

State of Iowa Department of Corrections

Policy and Procedures

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Applicability: DOC, CBC

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Chapter 12: Community Based Corrections

Sub Chapter: NA

Related DOC Policies: NA

Administrative Code Reference: 201-45.4, 205-11

Subject: Parole Violation Review & Revocation Process

ACA Standards: NA

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Authority:

1. PURPOSE

To ensure a systematic process in place to guide parole practices in Iowa.

2. POLICY

District Department of Correctional Services staff take corrective action when parole violations are confirmed, utilizing least restrictive sanctions commensurate with the parolee's risk to public safety. The rehabilitation of the parolee is the focus; however, the parolee is also held accountable for violations. The parole officer shall remain attentive to the impact of detainment of parolees on the State Confinement Fund and parolees' civil liberty interests and may reference the Behavioral Matrix to consider intermediate sanctions, interventions and all other alternatives to revocation whenever possible utilize parole revocation only when necessary. Officers work collaboratively with other criminal justice organizations, community agencies, the parolee and support system to promote public safety and successful outcomes. Each District Department of Correctional Services shall have written policies and procedures that will ensure delivery of parole services throughout the district.

3. DEFINITIONS

- A. Violation - Breach of the Parole Agreement.
- B. Iowa Corrections Offender Network (ICON) - The computer system utilized by the State of Iowa to maintain data on parolees.
- C. Mandatory Reported Violations - Those violations per the Board of Parole (BOP) Administrative Rules that **must be** reported to the BOP in writing either informally via a Report of Information (under No Hearing Requested/Report of Information report request), or formally via a Report of Violation within five (5) business days of knowledge of the violation. The following are violations that must be reported:
 - 1. Violation of any federal or state laws; which would be a felony or aggravated misdemeanor in the State of Iowa;
 - 2. Any violent, assaultive or threatening conduct;
 - 3. Possession, control or use of any firearms, imitation firearms, explosives or dangerous weapons as defined in federal or state statutes;
 - 4. Any unapproved contact with victims or victims' family. Any unapproved contact with minor;
 - 5. A parolee whose whereabouts are unknown and who has been unavailable for contact for thirty (30) days, or about whom reliable information has been received indicating that the parolee is taking flight or absconding.
- D. Parole Violation Review Request – The reporting mechanism in ICON to begin building the record of violating behavior.
- E. Report Type- The type of report the parole officer is requesting in response to the violation.
- F. Parole Violation Review Recommendation - The violation response the parole officer is recommending.
- G. Refer to the ICON Business Rules help link on the Parole Violation Review and Parole Revocation Hearing Scheduling screens for step-by-step instructions for various report types.
- H. Administrative Parole Judge (APJ) – The Administrative Law Judge who presides over a parole revocation hearing.

4. PROCEDURES

A. Case Review

1. In order to determine the parolee's current risk level, the officer shall update required assessments as necessary.
2. The officer and supervisor/designee shall review the case to make evidence-based, informed decisions regarding the proper response to the violations and the need for detention. The following shall be considered in determining a course of action:
 - a. Risk Factors - The officer assesses the immediacy and imminency of the risk posed by the parolee (as assessed by Iowa Risk-Revised, Level of Supervision, Violence and Victimization Scores, and Dynamic Risk Assessment for Offender Re-entry). The primary consideration is protection of the community and victim access.
 - b. Needs - The identified needs of the parolee and the methods the needs are being addressed.
 - c. Nature of Violation(s) – Is the violation willful, blatant and recurring, or is the parolee refusing to abide by non-negotiable terms of the parole agreement? The emphasis is also on the causal factors of the parolee's original offense and the relationship of the current violation(s) to those factors.
 - d. Manageability in the Community- Consider the parolee as a whole based on many factors such as immediate risk to the community that cannot be mitigated by higher levels of interventions or increased monitoring such as electronic monitoring, curfews, treatment, resources etc; progress on supervision; cooperative attitude, etc. Continued supervision in the community may be warranted when there is evidence the parolee may be safely managed with additional services and does not pose a substantial or immediate risk to the community at this time.
 - e. Protective Factors – Consider those factors known to reduce or mitigate risk to the community. Some examples of protective factors to consider may be: meaningful employment, prosocial support systems, appropriate housing, pro-social attitude, and other stability factors.

- f. Behavioral Response Matrix - The Response Matrix is a tool available to assist in determining the most appropriate response to best assist the client as well as protecting the community.
- g. Mandatory Reportable Offenses- Is the violation one of the mandatory reportable offenses as defined above?

B. Informal/Intermediate Responses to Violations

1. Based on the case review and the Behavioral Response Matrix, the officer, in consult with the supervisor/designee, may opt to utilize informal or intermediate sanctions for parolee misconduct.
2. The intermediate sanctions should fit the severity of the violations as well as other relevant, evidence-based factors and shall be documented in ICON Field Rule Violation Incidents, Generic Notes, and the case plan, if applicable.
3. Types of Informal/Intermediate parole violation responses:
 - a. No Report (the officer is not reporting violations to the BOP, no hearing and no confinement):
 - 1) This option is used when there is a plan to address the violations informally and with local intermediate sanctions.
 - 2) Parole Violation Complaint, also known as a Preliminary Parole Violation Information (PPVI) will not be filed.
 - 3) The parolee will not be placed into custody.
 - b. **Report of Information Only** but no hearing requested the officer is informally reporting the violations to the BOP, but is not requesting a hearing or any parole confinement and no further formal action is requested.
 - 1) The officer selects "No Hearing Requested/Report of Information" under the Parole Violation Review Request. The report type will default to "Information".
 - 2) Parole Violation Complaint/PPVI shall not be filed with this type of report.
 - 3) The officer selects "No Further Action" in the drop down under

the Parole Violation Review Recommendation.

- 4) The officer's justification for this recommendation will be noted in the recommendation comments of the Parole Violation Review Request>Report of Information.
 - 5) Upon supervisory/designee approval, the No Hearing Request/Report of Information is submitted in ICON. The BOP does not typically or regularly review this report type, but the report is accessible by the BOP once it is submitted in ICON.
- c. Voluntary Placement in Residential (the parolee has a housing or stability need, and could benefit from the immediate structure of residential):
- 1) Parole Violation Complaint/PPVI will not be filed.
 - 2) When the officer wishes to request residential placement as an added condition of parole, the officer must first confirm that the specified facility will accept the parolee.
 - 3) The officer selects Placement in Residential Facility as the request; the report type then defaults to Report of Information.
 - 4) The recommendation shall be "Add Residential Condition". The recommendation comments should be brief but provide enough pertinent information regarding supervision of the parolee to justify the recommendation for placement.
 - 5) When the report is submitted upon supervisory/designee review, the officer shall schedule a hearing. The hearing is required as an administrative measure to protect the civil liberty interests of the parolee.
 - 6) In the event of an emergency voluntary placement, the hearing must be scheduled the next available business day. It may be necessary to contact the BOP's Liaison Officer for additional hearing options.

C. Formal Parole Violation Responses

1. Based on the case review and the Behavioral Response Matrix, the officer, in consult with the supervisor/designee, may opt to utilize more formal or progressive sanctions for parolee misconduct based on the severity of the violation and/or the immediate or imminent risk to the community. This formal process requires a parole violation review hearing.
2. Violations of the parole agreement are entered in ICON. Field Rule Violation Incidents may be entered manually via the Field Rule Violation Incident screen in ICON or may generate automatically as related events are recorded in ICON. Rules and behavior codes must be added to the Field Rule Violation Incidents prior to adding the Parole Violation Review Report.
3. The Parole Violation Review Report is generated in ICON. The officer selects the report type which includes the officer's recommendation for disposition.
4. The report type, Report of Violation, determines the necessity of filing a Parole Violation Complaint/PPVI. The Parole Violation Complaint/PPVI is generated in ICON.
5. A parole revocation hearing before the BOP APJ shall be necessary if it's deemed the parolee's violating behavior is significant. All violations requiring a hearing must be submitted to the BOP via a Parole Violation Review Report within five (5) business days of knowledge of the violation.
6. A Parole Violation Complaint/PPVI must be filed in order to schedule and conduct a revocation hearing. In all cases involving the filing of a Parole Violation Complaint/PPVI, the officer shall make arrangements to ensure the parolee has an initial appearance and an opportunity to request counsel before a judge, an associate judge, or magistrate without unnecessary delay.
7. It is not mandatory to recommend bond or detention on a Parole Violation Complaint/PPVI. The need for bond or detention should be based on consideration of case review factors noted above (community safety, the parolee's level of unmitigated risk, violence and victimization scales, protective factors, and the ability to manage parolee safely etc.). No bond holds should be based on serious safety and/or manageability concerns. The officer's options for release recommendations are:
 - a. Release with supervision by the officer; or

b. Setting a bond.

8. The Parole Violation Review Report must be submitted within five (5) business days of the filing of the Parole Violation Complaint/PPVI.
9. Whenever a parolee is in custody, the supervision modifier shall be updated to reflect the proper status (new charges, technical hold, or other) in the Supervision Status Information screen.
10. If a parolee is held solely on the parole violation as a technical status, the officer/designee shall conduct the parole revocation hearing within 14 calendar days, whenever possible. It may be necessary to contact the BOP's Liaison Officer for additional hearing options.

11. Types of Formal Parole Violation Responses:

- a. Absconded (parolee has kept whereabouts unknown and has been unavailable for contact for thirty (30) days or reliable information indicates flight is being taken):
 - 1) Upon receipt of information that a parolee has absconded from supervision, a Parole Violation Complaint/PPVI and proposed bench warrant are immediately presented to a judge, an associate judge, or magistrate.
 - 2) A Parole Violation Review Report with a request of Delay Action is submitted in ICON within five (5) business days of the date the Parole Violation Complaint/PPVI is filed.
 - 3) Files are retained until the parolee is apprehended and there is final closure.
 - 4) After apprehension of an absconded parolee, the Parole Violation Review Report is updated and the parole revocation hearing is conducted within fourteen (14) calendar days of the jail start date (the date the parolee is returned to the original jurisdiction where the warrant was filed), whenever possible.
 - 5) If, for some reason, a parolee is apprehended after the discharge date and has time loss available, then the hearing shall be scheduled as soon after apprehension as practicable. It may be necessary to contact the Board of Parole's Liaison Officer for additional hearing options.

b. In Custody Hearings - Parolee being held in custody on new charges and/or technical violations pending revocation hearing.

- 1) When the report is the result of a parolee's new charges, the officer may select Delay Action as the report type and withhold recommendation until disposition of the new charges if the parolee is solely being held on new charges; unless the supervising officer and/or the parolee would like to proceed with a parole hearing.
- 2) If, at any time, a parolee is being held solely on the parole violation (defined as whenever the "in jail" modifier is entered as a technical status) and the State Confinement Fund is being charged, the officer shall schedule the parole revocation hearing.
- 3) It is the general expectation to conduct the hearing within 14 calendar days of the arrest.
- 4) Hearings can be scheduled prior to the resolution of charges.
- 5) If the new charges are not resolved at the time of the parole revocation hearing, the officer will need to be prepared to prove the violations at the hearing and/or to move forward with the hearing on other violations that merit the officer's recommendation.
- 6) The officer must monitor the status of pending charges relative to a parolee's discharge date. A hearing shall be held prior to the discharge date. If there are new charges pending, but the discharge date is approaching and the officer is seeking revocation and there is not enough time to extend the discharge date beyond the resolution of the charges, a hearing shall be scheduled.

c. Written Stipulation - This process can be used in lieu of a hearing when there is a joint recommendation for a continued disposition, reinstatement, or revoke and discharge. The stipulation and waiver form needs to be signed by the parole officer, parolee, and parolee's attorney. The attorney may sign for the parolee. The Parole Violation Review Report needs to be submitted as if going to a hearing. The entire joint recommendation must be included in the signed waiver

form, including when to be released from jail. Once the form has been signed by all parties it is sent to one of the APJs for review. If approved then the APJ will issue the order. If not approved, then the parole officer will be advised to arrange for a hearing.

d. Voluntary Termination - This is used when the parolee requests to terminate his/her parole status and there are no substantive violations. A PPVI is required and a Parole Violation Review Report needs to be submitted with the violation of condition 20. After the initial appearance, the parole officer will arrange for a hearing and the parolee will need to make the request to voluntarily terminate on the record.

- 1) The parole officer investigates and ascertains the reasons for the request for voluntary return. If the reasons are due to the parolee's inability to adapt, alternatives to incarceration are explored and discussed with the parolee.
- 2) A Parole Violation Complaint is filed (citing Supervision Conduct for the required rule violation) to ensure an initial appearance is conducted. Unless there are unusual circumstances, the parolee is taken into custody.
- 3) A Parole Violation Review Request is completed citing Supervision Conduct for the required rule violation. Select revocation hearing as the hearing type. Select voluntary termination as the recommendation.
- 4) Schedule the parole hearing.
- 5) Upon execution of the order for revocation, if the parolee is not already in custody, any agent, any sheriff or peace officer of the State of Iowa is authorized and directed to commit the parolee whenever and wherever found and hold for return to IMCC or ICIW.

e. Automatic Revocation - A parolee is convicted and sentenced to a state correctional institution in Iowa for a felony or aggravated misdemeanor committed while on parole, or is convicted and sentenced to incarceration in a state correctional institution or Federal facility under the laws of any other state of the United States

or a foreign government or country for an offense committed while on parole and which if committed in Iowa would be a felony or aggravated misdemeanor, the parole shall be deemed revoked as of the date of the commission of the offense:

- 1) If a Delayed Action report type was initially submitted, the officer updates the Parole Violation Review Report upon final disposition of charges and selects Automatic Revocation as the recommendation.
 - 2) The file-stamped sentence order and trial information for the new charges are scanned into Parole Violation Review Attachments.
 - 3) There is no revocation hearing. The Board of Parole issues an order of revocation accordingly.
 - 4) At the conclusion of the automatic revocation process, the APJ will issue the Revocation Hearing Finding of Fact & Order. If a Parole Violation Complaint/PPVI has been filed, the parole officer shall file the Order with the Clerk of Court to close the Court file and ensure any outstanding warrants are quashed.
- f. Out of Custody Hearing - Report violation to the BOP with a hearing request, but no confinement pending hearing.
- 1) This may occur when a parolee has bonded out or released from custody pending parole revocation hearing.
 - 2) This may also occur when the violating behavior was significant; however, the officer determined that the parolee can be safely managed in the community or risk can be mitigated pending the hearing and the recommendation shall NOT be to revoke.
 - 3) Any time there is an out of custody hearing, the officer shall make arrangements to have appropriate staff ready to take the parolee into custody if remanded by the presiding Judge.
- g. Disposition Hearing with New Violations- Parolee had a prior hearing and the disposition was continued and the parolee committed new violations.

- 1) A new parole violation review is created with the new violation incidents.
 - 2) This allows for a new Parole Violation Complaint/PPVI to be filed.
 - 3) Parole officer must include prior Parole Violation Complaint/PPVI number and new Parole Violation Complaint/PPVI number on the report of violations.
 - 4) If the new violation is absconding, a delay action report may need to be submitted and then updated to disposition hearing with new violations once the parolee is apprehended.
 - 5) Report request type is disposition hearing with new violations. This allows for the prior hearing information to be included on the final order.
- h. Reinstate Request- Original hearing resulted in a continue disposition. Parolee has completed the requirements ordered at the prior hearing and no new violations or minor violations have occurred and parole officer is requesting the parole status to be reinstated.
- 1) This request is only made if a prior hearing resulted in a continue disposition and must be submitted prior to the parolee's discharge date. If the prior hearing resulted in a continue hearing, then the original report must be scheduled for hearing.
 - 2) A new parole violation review is created, and the report request is reinstate. This becomes a report of information and allows the prior hearing information to be selected so it is included on the final reinstatement order.
 - 3) Parole officer must include information regarding parolee's supervision since the previous hearing and any other information that would be relevant for the APJ to review before issuing the reinstatement order.
 - 4) The reinstate request is submitted and reviewed by the APJ there is no hearing scheduled.

D. Formal Violation Hearing Process and Procedure

1. Following submission of the Parole Violation Review Report in ICON, the officer will schedule the hearing by clicking Links to access the Parole Revocation Hearing Scheduling Screen.
 - a. If a hearing is already scheduled and the Parole Violation Review Report needs to be updated, the hearing must be removed from the scheduling screen and then rescheduled after the completion of the update due to the seven (7) day notice requirement. If the hearing is within two (2) days, an ICON Master Trainer or supervisor must remove it from the scheduling screen.
 - b. The Notice of Parole Revocation Hearing is generated in ICON after scheduling the hearing.
2. If the officer is considering a recommendation for treatment or revocation to work release, the treatment referral or work release screening should occur prior to the revocation hearing, whenever possible, as the Board of Parole's APJ will need to know the status of the referrals at the time of the hearing. This will prevent denial of work release placements after the hearing and will ultimately save staff time and unnecessary confinement. Parolees who have been revoked to work release shall be considered priority placements and shall be placed at the top of residential facility waiting lists.
3. The revocation hearing shall be held in any county in the same judicial district in which the parolee had the initial appearance, or in the county from which the Parole Violation Complaint/PPVI and warrant for arrest was issued. If the parolee is being held in any other judicial district a waiver of jurisdiction would be required at the time of the hearing.
4. The supervising officer prepares for the revocation hearing and is responsible for the following:
 - a. Coordinating and scheduling location, security and control of the parole hearing;
 - b. Preparing notice of hearing forms and causing the notice to be served;
 - c. Notifying the parolee's attorney of record of the hearing date, time, and place and of continuances;

- d. Notifying all necessary state witnesses of the hearing date, time and place and notifying the parolee or the parolee's attorney of requested witnesses;
 - e. Processing any required subpoenas on behalf of the state;
 - f. Ensuring all relevant evidence, state documents, forms, and materials are available at the hearing and were made available to the parolee or the parolee's attorney seven (7) days prior to the hearing unless designated confidential as defined in Administrative Code 205.
 - g. Attending the hearing;
 - h. Arranging security for post-hearing transfer of the parolee in the event incarceration is ordered.
5. The parolee and the parolee's attorney must be served the Notice of Parole Revocation Hearing which informs the parolee of the purpose of the parole revocation hearing and the rights to which the parolee is entitled along with the Parole Violation Review Report and the Waiver of Legal Counsel, Waiver of 7 Day Notice, Waiver of Personal Appearance at least seven (7) days prior to the parole revocation hearing unless the parolee waives the right to seven (7) days' advance notice.
- a. These forms are generated in ICON.
 - b. Waivers and notice will be confirmed on record at time of hearing.
 - c. Updates to the Parole Violation Review Report must also be served on the parolee and attorney.
 - d. A listing of attorneys is located in ICON under Maintenance-Legal People.
6. Subpoenas may be requested by the parolee, the parolee's attorney, parole officer or Board of Parole staff.
- a. Subpoenas may be issued to require the attendance of witnesses or the production of documents at parole revocation hearings.
 - b. If a report of violation is submitted at the time of subpoena request, the report must be updated with witnesses added and

then resubmitted so all parties are aware of additional witnesses.

- c. Attorney or parolee requests for subpoenas are submitted to the parole officer to request in ICON in the Parole Violation Review Witness section.
 - d. Rationale/nature of testimony regarding the violation must also be provided and included in the comments section.
 - e. Subpoenas are issued at APJ's discretion and if there are questions regarding witness testimony, the Board of Parole may contact requesting parties to provide additional information.
 - f. Hearing must be scheduled prior to requesting a subpoena.
 - g. In the event witnesses have been subpoenaed and a hearing must be rescheduled with the APJ's approval, an ICON Master Trainer or supervisor must be contacted if this occurs within the ten (10) days preceding the scheduled hearing. New subpoenas must be requested and the officer remains responsible for notifying the parties of the rescheduled hearing date.
7. Witnesses who refuse to attend the hearing either because they would be subjected to risk of harm if their identities were disclosed or who fear for their safety should they attend the hearing are interviewed by the officer prior to the hearing.
- a. The witness information and reasons for fear are documented in writing in parole violation witness section after parole violation review report is submitted and carefully labeled as CONFIDENTIAL as defined in Administrative Code 205. This allows the Judge to review and rule without disclosing the confidential information to the parolee or other parties.
 - b. The officer must assess if this testimony is necessary to proceed with the hearing on parole violations.
 - c. If there are other alleged violations that merit a recommendation of revocation, this testimony may not be necessary.
 - d. The APJ or hearing officer determines whether good cause exists to excuse the witness from attendance and documents the decision reasons.

8. Continuances may be granted by the APJ for good cause shown, either upon APJ's own motion or upon request of a party.
 - a. A party's request for continuance is made in writing, prior to the hearing.
 - b. Each party must present the other with the request for continuance and an argument (statement) in agreement or in objection of the continuance.
 - c. The officer then furnishes this information to the Board of Parole via e-mail.
 - d. Each party is granted only one (1) continuance, except that in the cases of extreme emergency as determined by the presiding APJ, further continuance may be granted.
 - e. If a party is opposed to the continuance, a mechanical recording of the argument is conducted.
9. A parolee who is found guilty of a new offense or who pleads guilty to a new offense, including simple misdemeanors, has no right to the adjudication of that specific violation during the parole violation hearing.
10. At the conclusion of the hearing the APJ will issue the Revocation Hearing Findings of Fact and Order. The Parole Officer shall file the Order with the Clerk of Court to close the Court file.
11. If the parolee is revoked to prison, the officer shall communicate this with the jail and forward all necessary documentation so arrangements for immediate transport of the parolee can be made to the designated prison reception center.