

Purpose:

To provide all local pretrial and community-based probation services agencies with a consistent and uniform procedure for documenting and reporting serious incidents involving defendants, offenders, and program staff. It also provides a procedure for investigating, documenting, reporting, and responding to citizen complaints that may result in, or have resulted in, negative publicity, a stated negative concern about program need, intent, purpose and services, or for which a public investigation has been initiated.

Related Standard: Department of Criminal Justice Services *Minimum Standards for Local Community Corrections and Pretrial Services*, Part I, §1.1-Definitions Part II, §2.7 A. & B. Serious Incidents and Citizen Complaints.

Related Statute: None

Definitions:

- Citizen Complaint means any serious objection regarding agency operation or staff behavior raised by a citizen to the administrative agent of a program, the program director or coordinator, or the Department, or a concern about or opinion of the program stated in the press. Complaints may be verbal or written in nature. "Citizen" also includes any local government department, board, or agency, any private business, or not-for-profit agency or organization.
- Moral Turpitude means any act or conduct contrary to justice, honesty, modesty or good morals in the private, public and social duties of an individual.
- Serious Incident means any incident involving a defendant, offender, or staff member, directly or indirectly, in which there has been serious personal injury to the public (including the defendant, offender or staff member), public safety has been endangered or public concern has been or may be expressed.
- Serious Incident Report means a standardized form used to inform public officials concerning a serious incident. This is not the same as a violation report to the court.
- Violation Report means a written notification to the court and/or Commonwealth's Attorney indicating a violation of any conditions of bail or pretrial and local probation supervision by a defendant or offender in accordance with locally approved procedures, for which a show cause summons may have been sought.

Policy:

I. Reporting Serious Incidents Committed by Defendants and Offenders to Authorities

- A. Local pretrial and community-based probation program directors or coordinators shall report serious incidents to the administrative and fiscal agent of the program, to any other individual or agency required by local procedure and to the Department as outlined in I.B below. Serious incidents should be reported to the Department if:
1. The incident has been reported in the media and subjects the program to public scrutiny, or
 2. The incident has resulted in a contact concerning the case by law enforcement, the Commonwealth's attorney or the media, or
 3. The continued exposure in the media creates the likelihood that there will be a contact concerning the case.
- B. After meeting one of the three criteria above, reportable serious incidents include
1. any new offense committed by a defendant or offender;
 2. any assaults on staff by a defendant or offender pursuant to § 18.2- 55;
 3. any other offenses in which program staff were the victim or intended victim including, but not limited to, stalking, trespassing, tampering with an auto, any threats by phone or offenses where the program offices were the target or intended target of a crime by a defendant or offender;
 4. any death of a defendant or offender, including suicide, which is suspicious in nature or the result of continued criminal activity;
 5. any serious incident involving a pretrial defendant who has skipped bail, left the jurisdiction to avoid prosecution, or failed to appear, or an offender who has absconded.
- C. Serious incidents shall be reported by the program director or designee to the Department as follows:
1. by phone within one business day of learning of the occurrence of the incident. Reporting incidents by e-mail or facsimile is not recommended since these are not confidential.
 2. within 5 business days on the Serious Incident Report Form developed by the Department.
 3. with photocopies of any newspaper articles related to the incident

II. Reporting Serious Incidents Committed by Staff

- A. The administrative and fiscal agent shall report to the Department, in a manner consistent with this guideline, any incident outlined in this guideline that concerns or involves the program director or coordinator.
- B. Local pretrial and community-based probation program directors and coordinators shall report to the Department and to the administrative and fiscal agent of the program, and to any other individual or agency required by local procedure serious incidents involving program staff as follows:
 - 1. any alleged offense committed by a staff against a defendant or offender, including but not limited to, violations of §§18.2-64.2 or 18.2-67.4, or any fraudulent activity perpetrated against a defendant or offender;
 - 2. any offense involving moral turpitude allegedly committed by staff that has been reported in the media and which links staff to the program;
 - 3. any incident involving the misuse of grant funds;
 - 4. any incident or offense involving a violation of the public trust associated with that office or position including, but not limited to, revealing confidential information pursuant to §2.2-3714, forging, falsifying or destroying program records pursuant to §§18.2-168 & 18.2-472.
- C. Serious incidents by staff shall be reported to the Department as follows:
 - 1. by phone within one business day of learning of the occurrence of the incident. Reporting incidents by e-mail or facsimile is not recommended since these are not confidential.
 - 2. by a narrative report sent within 5 business days following the incident, including the following:
 - a. the name of the person involved in the alleged charge
 - b. date of the incident
 - c. the alleged offense
 - d. nature and circumstances of the incident
 - e. where the incident occurred
 - f. any legal action resulting from the incident
 - g. any interim action taken by the administrative agent or program director or coordinator concerning the staff
 - 3. with photocopies of newspaper articles related to the incident if available.
 - 4. by a subsequent report within 5 business days of the final outcome of the incident, if known.

III. Reporting Citizen Complaints

- A. Local pretrial and community-based probation program directors or coordinators shall report to the Department, and to any local agency as required by established procedure, incidents involving citizen complaints as follows:
1. any complaint in writing to the program administrative and fiscal agent, the CCJB chairperson or the director or coordinator from a citizen.
 2. any concern about the program or complaint that is the subject of a letter to the editor or similar media venue or local talk show.
 3. any verbal complaint by a citizen or local agency concerning the program, the staff, or the intent and purpose of the program that has been expressed to the ~~any~~ local agency or the director or coordinator, that has not been successfully resolved by the program director or coordinator, and which presents the likelihood of a written complaint to the media.
- B. Citizen complaints shall be reported to the Department and to any other agency required by local procedure as follows:
1. by phone within one business day of learning of the occurrence of the incident. Reporting incidents by e-mail or facsimile is not recommended since these are not confidential.
 2. with a report within 5 business days in narrative form advising of the results of the investigation of the complaint including the following:
 - a. the name of the person about which the complaint was made, or
 - b. the concern expressed in the complaint
 - c. date of the complaint
 - d. nature and circumstances of the complaint
 - e. process that was used to resolve or the attempt to resolve the complaint
 - f. any newspaper articles related to the complaint should be photocopied and forwarded with the report.