

## **Massachusetts Probation Service Summary of Applicable District Court Rules for Violation of Probation Proceedings**

As stated in Rule 4 of the District/Municipal Courts Rules for Probation Violation Proceedings (effective 9/8/15), “ When a probation officer of a court that has issued a probation order determines that a probationer has violated any condition of that order other than the alleged commission of a crime as charged in a criminal complaint, that probation officer shall decide whether to commence probation violation proceedings.” Probation Officers have discretion as to whether or not they commence probation violation proceedings. There are several avenues by which a probation officer can take corrective action for non-compliance by a probationer. A probation officer trained in Evidence Based Community Supervision Practices may choose to utilize “Effective use of Disapproval” by clearly stating what the problematic behavior is along with short term consequences of that behavior and ask what he could have done differently and attempt to get his agreement to try that different behavior next time; “Effective Use of Authority”, the Cognitive Model and/or Problem Solving. Each time there was an issue with compliance, the PO responded with a form of corrective action by utilizing one of these skills. The probationer displayed several compliant actions such as reporting as directed, clean drug/alcohol screens and completing the mental health intake. At an appropriate time, the PO utilizing her discretion, commenced violation of probation proceedings for non-criminal violations. The PO amended the notice to include the alleged criminal violations immediately upon his arraignment/release on personal recognizance.

The PO used her judgment granted to POs in Rule 5, regarding Probation Detention Hearings. “The notice shall be prepared and served by the probation department at the discretion of the probation officer or as directed by the court.” The probation department did not request detention, nor was it directed to do so by the court.

June 9, 2016