

<p style="text-align: center;"><b>STATE OF VERMONT</b></p> <p style="text-align: center;"><b>AGENCY OF HUMAN SERVICES</b></p> <p style="text-align: center;"><b>DEPARTMENT OF CORRECTIONS</b></p>	<p><b><u>Title:</u></b></p> <p><b>Unauthorized Absence from Furlough and the Community Restitution Program</b></p>	<p>Page 1 of 5</p>						
<p>Chapter Security and Supervision</p>	<p><b>#430.13</b></p>	<p><i>Supersedes: #407 Interim Memo on Escape and Unauthorized Absence from Furlough or Conditional Reentry;</i></p>						
<p><b>Local Procedure(s) Required: No</b></p> <p><b>Applicability:</b> All staff</p> <p><b>Security Level:</b> "B" – Anyone may have access to this document.</p>								
<p><b>Approved:</b></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="border-bottom: 1px solid black; width: 40%;"><b>Signed</b></td> <td style="border-bottom: 1px solid black; width: 30%; text-align: center;"><b>12/23/2020</b></td> <td style="border-bottom: 1px solid black; width: 30%; text-align: center;"><b>1/01/2021</b></td> </tr> <tr> <td><b>James W. Baker, Commissioner</b></td> <td style="text-align: center;"><b>Date Signed</b></td> <td style="text-align: center;"><b>Date Effective</b></td> </tr> </table>			<b>Signed</b>	<b>12/23/2020</b>	<b>1/01/2021</b>	<b>James W. Baker, Commissioner</b>	<b>Date Signed</b>	<b>Date Effective</b>
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**PURPOSE**

The purpose of this directive is to provide Department of Corrections (DOC) staff with instruction regarding responses to absconding from furlough supervision and the issuance of a Commissioner Arrest Warrant (furlough absconders only).

**AUTHORITY**

13 V.S.A § 1501; 28 V.S.A. §§ 723, 808, 808a, and 808e

**POLICY**

It is DOC policy to prepare in advance to react quickly in the event of an actual, or attempted, absconding. The DOC is committed to ensuring adequate supervision for persons under its supervision. The DOC operates on sound procedures designed to reduce or eliminate the risk of absconding. All instances of absconding from supervision shall be met with a firm response.

**GENERAL GUIDELINES**

**A. ABSCONDING and FAILURE TO APPEAR**

**1. Absconding supervision**

- a. DOC staff shall attempt to locate an offender on furlough (not assigned solely to the Community Restitution Program/CRP) when:

- i. It has been determined there is no credible evidence that the offender is attempting to elude, or evade supervision; and
    - ii. The offender is suspected of being present at a location not approved by DOC.
  - b. Attempts shall be made to contact and instruct the offender to return to an approved location. If located within 24 hours, the offender is subject to the provisions of DOC directives related to non-compliant behavior.
  - c. When responsible staff are made aware that an offender is attempting to elude or evade supervision they shall:
    - i. Enter an OMS (Offender Management System) Incident to document the behaviors; and
    - ii. Enter an OMS Violation to document the violation type.

## **2. Failure to appear for CRP (supervised work crew)**

If an offender fails to report as scheduled for the CRP, each field office shall, at a minimum:

- a. Enter an OMS Incident and OMS Violation for *each* missed day.
- b. Generate a Letter of Warning report of a missed day from the OMS incident to issue to the offender and warn them that any subsequent unexcused absence may result in a Return on Mittimus. Direct the offender, if available, to sign the Letter of Warning report.
- c. Provide the offender a new schedule with the make-up day for an absence, if appropriate.
- d. Determine whether a doctor's note is required if the offender calls in sick, at the discretion of the CRP supervisor, and upload the sick note to each incident to which it applies.
  - i. If the absence is excused, this shall be indicated in the Incident Category by changing it from Unexcused to Excused for each incident to which the sick note applies.

## **3. Unauthorized leave from a CRP Work Site**

- a. Each District Manager (DM) shall establish a local procedure to follow in the event an offender leaves the services work site without authorization. The procedure shall require the Community Service Team Leader (CSTL) to comply with the following requirements:
  - i. Notification of the supervisor, on-call DOC manager, or designated staff; and
  - ii. Timely completion of an OMS incident and violation report.
- b. If an offender on furlough leaves a community service team without authorization, the CSTL shall not chase, or attempt to apprehend, the offender.
- c. At the time of the event the CSTL shall:
  - i. Enter OMS Incident to document the behaviors; and
  - ii. Enter OMS Violation to document the violation type.

## **4. Issuing a Return on Mittimus (ROM)**

- a. The responsible field officer shall request an ROM when:
  - i. an offender on furlough, not assigned solely to the CRP, cannot be located within 48 hours, and due diligence has been made to locate the offender; or
  - ii. an offender repeatedly fails to appear for the community restitution program or leaves a worksite without authorization.
- b. Requesting and issuing an ROM:
  - i. The responsible field staff shall complete the PPO (Probation and Parole Officer) Section and ROM Section of the ROM & Warrants custom form in OMS to obtain approval from a DM or designee.
  - ii. The DM or designee shall document the date and time they gave the responsible field

staff approval within the ROM Section of the ROM & Warrants custom form within the most recent incident form.

- iii. Once approved, the responsible field staff shall generate the Return on Mittimus request and submit the ROM request to the Holding Station with a copy of all current Mittimuses.
  - ROMs are issued through the holding station located within the county in which the offender's DOC approved residence is located.
- iv. Once an ROM is issued, DOC staff shall not attempt to locate the offender as the issue has become a law enforcement matter. Any information DOC staff receive concerning the location of the wanted offender shall be relayed to local law enforcement for follow up.
- v. If an offender appears on their own after the ROM is issued, staff shall follow DOC procedures as warranted for the circumstance, to include lodging at a correctional facility.

*Note: The District Manager may issue an ROM for an offender whom staff are unable to locate if it is determined the offender poses an immediate risk to victim and/or public safety.*

#### **5. Return to Correctional Facility**

- a. When an offender has been returned to a correctional facility on an ROM, staff shall follow the response process as outlined in directives related to non-compliant behavior.
- b. Responsible field staff shall:
  - i. Document the arrest date in the Incident custom form in OMS, if applicable;
  - ii. Cancel the ROM in the ROM & Warrants custom form;
  - iii. Print and sign the *Cancel Return on Mittimus Request* form;
  - iv. Send the *Cancel Return on Mittimus Request* form to the holding station; and
  - v. Document in the ROM & Warrants custom form the date the form was sent to the holding station.
- c. With consideration that there is a significant difference between an escape from a Correctional Facility or Work Camp, and an absconding from furlough, media outlets shall not be included on notifications for absconders from furlough notifications.

#### **6. Cancellation of a *Return on Mittimus Request* after it is filed at the holding station.**

The responsible staff shall notify the holding station immediately if:

- a. The offender is apprehended by law enforcement on the ROM, or the ROM is served by DOC because of an unrelated lodging.
- b. The ROM is canceled because the offender was rescheduled for work.
- c. The offender is apprehended, and the underlying sentence is revoked.
- d. DOC issued a Commissioner Warrant for the offender.
- e. DOC learns the offender has passed away and is closing the case.

#### **7. ROM File Maintenance**

- a. Each site shall conduct a monthly audit of the ROM caseloads.
- b. Responsible staff shall work with the local holding station to confirm which warrants are still active and establish a process to ensure notice of execution of the ROM.

## **B. COMMISSIONER WARRANT**

### **1. Commissioner Warrant Authority**

- a. The Commissioner has the authority to issue an arrest warrant for an offender who has absconded from community supervision furlough, temporary furlough, medical furlough, or treatment furlough to be returned to a correctional facility.<sup>1</sup>
- b. The Commissioner Warrant procedure shall be initiated immediately if any the following circumstances applies:
  - i. DOC receives information that a listed or non-listed offender has made unauthorized contact with their victim and the offender cannot be located.
  - ii. The offender is convicted of a listed offense and has NOT been taken into custody 3 days after the entry of their ROM into the State Warrant Database.
  - iii. The offender is convicted of a non-listed offense and has NOT been taken into custody 7 days after entry of the ROM into the State Warrant Database.
  - iv. The offender runs from a DOC staff member.
  - v. There is credible evidence that the offender has absconded from supervision, such as history of leaving the state or observation of the attempt to flee.
  - vi. The DOC has been notified that the offender was picked up by law enforcement in another state.
- c. The DM or designee shall initiate the Commissioner Warrant procedure immediately, if, after due diligence, the DOC is unable to locate the offender and the *offender poses an immediate risk to victim and/or public safety*.

### **2. Issuing a Commissioner Warrant**

- a. When a situation meets the criteria outlined in section B.1. above, responsible staff shall complete the following procedure:
  - i. The responsible staff shall review the offender's electronic record and review and update as necessary the charges, personal information, aliases, and physical description.
  - ii. The responsible staff shall update the PO Initiation Date in the PO/DM Commissioner Warrant Section of the ROM & Warrants OMS custom form.
  - iii. The DM or designee shall complete the DM fields in the PO/DM Commissioner Warrant Section of the ROM & Warrants OMS custom form.
  - iv. All warrants shall be processed by the Warrants and Extradition Unit (WEU).
  - v. If a warrant is approved, the WEU shall enter the information into the statewide warrant database and complete the Commissioner Warrant Section of the ROM & Warrants OMS custom form.
  - vi. The requesting field office shall receive notice of the warrant decision from the WEU.
  - vii. The responsible staff shall generate the Notification of Furlough Absconder report from the OMS incident and send the notification to Local Law Enforcement and Vermont State Police.
  - viii. Once a Commissioner Warrant is issued, any previously issued ROM shall be canceled. Responsible staff shall send the ROM Cancellation Report to the appropriate holding station.

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<sup>1</sup> A warrant can be issued for a person on Home Confinement and Reintegration Furlough. These legal status types are repealed as of January 1, 2021. A person already on Home Confinement or Reintegration Furlough as of December 31, 2020 shall retain that status as long as they remain compliant.

- b. Once a warrant is issued, DOC staff shall not attempt to locate the offender as the issue has become a law enforcement matter. Any information DOC staff receive concerning the location of the wanted offender shall be relayed to local law enforcement for follow up.
- c. An offender on community supervision furlough, medical furlough, or treatment furlough shall not be charged with escape as defined in 13 V.S.A. § 1501 unless the State's Attorney determines there is a showing of their intent to escape. Any offender charged with escape prior to July 1, 2019 shall resolve the escape charge through the court system.

**3. Return on Commissioner Warrant**

- a. Once an offender is arrested and lodged on a Commissioner Warrant, the field office shall notify the local State's Attorney's Office that an absconder has been returned to custody. Responsible field staff shall submit paperwork to the State's Attorney for their determination of whether to charge the person with escape under 13 V.S.A. § 1501.
- b. The responsible staff shall:
  - i. Update the incident in the OMS;
  - ii. Complete the Affidavit section of the ROM & Warrants custom form for the local State's Attorney and include a narrative about the circumstances that led to the apprehension of the offender; and
  - iii. Submit a completed package related to the abscondence to the local State's Attorney.
- c. When an offender has been returned to a correctional facility on a Commissioner Warrant, the facility shall complete the response process as outlined in department directives related to non-compliant behavior.

**PROCEDURAL APPLICATION**

Each District Manager is responsible for ensuring the following procedures take place.

1. When an ROM is issued, staff shall book the offender out onto TEMP status in OMS using:
  - a. ABSCOND FURLOUGH,
  - b. ABSCOND PROBATION/PAROLE, or
  - c. ABSCOND WORK CREW.
  
2. When an ROM is issued, staff shall add an alert into OMS for the offender using:
  - a. Active ROM,
  - b. Abscond from Furlough, or
  - c. Parole/Probation Absconder (issued by the court/parole board).
  
3. When the Commissioner Warrant is issued and the ROM cancellation is acknowledged, staff shall remove the Active ROM alert for the offender from OMS.
  
4. When the offender is returned to a facility, staff shall remove any of the following active alerts for the offender from OMS:
  - a. Any ABSCOND,
  - b. Active ROM; and/or,
  - c. NCIC Wanted Person.