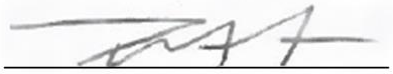


POLICY TITLE: PRE-ADJUDICATION FUNCTIONS POLICY NUMBER: 9.3 - JCC CHAPTER 9: SUPERVISION AND CASE MANAGEMENT		PAGE <u>1</u> OF <u>11</u>
	STATE of MAINE DEPARTMENT of CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS: See Section VIII
EFFECTIVE DATE: September 3, 2008	LATEST REVISION: August 10, 2021	CHECK ONLY IF APA []

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in Title 34-A M.R.S.A. Section 1403.

II. APPLICABILITY

Juvenile Community Corrections

III. POLICY

Juvenile Community Corrections Officers are responsible for performing all juvenile pre-adjudication functions in accordance with the provisions of Title 15 M.R.S.A. Part 6, Maine Juvenile Code, and Title 34-A M.R.S.A Section 5602 using principles of correctional case management.

IV. DEFINITIONS

None

V. CONTENTS

Procedure A:	Pre-Adjudication Functions, General
Procedure B:	Juveniles Arrested for Adult Crimes
Procedure C:	Detentions, Juvenile Crimes
Procedure D:	Unconditional and Conditional Releases, Juvenile Crimes
Procedure E:	Probable Cause Determinations and Detention Hearings
Procedure F:	Conducting Preliminary Investigations

VI. ATTACHMENTS

Attachment A:	Detention Information
Attachment B:	Detention Risk Assessment

Attachment C:	Consent to Conditional Release
Attachment D:	Petition for Review of Detention
Attachment E:	Notice of Preliminary Interview
Attachment F:	Notice of Petition Request Authorization
Attachment G:	Written Notice of Rights
Attachment H:	Community Corrections Brief Screening Tool
Attachment I:	Consent to Informal Adjustment
Attachment J:	Notice of Non-Filing of Petition
Attachment K:	Waiver of Bureau of Motor Vehicles Hearing

VII. PROCEDURES

Procedure A: Pre-Adjudication Functions, General

1. The Associate Commissioner for Juvenile Services shall ensure that there are regularly assigned Juvenile Community Corrections Officers to cover all geographic areas in the State during regular business hours.
2. For other than regular business hours, the Associate Commissioner for Juvenile Services shall ensure that there is available a duty Juvenile Community Corrections Officer to respond to detention requests from law enforcement officers throughout the State when the regularly assigned Juvenile Community Corrections Officer is unavailable.
3. Juvenile Community Corrections Officers shall inform law enforcement agencies in their assigned area that if a law enforcement officer wishes to make a detention request in relation to new criminal or juvenile criminal conduct during other than regular business hours and the regularly assigned Juvenile Community Corrections Officer is unavailable, the law enforcement officer may contact the appropriate Department juvenile facility and ask to be put in contact with the duty Juvenile Community Corrections Officer.
4. Juvenile Community Corrections Officers shall also inform law enforcement agencies in their assigned area that if a law enforcement officer wishes to make a detention request in relation to only a technical violation of conditional release (or probation or community reintegration status) during other than regular business hours and the regularly assigned Juvenile Community Corrections Officer is unavailable, the law enforcement officer must contact the appropriate regional community corrections office on the next business day. The only exception is if the nature of the technical violation indicates that there is a risk of harm to self or others, in which case the law enforcement officer may contact the appropriate Department juvenile facility and ask to be put in contact with the duty Juvenile Community Corrections Officer.
5. If a duty Juvenile Community Corrections Officer is put in contact with a law enforcement officer who is making a detention request, the duty officer shall respond to the request as set out in this policy. In the case of a technical violation, the duty officer shall respond to the request only after the juvenile's

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
9.3 Pre-Adjudication Functions	9. Supervision and Case Management	Page 2 of 11 8/10/21R

status has been verified by Department staff. In no case may a duty officer order the detention or conditional release of a juvenile for a technical violation unless the officer has verified that the juvenile is on conditional release (or probation, or community reintegration status).

6. When the duty officer responds to a detention request, but does not detain the juvenile, the duty officer shall complete the Detention Information and Detention Risk Assessment forms (Attachments A and B) and forward them to the appropriate regional office the next working day. If the duty officer detains a juvenile, the officer shall complete these forms and forward them to the regularly assigned Juvenile Community Corrections Officer by 8:30 a.m. the next working day to allow sufficient time for the regularly assigned Juvenile Community Corrections Officer to investigate the matter and determine if continued detention is necessary and to take any other steps required by this policy.

Procedure B: Juveniles Arrested for Adult Crimes

1. When a law enforcement officer notifies a Juvenile Community Corrections Officer that a person under 18 years of age has been arrested for an offense under Title 12 or Title 29-A that is not a juvenile crime as defined in Title 15, Section 3103, and that in the judgment of the law enforcement officer the person requires detention pending criminal court proceedings, the Juvenile Community Corrections Officer shall ensure that the person's conduct fits within the definition of an adult crime under Title 12 or Title 29-A and that the person is under 18 years of age at the time of the detention request. If either of these requirements is not met, the Juvenile Community Corrections Officer may not order the person's detention for an adult crime. If these requirements are met, the Juvenile Community Corrections Officer shall determine whether to order the juvenile's detention or whether to order the juvenile's unconditional release.
2. The Juvenile Community Corrections Officer shall order detention only if the Juvenile Community Corrections Officer has been notified within two (2) hours after the juvenile's arrest, it would serve one of the purposes of detention as set out in Title 15, Section 3203-A(4)(C), and the Juvenile Community Corrections Officer determines that detention is appropriate after completing Attachments A and B.
3. If the Juvenile Community Corrections Officer orders detention, the officer shall order it to take place in a Department of Corrections juvenile facility, unless there is available a Department approved temporary holding resource operated by the county in which the criminal court proceedings will be held.
4. If the Juvenile Community Corrections Officer does not order detention, the officer shall order the juvenile's unconditional release. In no case may a juvenile who is arrested for an adult crime be required to meet bail requirements.
5. Other than making the decision whether to detain or unconditionally release the juvenile and taking the necessary actions in connection with a detention decision,

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
9.3 Pre-Adjudication Functions	9. Supervision and Case Management	Page 3 of 11 8/10/21R

the Juvenile Community Corrections Officer shall not perform any functions with respect to a juvenile who is arrested for an offense that is not a juvenile crime.

Procedure C: Detentions, Juvenile Crimes

1. When a law enforcement officer notifies a Juvenile Community Corrections Officer that a person has been arrested for an offense that is a juvenile crime as defined in Title 15, Section 3103, and that in the judgment of the law enforcement officer the person requires detention pending juvenile court proceedings, the Juvenile Community Corrections Officer shall ensure that the person's conduct fits within the definition of a juvenile crime under Title 15, Section 3103, and that the person is a juvenile as defined in the Juvenile Code (i.e., had not attained the age of 18 years at the time they allegedly committed the juvenile crime). If either of these requirements is not met, the Juvenile Community Corrections Officer may not order the person's detention for a juvenile crime. If these requirements are met, the Juvenile Community Corrections Officer shall determine whether to order the juvenile's detention or whether to order the juvenile's conditional or unconditional release.
2. The Juvenile Community Corrections Officer shall order detention only if it would serve one of the purposes of detention as set out in Title 15, Section 3203-A (4)(C), one of the criteria for detention is met as set out in Title 15, Section 3203-A(4)(D), and the Juvenile Community Corrections Officer determines that detention is appropriate after completing Attachments A and B. In no case may a juvenile be detained for a juvenile crime as defined in Title 15, Section 3103 (1)(B) or (C).
3. The Juvenile Community Corrections Officer shall use all available means to gather relevant information regarding the facts of the alleged offense, the person's circumstances, and available community resources to determine if detention is necessary. The Juvenile Community Corrections Officer shall make this determination in time so that if there is a detention placement, the placement can be made within twelve (12) hours after the arrest.
4. If emergency detention is necessary to prevent the juvenile from imminently inflicting bodily harm on self or others, the Juvenile Community Corrections Officer may order detention in a Department approved sight and sound separate juvenile section in the county jail for up to a total of six (6) hours after the juvenile's arrest.
5. If the Juvenile Community Corrections Officer orders detention past the emergency detention period, the officer shall order it to take place in a Department of Corrections juvenile facility, unless there is available a Department approved temporary holding resource operated by the county in which the juvenile court proceedings will be held or, in Aroostook county or Washington county only, there is available a Department approved sight and sound separate juvenile section in the county jail and the juvenile will be receiving a detention hearing in juvenile court within twenty-four (24) hours after arrest, excluding Saturdays,

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
9.3 Pre-Adjudication Functions	9. Supervision and Case Management	Page 4 of 11 8/10/21R

Sundays, and legal holidays. If the person has attained the age of 21 years, or has been convicted as an adult in another jurisdiction and has attained the age of 18 years, and if the officer orders detention, the officer shall order it to take place in the adult section of a county jail.

6. When a Juvenile Community Corrections Officer orders detention, they shall inform the law enforcement officer of the decision to detain. The Juvenile Community Corrections Officer shall ensure that the law enforcement officer has made arrangements for the juvenile to be transported to the appropriate detention facility and has made arrangements for the juvenile to receive any necessary emergency health care treatment, including, but not limited to, medical care, crisis mental health care, and substance detoxification, prior to the transport.
7. When a Juvenile Community Corrections Officer determines detention is not appropriate, they shall inform the law enforcement officer. If the law enforcement officer states an objection to the juvenile's release and requests a review by the prosecuting attorney, the Juvenile Community Corrections Officer shall notify the prosecuting attorney prior to the juvenile's release. In the case of a juvenile arrested for a homicide (other than a vehicular homicide), if a Juvenile Community Corrections Officer determines detention is not appropriate, they shall inform the prosecuting attorney in the Attorney General's Office prior to the juvenile's release.
8. If, after consultation with the Juvenile Community Corrections Officer, the prosecuting attorney orders detention, the Juvenile Community Corrections Officer shall make the detention placement within twelve (12) hours following the arrest.
9. In all cases in which detention is ordered of a person under the age of 18 years or of a person with a legal guardian, the Juvenile Community Corrections Officer shall ensure that a reasonable effort is made to notify the parent(s), guardian, or legal custodian of the detention and to inform the parent(s), guardian, or legal custodian of the date, time and location of the detention hearing.

Procedure D: Unconditional and Conditional Releases, Juvenile Crimes

1. When a law enforcement officer requests detention of a juvenile arrested for a juvenile crime but neither the Juvenile Community Corrections Officer nor the prosecuting attorney orders detention, the officer shall determine whether to order the juvenile's conditional release or whether to order the juvenile's unconditional release.
2. When a law enforcement officer notifies a Juvenile Community Corrections Officer that a person has committed a juvenile crime as defined in Title 15, Section 3103 (regardless of whether or not the person has been arrested), but that in the judgment of the law enforcement officer the person does not require detention pending juvenile court proceedings, the Juvenile Community Corrections Officer shall ensure that the person's conduct fits within the definition of a juvenile crime

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
9.3 Pre-Adjudication Functions	9. Supervision and Case Management	Page 5 of 11 8/10/21R

under Title 15, Section 3103, and that the person is a juvenile as defined in the Juvenile Code (i.e., had not attained the age of 18 years at the time they allegedly committed the juvenile crime). If either of these requirements is not met, the Juvenile Community Corrections Officer may not order the person's conditional release or unconditional release for a juvenile crime. If these requirements are met, the Juvenile Community Corrections Officer shall determine whether to order the juvenile's detention in accordance with Procedure C. or whether to order the juvenile's conditional or unconditional release.

3. The Juvenile Community Corrections Officer shall order the juvenile's unconditional release if the juvenile has not been arrested (except when the juvenile is alleged to have committed a sex offense for which a warrantless arrest is not allowed) or if the officer has determined the juvenile poses no immediate risk to self or others and has promised to appear for subsequent interviews and/or court hearings. The Juvenile Community Corrections Officer shall instruct the law enforcement officer to release the juvenile to a parent, guardian, legal custodian, or other suitable person.
4. The Juvenile Community Corrections Officer may order the conditional release of a juvenile if the juvenile has been arrested and conditions are necessary to ensure the juvenile's appearance at any subsequent court hearing or to ensure the protection of the community or any member of the community, including the juvenile. In the event that a juvenile is alleged to have committed a sex offense for which a warrantless arrest is not allowed, a conditional release may be ordered if conditions are necessary for one or more of the reasons set out above. In no case may a juvenile be conditionally released for a juvenile crime as defined in Title 15, Section 3103(1)(B) or (C). In no case may a juvenile who is arrested for a juvenile crime be required to meet bail requirements.
5. Prior to a Juvenile Community Corrections Officer asking a juvenile to agree to a conditional release, the officer shall ensure the juvenile understands that agreeing to a conditional release is voluntary but that failure to agree might lead to an order for detention; the juvenile understands the conditions and the consequences of violating the conditions; and the juvenile understands the juvenile's right to have the imposed conditions reviewed by the Juvenile Court pursuant to Title 15, section 3203-A(10).
6. A Consent to Conditional Release form (Attachment C) must be completed prior to the actual release. The form shall be signed by the issuing Juvenile Community Corrections Officer, the juvenile, and, if the juvenile is under 18 years of age or has a legal guardian, by the juvenile's parent(s), guardian, or legal custodian (if present).
7. When the Juvenile Community Corrections Officer is not present at the release, the Juvenile Community Corrections Officer may request the law enforcement officer to fill out the conditional release form as dictated or may forward an already completed form to the law enforcement officer. In either case, the Juvenile Community Corrections Officer shall ensure the juvenile understands

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
9.3 Pre-Adjudication Functions	9. Supervision and Case Management	Page 6 of 11 8/10/21R

everything set out above by explaining it over the phone. The form shall be signed as described above, except that the law enforcement officer shall indicate the name of the issuing Juvenile Community Corrections Officer on the bottom of the form.

8. If the Juvenile Community Corrections Officer who ordered the conditional release does not receive a written report from the law enforcement officer which establishes the jurisdiction of the Juvenile Court (i.e., showing that the person's conduct fits within the definition of a juvenile crime under Title 15, Section 3103, except for a juvenile crime under Title 15, Section 3103(1)(B) or (C), and that the person is a juvenile as defined in the Juvenile Code), within fifteen (15) days of the release, excluding non-judicial days, the Juvenile Community Corrections Officer shall review the conditions imposed at the time of release. Following the review, the Juvenile Community Corrections Officer may lessen or eliminate the conditions.
9. When a law enforcement officer notifies a Juvenile Community Corrections Officer that a juvenile has been arrested for a technical violation of conditional release and that in the judgment of the law enforcement officer the juvenile requires detention pending juvenile court proceedings, the Juvenile Community Corrections Officer shall ensure that the juvenile is on conditional release and that the conduct for which the juvenile has been arrested is a violation of the release. If either of these requirements is not met, the Juvenile Community Corrections Officer shall not order the juvenile's detention. In making the decision whether to order detention, the officer shall follow the requirements of this policy, considering both the original juvenile crime and the conditional release violation and shall consider whether imposing different or additional conditions of release is appropriate.

Procedure E: Probable Cause Determinations and Detention Hearings

1. If there is a reasonable possibility that a juvenile will not receive a detention hearing within forty-eight (48) hours after arrest, including Saturdays, Sundays and legal holidays, the Juvenile Community Corrections Officer ordering the detention shall inform the law enforcement officer that an affidavit establishing probable cause to believe that the juvenile has committed a juvenile crime is required, unless there has already been such a probable cause determination by a justice of the peace or the Juvenile Court. The Juvenile Community Corrections Officer shall ensure arrangements are made for the affidavit to be provided to the appropriate facility and take any other steps appropriate to ensure the juvenile receives a probable cause determination by a justice of the peace within forty-eight (48) hours after arrest, including Saturdays, Sundays and legal holidays, unless the juvenile has been released from detention or there has already been such a probable cause determination by a justice of the peace or the Juvenile Court.
2. The Juvenile Community Corrections Officer ordering the detention shall file a Petition for Review of Detention (Attachment D) with the court within twenty-four

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
9.3 Pre-Adjudication Functions	9. Supervision and Case Management	Page 7 of 11 8/10/21R

(24) hours of the detention, excluding Saturdays, Sundays and legal holidays, unless the Juvenile Community Corrections Officer has ordered the release of the juvenile from detention.

3. The Juvenile Community Corrections Officer who ordered the detention may order the unconditional or conditional release of the juvenile any time prior to the detention hearing if the information and/or circumstances surrounding the detention have changed making detention no longer appropriate. If the juvenile is released, a petition for review of detention shall not be filed, or, if already filed, shall be withdrawn.
4. The Juvenile Community Corrections Officer who ordered the detention shall take any steps appropriate to ensure that the Juvenile Court holds a detention hearing for a juvenile who has not been released from detention within forty-eight (48) hours after the detention, excluding Saturdays, Sundays, and legal holidays. If a juvenile is detained, in Aroostook county or Washington county only, in a Department approved sight and sound separate juvenile section in the county jail, the Juvenile Community Corrections Officer who ordered the detention shall take any steps appropriate to ensure that the Juvenile Court holds a detention hearing for a juvenile who has not been released from detention within twenty four (24) hours after the detention, excluding Saturdays, Sundays, and legal holidays.
5. The Juvenile Community Corrections Officer is responsible for providing the court with the circumstances surrounding the detention and the basis for the detention decision. The Juvenile Community Corrections Officer is also responsible for ensuring either the presence of the law enforcement officer or the officer's report detailing the circumstances surrounding the arrest and offense charged. The Juvenile Community Corrections Officer shall notify the prosecuting attorney's office of the existence of any other pertinent witnesses who may be necessary to establish probable cause that a juvenile crime was committed or to present evidence pertinent to detention decision to be made by the Juvenile Court.

Procedure F: Conducting Preliminary Investigations

1. When a law enforcement officer notifies a Juvenile Community Corrections Officer that in the judgment of the law enforcement officer juvenile court proceedings should be commenced against a juvenile, the Juvenile Community Corrections Officer shall ensure that the person's conduct fits within the definition of a juvenile crime under Title 15, Section 3103 and that the person is a juvenile as defined in the Juvenile Code (i.e., had not attained the age of 18 years at the time they allegedly committed the juvenile crime).
2. If both of these requirements are met, the Juvenile Community Corrections Officer shall request the law enforcement to file a written report with the Juvenile Community Corrections Officer within twenty four (24) hours (excluding non-judicial days), stating the juvenile's name, date of birth, and address; name and address of the juvenile's legal custodian; and the facts that led to the notification, including the offense that the juvenile is alleged to have committed. The date of

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
9.3 Pre-Adjudication Functions	9. Supervision and Case Management	Page 8 of 11 8/10/21R

receipt of this report shall be considered the date of referral to the Juvenile Community Corrections Officer.

3. Upon receipt of the official police report, the Juvenile Community Corrections Officer, or designee, shall enter all required information into CORIS. The Juvenile Community Corrections Officer, when reviewing the police report, shall check for accuracy and ensure the alleged offense is actually a juvenile crime as defined in Title 15, Section 3103. The Juvenile Community Corrections Officer may return any written report to the law enforcement officer with a request for further information. Any report returned for that purpose shall not constitute a referral until sufficient information is received. In all such instances, the Juvenile Community Corrections Officer shall inform the Regional Correctional Administrator.
4. When a juvenile accused of having committed a juvenile crime is referred to a Juvenile Community Corrections Officer, the Juvenile Community Corrections Officer, except for a juvenile crime being prosecuted by the Attorney General's Office or a juvenile crime as defined in Title 15, section 3103, subsection 1, paragraph E or F, shall conduct a preliminary investigation to determine whether the interests of the juvenile or of the community require further action be taken. For a juvenile crime being prosecuted by the Attorney General's Office or a juvenile crime as defined in Title 15, section 3103, subsection 1, paragraph E or F, the Juvenile Community Corrections Officer shall refer the law enforcement officer's report directly to the prosecuting attorney.
5. The Juvenile Community Corrections Officer shall, when possible, confer with the referring law enforcement officer and the victim to gather pertinent information, ascertain accurate damage estimates, if applicable, and determine their sentiment regarding the alleged offense and possible disposition.
6. The Juvenile Community Corrections Officer shall schedule a preliminary investigation interview (Attachment E), within thirty (30) days of the referral date, with the juvenile and their parent(s), guardian, or legal custodian, if applicable, to gather information to assist in the dispositional decision making. Neither the juvenile nor their parent(s), guardian, or legal custodian, is required to attend the preliminary investigation interview.
7. When the juvenile is emancipated by court order, legally married, or has turned 18 since the time of the offense, the preliminary investigation interview shall be scheduled with the juvenile only, unless the juvenile is under legal guardianship or requests the presence of a parent.
8. The Juvenile Community Corrections Officer shall authorize a petition (Attachment F) without the necessity of completing a preliminary investigation if:
 - a. the juvenile or parent(s), guardian, or legal custodian, if applicable, decline the opportunity for an interview and request a court hearing;

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
9.3 Pre-Adjudication Functions	9. Supervision and Case Management	Page 9 of 11 8/10/21R

- b. the juvenile denies any participation in the alleged offense(s) during the course of the interview;
 - c. the juvenile is currently under supervision with the Department or the juvenile has other charges currently pending before the court as a result of a previous preliminary investigation; or
 - d. the juvenile and/or parent(s), guardian, or legal custodian, could not be located for purposes of setting up an interview.
9. During the preliminary investigation interview, the Juvenile Community Corrections Officer shall explain the intake procedure to the juvenile and the juvenile's parent(s), guardian, legal custodian, provide the juvenile with a written notice of rights (Attachment G), and explain the options available for appropriate disposition of the case. When appropriate, the Juvenile Community Corrections Officer may complete the Community Corrections Brief Screening Tool (Attachment H) to assist in the disposition decision making process. In all other cases, the Juvenile Community Corrections Officer shall utilize the Department's approved risk and needs assessment tool to assist in gathering relevant information.
10. On the basis of the preliminary investigation, if the Juvenile Community Corrections Officer determines the facts are sufficient for the filing of a petition, the Juvenile Community Corrections Officer shall, within thirty (30) days of the referral if possible, choose one of the following dispositional alternatives:
- a. decide that action requiring ongoing supervision is not required either in the interests of the public and/or the juvenile and may refer the juvenile and/or parent(s), guardian, or legal custodian for voluntary services;
 - b. make whatever informal adjustment which is practicable without a petition (Attachment I) and is agreed to by the juvenile and the juvenile's parent(s), guardian, or legal custodian, if applicable, after advising them of the juvenile's constitutional rights; or
 - c. request a petition to be filed.
11. If the Juvenile Community Corrections Officer decides not to request a petition be filed with the court, the Juvenile Community Corrections Officer shall forward a Notice of Non-Filing of Petition (Attachment J) to the prosecuting attorney, the referring law enforcement officer, the complainant, and the victim. The Juvenile Community Corrections Officer shall advise the referring law enforcement officer, the complainant, and the victim that they may submit their complaint to the prosecuting attorney for review. The Juvenile Community Corrections Officer shall also notify the juvenile and/or parent(s), guardian, or legal custodian, if applicable, at least two (2) weeks prior to the date for which they have been summonsed, if applicable.
12. If the Juvenile Community Corrections Officer decides not to request a petition be filed with the court for a violation of Title 22, Section 2389(2) or Title 28-A, Section

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
9.3 Pre-Adjudication Functions	9. Supervision and Case Management	Page 10 of 11 8/10/21R

2052, the Juvenile Community Corrections Officer shall inform the Secretary of State of the violation and provide to the Secretary of State a Waiver of Bureau of Motor Vehicles Hearing form (Attachment K) signed by the juvenile.

VIII. PROFESSIONAL STANDARDS

None

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
9.3 Pre-Adjudication Functions	9. Supervision and Case Management	Page 11 of 11 8/10/21R