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Section-06 Classification and Case Management	OP-060209	Page: 1	Effective Date: 01/24/2017
Judicial Review	ACA Standards: 2-CO-1A-14, 4-4309, 4-ACRS-7F-04, 4-APPFS-1B-03, 4-APPFS-1B-05, 4-APPFS-1B-06, 4-APPFS-2C-02		
Joe M. Allbaugh, Director Oklahoma Department of Corrections		Signature on File	

Judicial Review

Offenders with an imposed sentence or probation revocation, and who have not been in confinement in any state or federal prison system for any previous felony conviction during the ten year period preceding the date of the current Judgment and Sentence or with an order revoking a suspended sentence, may be eligible for judicial review within 24 months of the initial imposed sentence or within 24 months after probation is revoked, under the statutory provisions of 22 O.S. § 982a.

Subsequent to an order by the sentencing court scheduling such judicial review, the Department of Corrections (ODOC) will prepare a report for the court as outlined in this procedure. (2-CO-1A-14, 4-4309, 4-ACRS-7F-04, 4-APPFS-1B-03)

I. Assessment Packet

A. Assessment

Assessment and reception center staff will assess the placement eligibility of all offenders. If security or medical considerations prohibit program placement as recommended by the court, the coordinator of Facility Classification will notify the probation and parole district responsible for supervision in the county of conviction. The district will notify the sentencing judge in writing, of the alternate placement.

B. Packet Contents

A packet will be compiled by the assessment and reception center staff for each offender who has a scheduled judicial review court date appearing on their sentencing documents. The packet will be compiled during the assessment and classification process and will be forwarded to the appropriate district upon completion. The packet will contain copies of the following:

1. Offender case history;
2. "Initial Custody Assessment/Facility Assignment Form" ([DOC 060102A \(M\)/\(F\)](#));
3. "Consent for Release of Confidential Information" ([OP-060210, Attachment C](#)), signed by the offender;
4. Criminal record (JOLTS, NCIC);
5. Judgment and Sentence(s) for all cases (CF#'s);
6. Risk Assessment Score;
7. Adult Substance Use Survey (ASUS);
8. "Case Plan" ([OP-060102 \(M\) \(F\), Attachment B](#)); and
9. "Consolidated Record Card" ([DOC 060211H](#)).

C. Packet Review

1. Packets will be reviewed in their entirety for complete and pertinent reception information by the assessment and reception center/court services staff.
2. Packets that have a review date listed on the sentencing documents will be forwarded to the appropriate probation and parole district within five working days of receipt of the packet.
3. Offenders with a sentence of death or life without parole are excluded from eligibility for judicial review and no packets will be prepared for such offenders.
4. The probation and parole district will document the hearing date and prepare a judicial review hearing report which will be distributed to the official court file, sentencing court, district attorney, defense attorney,

current case manager and affected offender in accordance with Section II. of this procedure.

II. Judicial Review Report

A. Report Development

The probation and parole district within the court of conviction's jurisdiction will prepare the report. Report development will include a review of all assessment information. Case note entries will be made of contacts with the offender, the offender's case manager, the sentencing judge, the prosecuting attorney, and the defense attorney. If the offender does not have a proposed residence, the case manager will assist the offender in developing a plan for obtaining residency upon release.

B. Report Contents

The report will provide the sentencing court with a concise, factual overview of the offender's assessed needs as documented on the "Case Plan" ([OP-060102\(M\)\(F\)](#), [Attachment B](#)) and the offender's compliance or noncompliance with such programs. The report will include the sentencing information, program participation, misconduct history, case manager observations, proposed residence and employment, summary evaluation, community supervision plan and the related sentence modification recommendation.

1. The sentencing information will provide a concise summary of the instant offense and its disposition. It will include: the crime, sentence, date, attorneys for the state and defense, and the immediate needs of the offender as determined from information compiled at the assessment and reception center (e.g., substance abuse, employment, mental health etc.) and it should indicate if the sentence was imposed pursuant to a plea agreement or jury verdict.
2. Program participation will include the type and name of any recommended program(s), a short description of the components of the program, the offender's cooperation and the treatment provider's assessment of the offender while in the program. Job assignments and evaluations will also be included. Any misconducts and negative incidents will be reported within this section as well. Any other assessments or activities in which the offender has participated will also be identified. A notation of the offender's remaining time and any relevant parole information will also be included.
3. The proposed residence will include the name and address of the person with whom the offender intends to live. Verification will be made by the district in which the offender plans to reside as to the legitimacy of the home offer. (4-APPFS-2C-02)

- a. When verifying the residence, staff will request the offender's family to bring clothing to the hearing for the offender to wear if released from custody. ODOC clothing will be returned to the security staff transporting if the offender is released.
 - b. Proposed employment information will also be identified in this section. Employment information will consist of the name or owner of the business and the address from which the offender has a job offer or former employment.
4. Evaluation summary information will provide to the court, a profile of the offender, including his/her potential for successful reentry into the community. In making an evaluation, district staff will take into consideration all of the information available. This information will include, but not be limited to: previous assessments and reports by ODOC personnel, personal resources of the offender, court imposed obligations, employability, social factors (marital, parental support, peer influences, etc.), institutional adjustment, availability of resources in the community, potential for violence, motive for the offense, prior criminal record, aggravating or mitigating circumstances and any other information relevant to the case.
5. The community supervision plan will include recommendations for: substance abuse or mental health evaluations, community service, restitution, court costs, parenting classes, educational or vocational training and any other needs that have been assessed by the assessment and reception center, treatment provider(s), case manager(s) or district staff. Recommendations will be delineated in the report for appropriate agencies or providers.
6. A sentence modification recommendation will be made. Screening and assessment instrument(s) will be reviewed by district staff as to the offender's appropriateness for release to the community without jeopardizing the safety of the public. (4-APPFS-1B-05, 4-APPFS-1B-06)
 - a. Recommendations for suspended time, split sentences, community sentence or incarceration will be considered.
 - b. If an offender has previously been incarcerated in any state or federal prison system within the last ten year period on any other felony conviction than the one presently before the court, the offender is not statutorily eligible and will not be recommended for sentence modification.
 - c. If the recommendation is for modification and is filed and ruled upon beyond 12 months of the initial sentence being imposed,

the district staff will verify approval by the district attorney and victim notification by their office.

- d. District attorney approval is required if the sentence is pursuant to a plea agreement or jury verdict.
7. “Judicial Review Hearing Reports” will be filed by the appropriate district no later than 21 days prior to the hearing or as soon as possible after notification that a hearing has been scheduled. The original report will be filed with the court clerk with copies provided to the following:
- a. Sentencing court;
 - b. District attorney;
 - c. Defense attorney;
 - d. Official court file;
 - e. The offender; and
 - f. The offender’s field file.

C. Attendance at Hearings

An ODOC staff member will attend the court hearing as an agency representative, if requested by the court.

III. Transportation

A. Scheduling

The district office will notify the Population Office of the date of the hearing at least ten days prior to the date scheduled by the court or as soon as possible after notification that a hearing has been scheduled. The notification will be made via fax, e-mail or telephone and include the offender’s name and ODOC number, the date/time and location of the hearing, the case number, the judge’s name, type of hearing and the current facility location of the offender.

B. Facility Notification

The Population Office will notify each facility’s records office of the date, time, location and appropriate move status for the offender through the statewide or court movement process. In cases where the offender has a warrant(s) or a detainer(s), the facility records office will notify the appropriate jurisdiction of the scheduled hearing.

C. Transporting Officers

Each facility will transport the offender, field file and all of the offender's property to the county of conviction on the date of the hearing at the designated docket time as outlined in [OP-040111](#) entitled "Transportation of Inmates." An appropriate supply of medication, in accordance with [OP-140130](#) entitled "Pharmacy Operations," will be prepared by medical and mental health staff and transported to the hearing.

1. Security staff will remain with the offender until conclusion of the judicial review hearing. At the end of the hearing, security staff will receive a certified minute/order stating the court's modification. This will be returned to the facility's records office.
2. If the modification is for a probationary sentence, prior to the release of the offender from custody, security staff will contact the facility to advise the records office or designated staff of the court's action and to receive any other pertinent information as outlined in [OP-040111](#).
3. The released offender's address and telephone number will also be obtained by the security staff and provided to the facility's records office.
4. If the offender's sentence is not modified, or if the offender has other sentences of incarceration, security staff will return the offender to the facility.

IV. Post-Modification Procedures

If a modification is granted and an order of probation entered, the offender will be provided the "Rules and Conditions of Probation." Any special provisions directed by the court will be referred to on the "Rules and Conditions of Probation" and emphasized to the offender after the hearing by the ODOC staff member.

- A. The ODOC staff member will direct the offender to the county's court administrator for review of costs and fines.
- B. The offender will also be directed to report to the appropriate probation office for community supervision, if so ordered by the court.
- C. The offender will be given his/her property with any provided medication authorized by medical or mental health staff.
- D. The confining facility will forward a voucher to the offender's forwarding address in accordance with [OP-120230](#) entitled "Offender Banking System."
- E. The confining facility will notify the affected district of the modification of the

offender's sentence and a copy of the offender's modified court minute/order and "Rules and Conditions of Probation" will also be provided.

- F. Probation and parole staff will supervise the offender within the constraints dictated by the court's order or as statutorily authorized. Supervision will be accomplished as specified by the court and in accordance with [OP-160103](#) entitled "Supervision of Community Offenders."

V. Monthly Reports

All probation and parole district offices will provide a monthly statistical report to the director of Probation and Parole Services. The report, in addition to other information, will include the number of judicial review reports and packets received within the district's jurisdiction.

VI. References

Policy Statement No. P-060100 entitled "Classification and Case Management of Offenders"

OP-040111 entitled "Transportation of Inmates"

OP-120230 entitled "Offender Banking System"

OP-140130 entitled "Pharmacy Operations"

OP-160103 entitled "Supervision of Community Offenders"

22 O.S., § 982a

22 O.S., § 988.2

22 O.S., § 991

VII. Action

The facility heads/district supervisors are responsible for compliance with this procedure.

The director of Probation and Parole Services is responsible for the annual review and revisions.

Any exceptions to this procedure will require prior written approval from the director of ODOC.

This procedure is effective as indicated.

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Replaced: Operations Memorandum No. OP-060209 entitled "Judicial Review" dated February 26, 2015

Distribution: Policy and Operations Manual
Agency Website

<u>Referenced Forms</u>	<u>Title</u>	<u>Location</u>
DOC 060102A (M)	"Initial Custody Assessment/Facility Assignment Form"	OP-060102 (Male)
DOC 060102A (F)	"Initial Custody Assessment/Facility Assignment Form"	OP-060102 (Female)
DOC 060211H	"Consolidated Record Card"(CRC)	OP-060211
<u>Referenced Attachments</u>	<u>Title</u>	<u>Location</u>
Attachment C	"Consent for Release of Confidential Information"	OP-060210
Attachment B	"Case Plan"	OP-060102(M) (F)