

Chapter D Noncompliance

Section .0500 ABSCONDERS

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.0501 PURPOSE

This section sets out the Division's approach to offenders who abscond from supervision.

.0502 ABSCONDER DEFINED

An absconder is an offender who willfully avoids supervision or makes their whereabouts unknown to the supervising officer. An officer may only declare an offender to be an absconder after completing an absconder investigation under the procedure set out below. [GS15A-1343\(b\)\(3a\)](#) [GS15A-1368.4\(e\)\(7a\)](#)

.0503 ABSCONDER INVESTIGATION

Eligibility criteria. An officer will conduct an absconder investigation when:

- (a) An offender's whereabouts are unknown or the offender has made himself or herself inaccessible;
and
- (b) At least one of the following is true:
 - (1) The offender has violated the condition not to abscond by willfully avoiding supervision or by willfully making the defendant's whereabouts unknown to the supervising officer; (statutory absconding) [GS15A-1343\(b\)\(3a\)](#) [GS15A-1368.4\(e\)\(7a\)](#)
 - (2) The offender has violated the condition requiring that he or she remain within the jurisdiction of the court unless granted written permission to leave by the court or the probation officer (a "remain-within-the-jurisdiction" violation)-non statutory absconding; [GS 15A-1343\(b\)\(2\)](#) or
 - (3) The offender has violated the conditions requiring him or her to report as directed by the court or the probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit him or her at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment (a "fail-to-report" violation) non statutory absconding; [GS 15A-1343\(b\)\(3\)](#) or
 - (4) A judge has issued an order for arrest in response to the offender's failure to appear for a hearing on any matter related to his or her probation.

Note: Statutory absconding only applies to cases with underlying offense date on or after December 1, 2011(State v. Nolan 2013)

Investigation steps. Prior to declaring an offender to be an absconder, the officer must do all of the following, documenting each step in the automated narrative system:

- (a) Review AOC alerts;
- (b) Attempt to contact the offender via telephone;
- (c) Look for the offender at his or her residence in both the daytime and in the evening. Check with the offender's landlord, property or office manager, and neighbors to see if they have information about the offender's whereabouts.
- (d) Look for the offender at his workplace or school;
- (e) Contact any relatives and associates listed in the offender's file; and
- (f) Contact local law enforcement, including the county or regional jail;

Investigation timeframe. The absconder investigation, including the documentation and reporting requirements set out immediately below, must be completed within the following timeframes, measured from the time the initial absconding violation is detected or from the time the judge issues an order for arrest for the offender's failure to appear:

- (a) Level 1 and level 2 offender, sex offenders, documented CTG offenders, EHA offenders and domestic violence offenders: 5 business days
- (b) All other offenders: 10 business days

If the offender is located during the investigation, he or she is not an absconder and the officer should respond to the violation according to the noncompliance grid. If, at the conclusion of the investigation, the offender has not been located, the offender is an absconder.

.0504 ABSCONDER DOCUMENTATION AND REPORTING

If an officer determines that an offender is an absconder, the officer will adhere to the following procedure.

- (a) If the absconder process began with an absconding violation, the officer will:
 - (1) Prepare and file a violation report, including any details learned during the absconder investigation; include the docket number for the county of hearing and for the county of origin if they are different;
 - (2) Scan and upload the violation report with time/date stamp using the RNA scanning tool.

- (3) If the case meets the Division’s criteria for extradition, set out in [§D.0600 Return of Violators](#) below, review the case with the district attorney to determine whether the case is extraditable. Complete form [DCC-110, Probation Absconder Cover Letter](#).
 - (4) Obtain an order for arrest through [NCAWARE](#), including the docket number for the county of hearing and for the county of origin if they are different;
 - (5) If the case is non-extraditable, scan the DCC-110 Probation Absconder Cover Letter e-mail it to the Division Command Center at [SVC DOC.DCC Absconders](#) with a subject line that includes the offender’s name (last name first), OPUS number, and the district of supervision (for example, “DOE, JOHN; 1234567; 5180”):
 - (6) If the case is extraditable, scan and email the following documents to the DOC Extradition Office at [SVC DOC.Extradition Absconder Package](#), (please copy DCC Command Center on the e-mail at [SVC DOC.DCC Absconders](#)):
 - a. The [DCC-110, Probation Absconder Cover Letter](#);
 - b. The violation report;
 - c. The order for arrest.
 - d. A copy of the probation judgment;
 - e. The offender’s photograph and fingerprints, if available;
 - f. Any additional court orders in the file.
 - g. Consider transferring case to the US Marshal’s Task Force if criteria applies
- (b) If the absconder investigation began as the result of the offender’s failure to appear for a hearing, the officer will do the following:
- (1) **Active cases.** If the offender’s period of probation has not yet expired, complete an addendum violation report to add any additional violations (such as failure to report or leaving the jurisdiction without permission or absconding) discovered during the absconder investigation. Follow the procedure outlined in [§ D.0504\(a\)](#) above, except that it is not necessary to obtain a new order for arrest (use the order for arrest—also known as a bench warrant—issued by the judge upon the offender’s earlier failure to appear).
 - (2) **Expired cases.** If the offender’s period of probation has expired, new violations cannot be alleged. Note that if a case is in tolled status, it is not expired, even if the original expiration date has passed. See process for discontinued offenders who fail to appear ([link to that section of policy](#))

.0505 CAPTURE AND REASSESSMENT OF ABSCONDERS

When an probation absconder is arrested, the officer will:

- (a) Complete a [DCC-111, Notice of Arrest Worksheet](#), and email it to [SVC.DOC.DCC.DCI](#);
- (b) Update OPUS to reflect the offender's removal from absconder status;
- (c) Prepare for hearing on the offender's pending violations.

If the offender is released prior to his or her post-capture violation hearing, the supervising officer will:

- (a) Supervise the captured absconder as a level 1 offender.
- (b) If supervision is continued upon disposition of the post capture violation hearing, complete an assessment within fourteen days. Once a new level is established, the officer will supervise the offender at the newly assessed level.

.0506 SUPERVISION PERIOD EXPIRATION; ABSCONDER CASES

Upon expiration of the supervision period of an absconder case, the officer will consult with the district attorney to determine whether the offender's outstanding violations and order for arrest should remain in the system (NCAWARE, CJLEADS, DCI/NCIC) or if the district attorney prefers to recall the order and dismiss the violations and close the case. Violation reports and orders for arrest for absconders may remain in their respective systems indefinitely provided the violation was filed and time date stamped by the Clerk of Court prior to the expiration of the supervision period.

When an offender in absconder status reaches his or her supervision period expiration date, the case will move to an inactive status of "expired absconder" in OPUS and will automatically be moved to a caseload maintained at the agency level.

Note: A case in tolled status is not expired, even if the original expiration date has passed.

(a) Responsibilities of Monitoring Expired Absconders

Technology will assist in the monitoring of expired absconders. The outstanding order for arrest will remain in DCI, NCAWARE and CJLEADS. Violation reports will remain in the DCC RNA scanning system and can be retrieved through NCAWARE by any member of law enforcement. Staff in the DCC Security Services section will be responsible for checking technology in expired absconder caseloads. The case file will remain with the responsible person through the five year file retention period. After five years the file may be archived, however the orders for arrest and violation reports will remain active. The responsible Security Services staff person will:

- (1) Ensure the order for arrest is in an unserved status in NCAWARE.
- (2) Ensure the violation report is uploaded in the DCC RNA scanning system.

- (3) Enter the expired absconder caseload on a CJLEADS watch list.
- (4) Monitor e-mail activity received from CJLEADS and respond accordingly.
- (5) Check the AOC alert roster daily and respond accordingly.
- (6) Work with Fugitive/Task Force Officers to capture the offender.

(b) **Capture of Expired Absconders**

Because these cases will be in a discontinued status in OPUS due to the expiration of the supervision period, an automatic return to a supervision level for the offenders does not occur when expired absconders are captured. When an expired absconder is captured the following steps will be taken:

- (1) Transfer case to former probation officer or another officer if applicable.
- (2) Ensure order for arrest and violation reports were served.
- (3) Monitor/attend violation hearing.
- (4) Update OPUS accordingly.

APPROVED.



03/01/15

Director of Community Corrections

Date