

<p style="text-align: center;">STATE OF VERMONT AGENCY OF HUMAN SERVICES DEPARTMENT OF CORRECTIONS</p>	<p style="text-align: center;"><u>INTERIM MEMO:</u> Escape and Unauthorized Absence from Furlough or Conditional Reentry</p>	<p style="text-align: center;">Page 1 of 5</p>						
<p>Local Procedure(s) Required: Yes Applicability: All staff Security Level: “B” – Anyone may have access to this document.</p>								
<p>Approved:</p> <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">SIGNED</td> <td style="width: 33%; text-align: center;">June 27, 2019</td> <td style="width: 33%; text-align: center;">July 1, 2019</td> </tr> <tr> <td style="border-top: 1px solid black;">Michael Touchette, Commissioner</td> <td style="border-top: 1px solid black; text-align: center;">Date Signed</td> <td style="border-top: 1px solid black; text-align: center;">Date Effective</td> </tr> </table>			SIGNED	June 27, 2019	July 1, 2019	Michael Touchette, Commissioner	Date Signed	Date Effective
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Changes to the statutes governing escape shall go into effect July 1, 2019. This Interim Memo governs the procedures on how the Department of Corrections (DOC) will respond to escapes from a correctional facility and unauthorized absences from furlough or conditional reentry as defined in 28 V.S.A. § 808(a)(6), 808(e), 808(f), 808a, 808b, and 808c. This Interim Memo **supersedes Administrative Directive #407 Escapes; #407.01 Escapes from Facility Service Crews and Unauthorized Leave from Community Service Teams; #407.03 Unauthorized Absence from Furlough or Conditional Reentry, and the Community Supervision Furlough Escape Interoffice Memo dated 9/27/2016.**

PURPOSE

The purpose of this Interim Memo is to provide the Department of Corrections’ (DOC) staff with instruction regarding responses to escape, absconding from furlough, and the issuance of a Commissioner Arrest Warrant.

PHILOSOPHY

The DOC is committed to ensuring adequate security environments and supervision for the person(s) in its custody. The department operates on sound procedures designed to reduce or eliminate the risk of escape. All instances of escape or attempts to escape or abscond from supervision shall be met with a firm response.

AUTHORITY

13 V.S.A. § 1501; 28 V.S.A. § 808e

POLICY

It is DOC policy to prepare in advance to react quickly in the event of an actual or attempted escape. Each superintendent and district manager are responsible for developing contingency plans that address the response. Plans shall be reviewed annually and be as comprehensive as possible.

FACILITY ESCAPES

1. The facility contingency plan shall, at a minimum, address the following issues:
 - a. Responsibility of line personnel at actual point of escape or attempted escape.
 - b. Security of building.
 - c. Custody of other inmates.
 - d. Designated officer in charge.
 - e. Written pre-designated post orders.
 - f. Emergency telephone notification of law enforcement agencies. *When notifying law enforcement agencies, the facility shall always describe the inmate as dangerous.*
 - g. Compliance with directive #405 *Incident Reporting*.
 - h. Notifications of other agencies that may have an interest in an escape. i.e., Federal Marshalls, Immigration and Customs Enforcement, or another state.
 - i. Chain of Command.
 - j. Areas and scope of any search to be conducted in the event of an actual escape from any designation. Superintendents should take into consideration factors such as:
 - i. Location of the escape
 - ii. Witnesses to the escape
 - iii. Amount of time elapsed since the escape occurred
 - iv. Inmate's custody designation at the time of the escape
 - k. The Commissioner has as an obligation to pursue, search for, and apprehend inmates who have escaped from custody. To this end, the final determination as to the length of time and effort devoted to apprehending an escaped inmate will be made by the Facility Executive, with the concurrence of the Commissioner.
 - l. Escape from a facility work crew.
 - m. Submission of an escape incident report in OMS.
 - n. Proper notification of all agencies involved in the escape search once the inmate has been returned to custody.
2. Department personnel are prohibited from carrying a firearm during any escape search unless:
 - a. They are on a facility post where the use of firearms is authorized.
 - b. They are certified by the department to carry a firearm.
 - c. They receive authorization from the Commissioner.
3. All escapes shall be investigated by the Facility Executive to determine the facts relating to the escapes.

Escape from Facility Work Crew

1. In the event of an escape (walk away) from a facility work crew the following actions will occur:
 - a. The Work Crew Leader (WCL) will immediately notify the on-duty supervisor.
 - b. Local police and area State Police are notified and provided details of the escape and a description of the inmate.
 - c. The on-duty supervisor shall ensure that all work crews return to the facility.
 - d. Upon finding an escape in progress, give verbal command to the inmate to stop and return to the work site. The WCL is not authorized to pursue the escapee(s).

- e. Ensure remaining work crew inmates are accounted for and placed in the work crew vehicle for return to the originating facility.
- f. The Facility Executive will ensure that all facilities are notified and that any other work crews that are in the community are immediately returned to their respective facility.
- g. Upon notification to the duty supervisor the facility will follow the process outlined above in sections 1, 2 and 3 of Facility Escapes.

Absconding from Furlough

A person on furlough status pursuant to 28 V.S.A. § 808(a)(6), 808(e), 808(f), 808a, 808b, or 808c shall not be charged with escape as defined 13 V.S.A. § 1501. Any offender charged with escape prior to July 1, 2019 will resolve the escape charge through the court system. The offender is still subject to the provisions of directive 430.11, Response to Furlough Violations.

If an offender on furlough, pre-approved furlough or conditional reentry is not at a designated location and it has been determined there is no credible evidence that the offender is attempting to elude, or evade supervision, but is suspected to be at a location not approved by DOC, 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 directive 430.11, Response to Furlough Violations.

If an offender on furlough, pre-approved furlough, conditional re-entry, or home confinement status cannot be located for 24 hours corrections staff shall determine if there is evidence that the offender has attempted to elude or evade supervision. Such evidence may include, but may not be limited to, removal of personal possessions from the residence, history of leaving the state, observation of the attempt to flee, or credible evidence that an offender has absconded or attempted to abscond. DOC will do due diligence to check any known whereabouts, where staff safety is not jeopardized.

If attempts to locate the offender within 48 hours of when the offender's location became unknown and due diligence has been made to locate offender a Return to Custody on Mittimus (ROM) request will be made with approval of the District Manager or designee. ROM shall include the following: Return on Mitt Request Form Copy of all current Mitts

The District Manager may issue an ROM for an offender supervised for a listed offense that staff are unable to locate if they pose an immediate risk to victim and/or public safety.

ROMs are issued through the holding station located within the county in which the offenders DOC approved residence is located.

Once a 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 party shall be relayed to local law enforcement for follow up.

Failure to appear or Unauthorized departure from a community supervised work crew

A person on furlough status pursuant to 28 V.S.A. § 808(a)(6), 808(e), 808(f), 808a, 808b, or 808c shall not be charged with escape as defined 13 V.S.A. § 1501. Each District Manager will establish a

local procedure to follow in the event an offender leaves the services work site without authorization. The procedure will require the team leader to comply with the following requirements:

- a. Notification of the supervisor, on-call DOC manager or designated staff
- b. Timely completion of an incident report in accordance with directive #405 *Incident Reporting*

If an offender on furlough leaves a community service team without authorization, the team leader will not chase or attempt to apprehend the offender. The team leader will notify the supervisor of the incident and enter an incident report in OMS. A Return to Custody on Mittimus (ROM) request will be made with the approval of the District Manager or designee.

With consideration that there a significant difference between an escape from a Correctional Facility or Work Camp in comparison to absconding from Community Supervision, media outlets will not be included on notifications for Absconders from Community Supervision notifications.

Commissioner Warrant

A person on furlough status pursuant to 28 V.S.A. § 808(a)(6), 808(e), 808(f), 808a, 808b, or 808c shall not be charged with escape as defined 13 V.S.A. § 1501.

The Commissioner of Corrections may issue a warrant for the arrest of a person who has absconded from furlough status in violation of 28 V.S.A. § 808(a)(6), 808(e), 808(f), 808a, 808b, or 808c, requiring the person to be returned to a correctional facility. A person for whom an arrest warrant is issued pursuant to this section shall not earn credit toward service of his or her sentence for any days that the warrant is outstanding.

The Commissioner Warrant procedure will be initiated immediately if the following circumstances apply:

1. DOC receives information that a listed or non-listed offender has made unauthorized contact with their victim and the offender cannot be located.
2. If the offender is convicted of a listed offense and has NOT been taken into custody 3 days after their entry of the ROM into the State Warrant Database.
3. If 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
4. An offender runs from a corrections staff member, or there is credible evidence found that the offender has absconded from supervision, such as history of leaving the state, observation of the attempt to flee, or credible evidence that an offender has escaped or attempted to escape and after due diligence by DOC is unable to be located and after authorization from the District Manager or designee, the process will initiate immediately.

Once the decision has been made by the DM or designee, the local office will prepare the warrant packet by completing the following process:

1. Update and include ID face sheet.
2. Complete the incident report.
 - a. The incident report shall include a chronology of events

3. Check Victim Notification, (document in case notes) and ensure victims are notified.
4. District Manager review and warrant recommendation.
 - a. The DM shall go into Warrants question type in the Questionnaires tab within the escape incident and do the following:
 - i. Select YES in the “Does the DM Recommend the Warrant?” drop down
 - ii. Provide a brief explanation on why the warrant is recommended in the “Additional Details” field.
 - iii. Click Save Answers.
5. Staff emails the designated packet to the Warrants and Extradition Unit Team (morgan.rogers@vermont.gov, sean.oconnell@vermont.gov, Cullen.bullard@vermont.gov)
The packet shall include:
 - a. NCIC Form- filed electronically
 - b. ID Face Sheet
6. The Warrants and Extradition Unit will present the information to the Commissioner to approve or deny.
7. If a warrant is issued, the Warrants and Extradition Unit will email confirmation that a warrant has been issued and entered into the statewide warrant database.
 - a. The Warrant shall be uploaded into the Attachment(s) tab of the escape incident using the Document Name “Commissioner Arrest Warrant” and the Document Category “Warrants”
8. The sending office will prepare and send out a Law Enforcement Notification to local law enforcement agencies and Vermont State Police.
9. The field office will send the notification to:
 - a. District Managers AHS.DOCPPManagers@vermont.gov
 - b. P&P Supervisors AHS.DOCPPSupervisors@vermont.gov
10. The field office will release the offender in OMS using the following options:
 - a. Set the “Release Type” as “TEMP”
 - b. Set the “Release Reason” to “ABSCOND FURLOUGH”

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 party shall be relayed to local law enforcement for follow up.

With consideration that there a significant difference between an escape from a Correctional Facility or Work Camp in comparison to absconding from Community Supervision, media outlets will not be included on notifications for Absconders from Community Supervision notifications.