

PART 361
SUPERVISION OF CONDITIONAL RELEASEES

(Statutory authority: Executive Law, §§243, 257-b; Correction Law, §273)

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Historical Note

Part (§§361.1-361.4) added by renum. Part 16, Title 7, filed Aug. 31, 1971; repealed, filed March 31, 1975; new (§§361.1-361.9) filed: May 9, 1989 as emergency measure; July 25, 1989 as emergency measure; Aug. 29, 1989 eff. Sept. 13, 1989.

§361.1 Definitions.

- (a) The term *absconder* means a conditional releasee who has failed to make his whereabouts known for a period of 30 days by failure to report or who has left the specified geographic area without permission of his probation officer.
- (b) The term *auxiliary personnel* means a person, other than a probation officer, designated by the Director of Probation to act for the Probation Department.
- (c) The term *classification* means the specification of the frequency of contact between probation officer and conditional releasee in accordance with particular criteria and procedures which will determine the required level of supervision.
- (d) The term *classification instrument* means a standardized, statistically developed procedure for determining the required frequency of supervision based upon the likelihood of successful completion of conditional release.
- (e) The term *conditional releasee* means individuals released pursuant to section 70.40(2) of the Penal Law.
- (f) The term *conditional releasee* means release authorized pursuant to section 70.40(2) of the Penal Law.
- (g) The term *conditions of conditional release* means specific requirements prescribed by the local conditional release commission as part of conditional release to assist the conditional

releasee in leading a law-abiding life.

(h) The term *contact* means a communication with the conditional releasee.

(1) The term *personal contact* means a face-to-face contact with the conditional releasee.

(2) The term *home visit* means a visit to the conditional releasee's home to verify residence.

(3) The term *collateral contact* means a communication with a person other than the conditional releasee concerning the conditional releasee, either in person, by telephone or by mail.

(i) The term *differential supervision* means a system whereby conditional releasees are classified pursuant to specified criteria and assigned to one of three levels of supervision: level I - intensive; level II - medium; and level III- minimum.

(j) The term *dual supervision* means the establishment of custodial responsibility by another governmental or private social agency in concert with a conditional release order or concurrent probation supervision.

(k) The term *needs assessment* means a standardized procedure which, while encouraging the conditional releasee to participate, identifies his needs and/or aspects of his behavior or life situation which, if not addressed, could impede rehabilitation or promote continued illegal behavior.

(l) The term *quarterly supervision period* means a three-month period calculated from the date an individual is released to conditional release and quarterly thereafter.

(m) The term *supervision* means the sum of the activities of a probation officer which includes the review of the condition of conditional release with each conditional releasee, instructing him with regard thereto, keeping informed of the conditional releasee's compliance with the terms and conditions of release; keeping himself informed concerning a releasee's conduct, habits, associates, employment, recreation, and whereabouts; aiding a conditional releasee in securing employment, and aiding and encouraging him by counseling, guidance and admonition and by such other measures as may seem most suitable to bring about improvement in his conduct, condition, and general attitude toward society; and identifying and utilizing resources appropriate to the needs of the conditional releasee. Supervision is in part, accomplished by contacts.

Historical Note

Sec. added by renum. 16.1, Title 7, filed Aug. 31, 1971; repealed, filed March 31, 1975;
new filed: May 9, 1989 as emergency measure; July 25, 1989 as emergency measure;
Aug. 29, 1989 eff. Sept. 13, 1989.

§361.2 Objectives of supervision.

- (a) To provide public protection in keeping with the special duties of a probation officer.
- (b) To prepare the conditional releasee for independent, law-abiding living.

- (c) To provide a system of differential supervision based on the classification and program needs of conditional releasees.

- (d) To conduct a cost effective supervision program.

- (e) To provide restitution and/or reparation to victims of criminal acts whenever applicable.

Historical Note

Sec. added by renum. 16.2, Title 7, filed Aug. 31, 1971; repealed, filed March 31, 1975;
new filed: May 9, 1989 as emergency measure; July 25, 1989 as emergency measure;
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§361.3 Applicability and rationale.

(a) This Part is applicable to the supervision of conditional releasees released pursuant to section 70.40(2) of the Penal Law.

(b) The rationale for this Part is as follows:

(1) The activities of the conditional releasee are subject to the supervision of a probation officer until termination or expiration of conditional release. The type and level of supervision of each client should be varied and tailored to the needs of the individual for successful completion of the conditional release and for the safety and protection of society. In order to accomplish this, a system of differential supervision must be applied based upon a standardized method of classification of the conditional release.

(2) Such a standardized method of classification serves to determine the required frequency of supervision by level for a conditional releasee, thereby allowing probation resources to be utilized more effectively.

(3) A uniform classification methodology and procedure facilitates consistency in decision making regarding differential supervision.

Historical Note

Sec. added by renum. 16.3, Title 7, filed Aug. 31, 1971; repealed, filed March 31, 1975;
new filed: May 9, 1989 as emergency measure; July 25, 1989 as emergency measure;
Aug. 29, 1989, eff. Sept. 13, 1989.

§361.4 Initial interview and assignment of case.

(a) Each probation director or his designee shall, upon receiving notice of an individual granted release and to be supervised by the local probation department, assign a probation officer to the case.

(b) Upon receiving notification that an individual has been granted conditional release to be supervised by the local probation department, a probation officer, preferably the assigned officer, shall conduct the initial interview within seven calendar days prior to the release date. The probation officer shall provide preliminary information and specific instruction relative to the conditional release and make every effort to ensure the individual understands the order of conditions of release. The officer shall ensure that the inmate has been provided with a copy of his order of conditional release, has agreed to the conditions and has signed the order.

(c) The date of the initial interview shall be entered into the official case record.

Historical Note

Sec. added by renum. 16.4, Title 7, filed Aug. 31, 1971; repealed, filed March 31, 1975;
new filed May 9, 1989 as emergency measure; July 25, 1989 as emergency measure;
Aug. 29, 1989 eff. Sept 13, 1989.

§361.5 Classification of conditional release.

Prior to the initial interview or within seven calendar days of departmental notification of duty to supervise the conditional releasee, the probation officer shall review any probation reports, supervision history information and any other pertinent information available relative to the individual whose supervision he has been assigned, determine the appropriate classification level of supervision, initiate a needs assessment process and develop an individual plan of supervision. The form of such instruments and processes and their content shall be prescribed to the State Director of Probation and Correctional Alternatives. Prior written approval of the State Director of Probation and Correctional Alternatives must be obtained to vary the form or content of such instruments or processes.

Historical Note

Sec. filed: May 9, 1989 as emergency measure; July 25, 1989 as emergency measure;
Aug. 29, 1989 eff. Sept. 13, 1989.

§361.6 Differential supervision.

(a) *Differential supervision for conditional releasees.*

(1) Each department shall classify its adult supervision caseload into three categories based upon a conditional releasee's likelihood of successful completion of conditional release. The classification categories of supervision will be three levels: level I - intensive; level II - medium; and level III - minimum, as follows:

(i) Level I - intensive.

(a) Cases shall be assigned to this level of supervision in accordance with the classification score established by the State Director of Probation and Correctional Alternatives. Notwithstanding, where a conditional releasee receives less than the required classification score but in the best mutual

judgment of the probation officer and his supervisor presents a substantial likelihood of failure on release, the conditional releasee may be classified as level I. The reason for such classification shall be recorded in the official case record.

(b) Required contacts.

(1) The probation officer shall make one home visit per month and at least four personal contacts per month, one of which may take place during a home visit.

(2) The probation officer shall make at least 12 collateral contacts per quarter. However, in the event the probation officer has ample justification to reduce the number of collateral contacts, he may, with the approval of his immediate supervisor, reduce the number of collateral contacts which may not be fewer than three per quarter. Justification for and approval of any reduction shall be recorded in the official case record.

(ii) Level II - medium.

(a) Cases shall be assigned to this level of supervision in accordance with the classification score established by the State Director of Probation and Correctional Alternatives. Notwithstanding, where a conditional releasee receives less than the required classification score but in the best mutual judgment of the probation officer and his supervisor presents a significant likelihood of failure on release, he may be classified as level II. The reason for such classification shall be recorded in the official case record.

(b) Required contacts

(1) The probation officer shall make at least two personal contacts per month.

(2) The probation officer shall make at least two collateral contacts per quarter.

(iii) Level III - minimum.

(a) Cases shall be assigned to this level of supervision in accordance with the classification score established by the State Director of Probation and Correctional Alternatives.

(b) Cases shall be further assigned to this level of supervision as a result of their specific technical or dispositional status as follows:

- (1) absconders; and
- (2) cases in which interstate transfer processing has not been completed; or
- (3) dual supervision cases.

(c) Required contacts.

(1) The probation officer shall make at least one contact per month with the conditional releasee unless the conditional releasee has absconded or has been rearrested and confined to a correctional facility. Where a releasee is presently confined in a correctional facility the probation officer shall maintain monthly liaison with the detaining authorities and wherever possible shall visit or contact the releasee periodically during his detention.

(2) The probation officer shall make at least one collateral contact per Quarter.

(d) Contact requirements.

(1) Absconders, interstate, and dual supervision cases may be carried out by auxiliary personnel under the general direction of a probation officer.

(2) Cases may require more frequent contacts than those specified in a given level. Therefore, probation supervisors shall ensure that the duty of supervision is carried out by probation officers and additional contacts made accordingly.

(3) The level of supervision for any case may be revised by utilization of a reclassification process as prescribed by the State Director of Probation and Correctional Alternatives. However, any case assigned to level I shall remain in said classification category for as minimum period of 90 days from the date of entry before reclassification. Absconder, interstate, and dual supervision cases may be reclassified without the utilization of the reclassification process. Classification of each conditional releasee shall be reviewed quarterly by the probation officer and supervisor.

Historical Note

Sec. filed: May 9, 1989 as emergency measure; July 25, 1989 as emergency measure;
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§361.7 Authorized search of a conditional releasee.

Upon reasonable cause to believe that a conditional releasee has illegal drugs, drug

paraphernalia, deadly or prohibited weapons, or stolen property in his possession, a probation officer may conduct a search of the releasee's person, residence, vehicle or property.

Historical Note

Sec. filed: May 9, 1989 as emergency measure; July 25, 1989 as emergency measure;
Aug. 29, 1989 eff. Sept. 13, 1989.

§361.8 Supervision record keeping requirements.

- (a) The official case record shall be identified by name and number in system.
- (b) The contents of the case record shall include the following:
 - (1) Pre-plea/pre-sentence supplemental conditional release reports; orders and conditional release; and any relevant legal documents. The department's case record shall include information on all probation services rendered.
 - (2) Initial supervision plan, including the date of the review of the conditions of conditional release; classification documents; quarterly supervision reports; violation of conditional release reports and any relevant legal documents. Each conditional releasee's supervision plan, including assessment of needs and objectives, shall be reviewed on a quarterly period basis, and a summary analysis shall be recorded on the case record.
- (c) Case records shall be maintained in a legible, cost efficient and accessible manner which facilitates decision making and ensures the privacy, preservation and security of such records.
- (d) Accessibility to supervision case records is limited only to those authorized by law or court order.

Historical Note

Sec. filed: May 9, 1989 as emergency measure; July 25, 1989 as emergency measure;
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§361.9 Reporting requirements.

Each probation director shall obtain and report to the State Director of Probation and Correctional Alternatives data on each case, as prescribed by the State Director of Probation and Correctional Alternatives, any and all information requested pertaining to each person conditionally released pursuant to section 70.40(2) of the Penal Law and under the supervision of the probation director's department. Such information may include, but is not limited to, information of a personal and criminal history nature that identifies the conditional releasee, information as to his conduct, and supervision information. Such reporting shall be conducted as follows:

- (a) The probation director shall within 15 business days of notification of the conditional

release, report all required information on forms as prescribed by the State Director of Probation and Correctional Alternatives.

(b) All subsequent information, including classification information, modifications, and violation information, shall be reported in a timely manner on forms as prescribed by the State Director of Probation and Correctional Alternatives.

(c) Terminations or expiration of conditional release shall be recorded and reported within 20 business days as prescribed by the State Director.

Historical Note

Sec. filed: May 9, 1989 as emergency measure; July 25, 1989 as emergency measure;
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