

<b>POLICY TITLE: ARREST</b>		<b>PAGE 1 of 4</b>
<b>POLICY NUMBER: 9.13 – ACC</b>		
<b>CHAPTER 9: SUPERVISION AND CASE MANAGEMENT</b>		
	<b>STATE of MAINE</b> <b>DEPARTMENT OF CORRECTIONS</b>  <b>Approved by Commissioner:</b> 	<b>PROFESSIONAL STANDARDS:</b>  <b>See Section VII</b>
	<b>EFFECTIVE DATE:</b> <b>May 30, 2006</b>	<b>LATEST REVISION:</b> <b>February 1, 2018</b>

**I. AUTHORITY**

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Sections 1403 and 5404.

**II. APPLICABILITY**

Adult Community Corrections

**III. POLICY**

An arrest and/or detention by a probation officer shall be in accordance with the law.

**IV. CONTENTS**

- Procedure A: Arrest, General
- Procedure B: Arrests on Probable Cause
- Procedure C: Authority for Other Arrests
- Procedure D: Detention

**V. ATTACHMENTS**

- Attachment A: Violation Review Form
- Attachment B: Temporary Detention Form

**VI. PROCEDURES**

**Procedure A: Arrest, General**

1. A probation officer's powers do not extend to arresting a person who is not under the supervision or in the custody of the Department.

2. A probation officer's power to arrest a person who is under the supervision or in the custody of the Department relates only to violations of conditions of supervision or release, except as otherwise set out in Procedure C.
3. A probation officer planning to make an arrest may request the assistance of law enforcement officers from other criminal justice agencies. A probation officer may also authorize law enforcement officers from other criminal justice agencies to effect the arrest. A pre-arrest briefing shall be conducted with all law enforcement officers from other criminal justice agencies who are participating in the action.
4. Whenever a probation officer makes an arrest, appropriate restraints shall be used in accordance with the officer's training.
5. Upon arrest, the person arrested shall be pat searched in accordance with the officer's training.

**Procedure B: Arrests on Probable Cause**

1. A probation officer shall arrest a person under supervision who has violated a condition of the person's probation, parole, or supervised release for sex offenders when a warrant of arrest has been issued.
2. A probation officer may arrest a person under supervision who has violated a condition of the person's probation, parole, or supervised release for sex offenders provided that the following criteria are met:
  - a. the arresting probation officer has probable cause to believe that the person has committed a violation of the terms of supervision imposed by the court or parole board; and
  - b. the arresting probation officer believes there is a significant risk to safety of others or the person that cannot be managed through a non-custodial response.
3. In circumstances in which there is not a significant risk to safety of others or the person, or the risk can be managed with a non-custodial response, but a probation officer believes an arrest may still be appropriate, the probation officer shall first obtain approval from the Regional Correctional Administrator (RCA), or designee. The RCA shall notify the Department's Director of Adult Community Corrections of every approval that has been given.
4. A probation officer may arrest a prisoner who has been conditionally released from a departmental correctional facility who the probation officer has probable cause to believe has violated a condition of the person's furlough, community transition program (work release, education release, or public service release), or supervised community confinement.
5. Whenever a person has been arrested by a probation officer based on probable cause without a warrant or with a warrant requested or issued by the Department, a Violation Review Form (Attachment A) shall be completed and

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
9.13 - ACC - Arrest	9. Supervision and Case Management	Page 2 of 4 2/1/18R

submitted to the probation officer's RCA, or designee, no later than two working days after the arrest.

**Procedure C: Authority for Other Arrests**

1. Upon request of the Commissioner, or designee, a probation officer shall arrest:
  - a. a parolee who has violated a condition of parole; or
  - b. a prisoner who has been conditionally released from a departmental correctional facility to furlough, to a community transition program (work release, education release, or public service), or to supervised community confinement.
2. If the probation officer is a member of the Department's Fugitive Investigation and Apprehension Team (FIAT) and is performing FIAT duties, the officer shall arrest (apprehend) a fugitive under the circumstances set out in [Department Policy 7.4, Fugitive Investigations](#).

**Procedure D: Detention**

1. A person who has been arrested with a warrant for a violation of probation or supervised release for sex offenders shall be detained for the violation pending an initial court appearance.
2. The probation officer shall notify the county jail where the person is being detained of the existence of the warrant so that the person remains detained pending the initial court appearance.
3. A person who has been arrested for a violation of probation or supervised release for sex offenders without a warrant may be detained for the violation pending an initial court appearance only when:
  - a. the arresting probation officer still has probable cause to believe that the person has committed a violation of the terms of supervision imposed by the court; and
  - b. the arresting probation officer still believes there is a significant risk to safety of others or the person that cannot be managed through a non-custodial response.
4. In circumstances in which there is not a significant risk to safety of others or the person, but the probation officer believes a detention may still be appropriate, the probation officer shall first obtain approval from the Regional Correctional Administrator (RCA), or designee. The RCA shall notify the Director of Adult Community Corrections of every approval that has been given.
5. Whenever a person who has been arrested without a warrant is to be detained for a violation of probation or supervised release for sex offenders, the probation officer shall request that the appropriate county jail detain the person pending court proceedings by completing and forwarding to the jail a Temporary

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
9.13 - ACC - Arrest	9. Supervision and Case Management	Page 3 of 4 2/1/18R

Detention Form (Attachment B). The request for detention shall take effect immediately.

6. Whenever a person is arrested for a violation of parole (with or without a warrant), the person shall be returned to the Maine State Prison.
7. If a prisoner who has been conditionally released from a departmental correctional facility to furlough or to a community transition program (work release, education release, or public service) is arrested, unless directed otherwise by the Commissioner, or designee, the probation officer shall contact the correctional facility from which the prisoner was conditionally released for direction on whether to return the prisoner, and, if so, whether to that facility or to another departmental facility.
8. If a prisoner who has been conditionally released from a departmental correctional facility to supervised community confinement is arrested, unless directed otherwise by the Commissioner, or designee, the probation officer shall contact the Regional Correctional Administrator (RCA), or designee, for direction on whether to return the prisoner to a facility, and, if so, whether to the facility from which the prisoner was conditionally released or to another departmental facility.
9. Whenever a person who is a fugitive is arrested, if the person is an escapee from Department custody, the person shall be taken to the Maine State Prison, if an adult male, the Maine Correctional Center, if an adult female, or the Long Creek Youth Development Center, if a juvenile.
10. Whenever a person who is a fugitive is arrested, if the person is an absconder from Department supervision, the person shall be detained in the appropriate county jail.

## VII. PROFESSIONAL STANDARDS

### ACA:

- 4-APPFS-3B-09** A pre-arrest briefing is conducted prior to a planned arrest, with officers and other law enforcement agencies participating in the action.
- 4-APPFS-2B-04** Warrants for the arrest and detention of offenders are only requested upon adequate evidence of:
- Serious and/or repetitive violation of the conditions; or
  - Commission of a new offense; or
  - Risk to public safety posed by the offender's continued presence in the community.

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
9.13 - ACC - Arrest	9. Supervision and Case Management	Page 4 of 4 2/1/18R