

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

**REPORTING NONCOMPLIANCE OF
PERSONS UNDER PRETRIAL OR
POST-CONVICTION SUPERVISION**

**DISTRICT COURT GENERAL ORDER
2021-9**

This general order supersedes General Order 2011-10.

WHEREAS, 18 U.S.C. § 3154(5) requires probation officers to inform the Court and the United States Attorney of all apparent violations of pretrial release conditions, and 18 U.S.C. § 3603 requires probation officers to report on the conduct of a person under supervision to the sentencing court.

WHEREAS, the *Guide to Judiciary Policy* Volume 8, Part C, (Supervision of Federal Defendants), Chapter 7, and Part E (Post Conviction Supervision), Chapter 4, further outlines national expectations regarding reporting noncompliant behavior by persons under supervision to the Court. The *Guide* includes comprehensive reporting requirements which may result in inordinate amounts of paperwork and negatively impact the efficiency of the Court and the Probation Office.

Regardless of any reporting requirements to the Court, probation officers must address all instances of noncompliance in their efforts to bring the person under supervision into compliance with all court orders. Reporting on noncompliant behavior may be done as information reports requesting no court action, petitions requesting modification of release and/or supervision conditions, or petitions for revocation of supervision; it is hereby

ORDERED that, in the interest of efficiency and judicial economy, probation officers of this Court may, after consulting with their supervisors, use discretion in reporting noncompliance unless the noncompliance involves:

1. New felony criminal conduct;
2. Violations that may carry a mandatory revocation penalty (possession of a firearm or controlled substance, more than three positive drug tests in one year, or refusal to comply with a mandatory drug test). As to positive drug tests, probation officers may use discretion in determining when to report noncompliance if the exception under 18 U.S.C. § 3583(d) or 18 U.S.C. §§ 3565(b) and 3563(e) applies based on an individual's current or past participation in substance abuse treatment programs;
3. Absconding from supervision or failing to appear in court or voluntarily surrender as directed;
4. Default on court-ordered financial obligation; or

5. Any circumstance or pattern of conduct that presents substantial risk to the public or involves repeated instances of noncompliance and less intrusive community-based responses have failed.

In addition, for persons under pretrial supervision, probation officers are also required to report to the Court any noncompliance that involves:

1. New misdemeanor criminal conduct;
2. Refusal to surrender passport/obtaining a new passport;
3. Serious and/or repeated violations of location monitoring;
4. Repeated use of any prohibited substance;
5. Refusal to participate in treatment; or
6. Risk related travel without permission.

Dated at Denver, Colorado this 12th day of July, 2021.

BY THE COURT



PHILIP A. BRIMMER
Chief United States District Judge