

GENERAL ORDER NO. 32

MODIFICATION OF PROBATION SUPERVISED RELEASE CONDITIONS
FOR PLACEMENT IN A COMMUNITY TREATMENT CENTER

In 1990, this General Order was enacted, authorizing the Probation Office of this Court to place a probationer or supervised releasee (hereinafter, the “probationer”) arrested for alleged violations of probation or supervised release in a community treatment center (also known as a halfway house) for a term not to exceed five court days or until further order of the Court. The stated reason for the enactment of this General Order was that “the probation officer finds it difficult to arrange placement through the Bureau of Prisons, who [sic] is given the responsibility for payment of all Public Law placements.”

Federal Rule of Criminal Procedure 32.1(a) provides that “[a] person held in custody for violating probation or supervised release must be taken without unnecessary delay before a magistrate judge” for, among other things, a determination whether to release or detain the probationer pending further proceedings pursuant to 18 U.S.C. § 3143. The magistrate judge sometimes orders the probationer “released” to a community treatment center.

An Administrative Office of the United States Courts memorandum dated May 1, 1991 (“Probation Revocation Issues”) governs the funding procedures for “residential placement” of a probationer pending probation revocation proceedings, specifying two distinct scenarios:

- (a) “If the judicial officer modifies the probation order to include residential placement as a condition of supervision and sets a limit not to exceed 120 days, the Bureau of Prisons provides funding”; and
- (b) “If the judicial officer orders the pretrial release of an alleged probation violator pending a violation hearing . . . funding . . . will be provided by the [P]retrial [S]ervices [O]ffice for a period not to exceed 30 days.”

Under the second scenario — funding provided by the Pretrial Services Office — the Probation Office retains responsibility under the May 1, 1991 memorandum for supervision of the probationer.

The large number of revocation proceedings in which release to a community treatment center is ordered by the criminal duty magistrate judge in accordance with the above-cited authorities has created a growing budgetary burden for the Pretrial Services Office. In order to address this concern, the Court now orders the following additional procedure to apply in all cases in which a magistrate judge orders a probationer released to a community treatment center pending a violation hearing:

No later than three days after release of the probationer to a community treatment facility pending a violation hearing, the Probation Office will deliver to the chambers of the sentencing judge (or, in the absence of the sentencing judge, the general duty judge), a request, accompanied by a proposed order, to modify the probation order to include residential placement as a condition of supervision for no more than 120 days. Upon entry of the sentencing judge or duty judge's order thus modifying the probation order, the Probation Office will promptly notify the Pretrial Services Office and the Bureau of Prisons that responsibility for funding the probationer's residential placement has been transferred to the Bureau of Prisons.

IT IS SO ORDERED.

ADOPTED: September 28, 1990
AMENDED: September 19, 2012

FOR THE COURT:



CLAUDIA WILKEN
UNITED STATES DISTRICT CHIEF JUDGE