In the facts presented, the Commission notes the following areas of concern to which a municipal judge shall be attentive:

A. COURT RECORDS

That orders of the court are duly signed by the judge in a timely manner; that blank orders are never signed by the judge to be filled in by staff; that

Advisory Opinion 14-926

Page 2

execution of orders not be delegated to staff by use of signature stamps; that all plea agreements, waivers of counsel, and other forms be properly executed and maintained; that counsel be appointed for indigent defendants where appropriate; that all orders and records of the court be retained by the court clerk as required by law; that the amount of fines imposed and court costs and fees assessed be limited to those allowed by law; that proper corrective action be taken upon discovery that the amount of such fines, costs, or fees was excessive and that traffic tickets be timely forwarded to the Department of Public Safety as required by law.

B. PROBATION

That probation be used only when a suspended sentence is imposed following conviction of an offense; that probation be imposed only after a properly executed order of conviction has been entered; that all probation orders be executed by the judge at the time the defendant is placed on probation and advised of the conditions of probation; that periods of probation be neither imposed nor extended beyond the time authorized by law; that petitions for revocation of probation be processed in accordance with due process requirements, including proper notice to the defendant; and written findings of the grounds for revocation of probation be recorded.

C. COUNSEL, INCARCERATION, AND PRE-TRIAL DIVERSION

That incarcerated defendants be provided timely initial appearance hearings as provided by law; that defendants be informed of their right to counsel; that defendants be given a reasonable time to secure an attorney prior to arraignment or a decision on pre-trial diversion; that any bond set should be reasonable, with consideration of the defendant's ability to make bond; that defendants not remain incarcerated beyond a court date due simply to administrative failures in the court; that defendants not be incarcerated for nonpayment of fines, costs, and restitution without the judge first conducting an inquiry as to the reasons for nonpayment; that defendants not be incarcerated for failure to pay fines, costs, and restitution beyond the maximum time allowed by law for such incarceration; that incarcerated defendants be properly credited on fines and costs with time served; that defendants not be incarcerated for nonpayment of fines, costs, and restitution, where the defendant has failed to pay because of indigency; and that any

Advisory Opinion 14-926

Page 3

finding of contempt for nonpayment of fine, costs, and restitution be based on a petition for contempt and a hearing after notice.

D. PRIVATE PROBATION

That private probation or other services used by the court be reviewed on a consistent basis to ensure there is no usurpation of the authority of the court, and to prevent such agencies from creating the perception that they have the authority to make the final determination of conditions of probation or to incarcerate offenders for noncompliance with court orders; that such agencies not be delegated the authority to make indigency determinations or other determinations relative to incarceration for noncompliance; and that all actions regarding probation be subject to review by the judge to ensure that such actions do not violate an offender's rights of due process or equal protection of the law.

E. JUDICIAL ENGAGEMENT

That sufficient time is committed by the judge to the court to insure that the judge and the other officials of the court protect the due process rights of all individuals appearing before the court.

DISCUSSION

The Alabama Canons of Judicial Ethics relating to the above issues cover five basic areas: (1) a judge's responsibility to know, apply, and comply with the law; (2) a judge's responsibility for his or her own conduct so that both the judicial system and the public have confidence the judicial duties are being performed by a judge pursuant to the high standards of integrity and competence of judges; (3) a judge's responsibility to assure litigants they will be heard and heard expeditiously, especially in criminal matters; (4) a judge's responsibility to perform not only his or her administrative responsibilities, but to ensure the proper performance of administrative responsibilities of other court officials; and (5) a judge's duty to see that not only his staff but other court officials observe the same high standards that apply to the judge. The relevant canons are as follows:

Canon 1:

A judge should uphold the integrity and independence of the judiciary.

Advisory Opinion 14-926

Page 4

An independent honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

Canon 2A:

A judge should respect and comply with the law[.]

Canon 2A:

A judge should . . . conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Canon 2B:

A judge should . . . avoid conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

Canon 3:

A judge should perform the duties of his office . . . diligently.

The . . . judicial duties include all the duties of [the judge's] office prescribed by law.

Canon 3A(1):

A judge should be faithful to the law[.]

Canon 3A(1):

A judge should . . . maintain professional competence in [the law].

Canon 3A(4):

A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law[.]

Canon 3B(1):

A judge should diligently discharge his administrative responsibilities[.]

Advisory Opinion 14-926

Page 5

Canon 3B(1):

A judge should . . . maintain professional competence in judicial administration[.]

Canon 3B(1):

A judge should . . . facilitate the performance of the administrative responsibilities of . . . court officials.

And Canon 3B(2):

A judge should require his staff and court officials subject to his direction and control to observe the standards of fidelity and diligence that apply to him.

The Commission notes these canons emphasize and re-emphasize the importance of promoting public confidence in the integrity, impartiality, and independence of the judiciary. Any conduct or nonfeasance by the judge that exhibits a pattern and practice of inattention, carelessness, or a *laissez-faire* attitude on the part of the judge or court officials undermines the public's confidence in its judicial system, which in turn undermines deference to the judgments and rulings of courts. See Commentary, Canon 1. Nothing in the law or the canons excuses part-time judges from exercising the diligence required to protect that confidence. In fact, the section "Compliance with the Canons of Judicial Ethics," at the end of the canons, exempts a part-time judge from complying with only certain provisions of Canon 5 and Canon 6.

The Commission recognizes that many municipal courts meet only once or twice each month for a short period of time, rarely more than several hours even in the busiest part-time courts, and that frequently the only full-time court employee or official is the court clerk, who may also be designated a magistrate. Although the judge may be employed in a part-time capacity, he or she has a legal obligation to assure that all court officials be in compliance with their duties to the court and to constitutional and statutory law and procedural legal and ethical rules. Even recognizing the part-time nature of the office, one who accepts the office of part-time judge also accepts the corresponding responsibilities and must devote sufficient time to his or her judicial and administrative duties to remain in compliance with the Canons of Judicial Ethics.

The importance of municipal courts in the scheme of state court systems has long been recognized. In 1977, in a disciplinary action against a municipal judge for failure to

Advisory Opinion 14-926

Page 6

perform his duties, the Supreme Court of New Jersey emphasized the role such courts have in the overall system of state courts, as follows:

[T]he local courts of first instance are the very foundation of the enforcement of the criminal law; that upon them rests the primary responsibility for the maintenance of peace in the various communities of the State, for the safety on our streets and highways, and most important of all, the development of respect for law on the part of our citizenry, upon which in the last analysis all of our democratic institutions depend. [Former Chief Justice Vanderbilt] said "(t)his is the underlying reason why I have repeatedly called the municipal courts the most important in our state."

In the Matter of Yengo, 72 N.J. 425, 342, 371 A.2d 41, 46 (N.J. 1977) (citations omitted). The same can be said of Alabama. More citizens are familiar with our court system through interaction with municipal courts than any of the other courts in our state.

Alabama law is clear: a municipal judge is the chief judicial officer of the municipality and bears primary responsibility for the administration of the court. See ALA. CODE § 12-14-30(d)(2012). The municipal judge, as do other judges, has the inherent authority to control the administration of the court, including the conduct of court officials and all other persons connected with a judicial proceeding before the court. See ALA. CODE § 12-1-7(4)(2012). He or she is thus given judicial authority over the court personnel, private or public, in the performance of their court duties. No exception is made for part-time judges. They too must remain vigilant in exercising this authority to see that the standards required in the canons are upheld. See Canon 3B(2).

Courts in other states have construed the above quoted canons to apply in judicial disciplinary cases in many of the areas of concern listed above. Pertinent to the concern for a part-time judge's failure to follow court rules or the law are the following cases. In In re Zoarski, 632 A.2d 1114 (Conn. 1993), where the judge had set bail higher than authorized by law or court rules, the Supreme Court of Connecticut emphasized that a judge's disregard for the rules of court demonstrates disrespect for the law. Thus, a judge violates Canon 2A where he or she violates court rules and procedures and fails to know, apply, and comply with the law. In addition, the Supreme Court of Indiana, noted the effect of a judge's failure to follow court rules: "[a] court's indifference to clearly stated rules breeds disrespect for and discontent with our justice system." Crawford v. State, 770 N.E.2d 775 (Ind. 2002) (citing Canon 2A). How can government demand respect of

Advisory Opinion 14-926

Page 7

the laws by its citizens when its tribunals ignore those very same laws. See also In re Jacobi, 715 N.E.2d 873 (Ind. 1999) (Canon 2A is violated by failing to follow proper procedures).

Other specific areas of concern that have warranted discipline include a judge's forcing a defendant to enter a guilty plea in the absence of counsel and also refusing to set appeal bonds when required to do so. Inquiry concerning a Judge, 432 S.E.2d 728 (Ga. 1995). In another disciplinary case, In re C006E, 680 N.E.2d 528 (Ind. 1977), the court held the judge violated the canons when he gave the defendant a choice between proceeding without counsel or being found in contempt. In Mississippi Commission on Judicial Performance v. Byers, 757 So. 2d 961 (Miss. 2000), the judge's Canon 2A violations included improperly sentencing a defendant under the wrong statute and improperly extending a defendant's probationary period beyond the maximum allowed.

In addition, a judge can violate the duty to maintain professional competence under Canon 3A by failing to keep abreast of changes in the law. This canon places an affirmative duty on the judge to keep abreast of the law pertaining to his court. See, e.g., In re Williams, 987 S.W.2d 837 (Tenn. 1998) (a non-lawyer judge failed to take steps necessary to correct his deficiencies); Office of Disciplinary Counsel v. Karto, 760 N.E.2d 412 (Ohio 2002) (the judge violated his duty to maintain professional competence in the law by using an outdated Code to sentence juveniles).

Judges have also been held to violate the canons when they have allowed others to perform their judicial duties or delegated the performance of their judicial duties to others. In Mississippi Commission on Judicial Performance v. Hopkins, 590 So. 2d 857 (Miss. 1991), a judge was found to have willfully engaged in misconduct when he improperly allowed clerks and other officials to take actions exceeding their authority. In another case, In re Smith, 559 S.E.2d 584 (S.C. 2002), the judge was disciplined for failing to sign various court orders issued in his name. In particular regard to a judge's practice of signing blank court orders and orders of probation is the opinion in In re Wilder, 516 S.E.2d 927 (S.C. 1999). There, a judge was held to have violated the canons when he signed blank arrest warrants for his staff to complete. Similarly, this Commission advises that, when a judge delegates to others his or her judicial duties, such as the duty to determine a defendant's ability to pay court-ordered fines and costs, he, like the judge in Wilder, fails to perform the duties of his office. For additional pertinent case law, see In re Seal, 585 So. 2d 741 (Miss. 1991); In re Briggs, 595 S.W.2d 270 (Mo. 1980); In re Perea, 711 P.2d 894 (N.M. 1986).

Canon 3B mandates that a judge require of his staff and other court officials the same high standards that apply to him. Courts have held judges accountable for failing to do so. While the canons do not define "staff," the term has been extended to those who work with the judiciary, including court clerks, bailiffs, secretaries, etc. See Utah Ethics Advisory Opinion 97-6 (1997).

Of course, the Commission does not intend to indicate that a single error of law, without more, constitutes a violation of the canons. However, when a judge or his staff persists in a pattern or practice of engaging in such conduct, that pattern and practice shows such a disregard for the law as to establish either the judge's bad faith or lack of competence in his or her knowledge of the law. See In re Hammermaster, 985 P.2d 924 (Wash. 1999) (recognizing that a repeated pattern of failing to protect a defendant's constitutional rights can constitute misconduct). See also In re Sheffield, 465 So. 2d 350 (Ala. 1984).

In specific regard to municipal courts, the Commission recognizes there may be particular difficulties for the judge in exercising his or her authority over court personnel who are employed by the municipality and answerable to the municipality. It is the judge's responsibility, however, to enforce the constitutional rights of those who appear in his or her court in matters of adjudication of guilt, imposition of sentence, provision of probation, revocation of probation, and incarceration for failure to pay by indigent defendants; to ensure the orders of the court are just that—orders of the judge; and to enforce applicable procedural rules and policies to guarantee the court's records are properly maintained. The judge has the authority and duty, when necessary, to monitor compliance with all judicial orders and to enforce those orders; to monitor compliance with those orders; and to enforce those orders with remedial measures, if necessary. The judge must exercise that authority to uphold the integrity, impartiality, and independence of the judiciary and the court system, as required by Canons 1, 2, and 3. When the judge accepts the office of part-time municipal court judge, he or she accepts the responsibilities of the proper operation of his or her court. If the court cannot be maintained consistent with these canons, the judge cannot serve and there can be no court.

In summary, case law is replete with instances in which judges have been held accountable under the canons for their failure to faithfully perform their duties, both adjudicatory and supervisory and to ensure like performance of the duties of court personnel. Such personnel would extend to any person or entity providing services to the court. Municipal judges, even though they may serve only on a part time basis, must be held to the same high standards as all other judges.

Advisory Opinion 14-926

Page 9

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