

Sixth District Department of Correctional Services Policy		Issue Date 04/14/17	Effective Date 09/09/22	Policy Number 705-22
Subject <b>PAROLE VIOLATION REVIEW &amp; REVOCATION PROCESS</b>		Review Month December	Author 0600 (DKO)	
Rescinds 705-20	References Iowa Administrative Code 201-45.4 & 205-11;; ICON Business Rules; Iowa Code 906.2; 908.1; 908.2, 908.10; 908.10A			

**POLICY:**

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 encouraged; however, the parolee is also held accountable for violations. Staff remain attentive to the impact of detainment of parolees on the State Confinement Fund and parolees' civil liberty interests and consider intermediate sanctions, interventions and all other alternatives to revocation, whenever possible, and utilize parole revocation only when necessary. Staff work collaboratively with other criminal justice organizations, community agencies, the parolee and support system to promote public safety and successful outcomes.

**DEFINITIONS:**

1. Violation - Breach of the Parole Agreement.
2. Iowa Corrections Offender Network (ICON) – The computer system utilized by the State of Iowa to maintain data on offenders.
3. Mandatory Reported Violations - Those violations required to be reported to the Board of Parole (BOP) in writing within five (5) business days of knowledge.
  - A. Violation of any federal or state laws which are a felony or aggravated misdemeanor in the State of Iowa;
    - 1) The officer may opt to submit a Report of Information to the Board of Parole to report a new aggravated misdemeanor offense of Driving while Barred. When submitting a Report of Information, filing a Parole Violation Complaint/PPVI is not required.
  - B. Any violent, assaultive or threatening conduct;
  - C. Possession, control or use of any firearms, imitation firearms, explosives or weapons as defined in federal or state statutes;
  - D. Any unapproved contact with victims or victims' family. Any unapproved contact with a minor;

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**DEFINITION:** (continued)

- E. 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.
- 4. Parole Violation Review – The reporting mechanism in ICON to begin building the record of violating behavior.
- 5. Parole Violation Review Request (Report Type in ICON) - The type of action the supervising officer is requesting in response to the violation(s).

Refer to the ICON Help link on the Parole Violation Review and Parole Revocation Hearing Scheduling screens for step-by-step instructions for various report types.

Report types are as follows:

- A. Report of Information (ROI)
  - 1.) Delay Action (Hearing not scheduled at this time)
  - 2.) Placement in Residential Facility
  - 3.) Probable Cause Hearing (Interstate Compact parole cases)
  - 4.) Reinstatement Order (No hearing scheduled)
  - 5.) Voluntary Termination
  - 6.) No Hearing Requested
- B. Report of Violation (ROV)
  - 1) Automatic Revocation (No hearing scheduled)
  - 2) Disposition Hearing with New Violations
  - 3) Schedule Revocation Hearing
- 6. Administrative Parole Judge (APJ) – The Administrative Law Judge who presides over a parole revocation hearing.

**PROCEDURE:**

- 1. Case Review:
  - A. In order to determine the parolee's current risk level, the officer updates required assessments as necessary.
  - B. The officer and supervisor/designee review the case to make evidence-based, informed decisions regarding the proper response to the violations and the need for detention. The following is considered in determining a course of action:

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- 1) Risk Factors - The officer assesses the immediacy 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.
  - 2) Needs - The identified needs of the parolee and the methods the needs are being addressed.
  - 3) Nature of Violation(s) – The violation is willful, blatant and recurring or the parolee is refusing to abide by non-negotiable terms of the parole agreement. The emphasis is on the relationship of the current violation(s) to the nature of the parolee’s original offense.
  - 4) Manageability in the Community - Consider the parolee as a whole based on many factors such as progress on supervision, cooperative attitude, and immediate risk to the community that cannot be mitigated by higher levels of interventions or increased monitoring such as electronic monitoring, curfews, treatment, 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.
  - 5) 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.
  - 6) Mandatory Reportable Offenses - The violation is one of the mandatory reportable offenses as defined above.
  - 7) Behavioral Response Matrix – The response Matrix is a tool available to assist in determining the most appropriate response to violating behavior.
2. Informal/Intermediate Responses to Violations:
- A. Based on the case review, the officer, in consult with the supervisor/designee, may opt to utilize informal or intermediate sanctions for parolee misconduct that is not required to be reported to the BOP.
  - B. The intermediate sanctions fit the severity of the violations as well as other relevant, evidence-based factors and are 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

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- and with local intermediate sanctions.
- 2) Parole Violation Complaint, also known as a Preliminary Parole Violation Information (PPVI) is not filed.
  - 3) The parolee is not placed into custody.
- B. Report of Information (the officer is informally reporting the violations to the BOP, but not requesting a hearing or confinement and no further formal action is requested):
- 1) The officer selects No Hearing Requested/Report of Information as the request; the report type then defaults to Report of Information.
  - 2) Parole Violation Complaint/PPVI is not filed.
  - 3) The officer's justification for this recommendation is noted in the recommendation comments of the Parole Violation Review Request ► Report of Information.
  - 4) The parolee's response to the alleged violations is noted in the Parole Violation Review Request ► Report of Information.
  - 5) Upon supervisory/designee approval, the Parole Violation Review Request ► Report of Information is submitted in ICON. The BOP does not routinely review this report type, but the report is accessible by the BOP once it is submitted in ICON.
  - 6) If the parolee adequately complies with the intermediate sanctions, the report type is updated with the request type of No Hearing Requested to complete the Parole Violation Review record in ICON.
  - 7) If the parolee does not comply with intermediate sanctions, this report type is updated to a Report of Violation and proceeds to a formal parole revocation response.
- 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 is not filed.
  - 2) When the officer wishes to request residential placement as an added condition of parole, the officer first confirms that the specified facility accepts 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 is Add Residential Condition. The recommendation comments are brief, but provide enough pertinent information to justify the recommendation for placement.

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- 5) When the report is submitted upon supervisory/designee review, the officer schedules 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 is scheduled the next available business day. It may be necessary to contact the BOP's Liaison Officer for additional hearing options.
4. Formal Parole Violation Responses:
- A. A parole revocation hearing before the BOP APJ is necessary when it is deemed the parolee's violating behavior is significant or is a mandatory reportable offense. All such violations are submitted to the BOP via a Parole Violation Review ► Report of Violation within five (5) business days of knowledge of the violations.
  - B. Violations of the parole agreement are entered in ICON. Field Rule Violation Incidents are entered manually via the Field Rule Violation Incident screen in ICON or generate automatically as related events are recorded in ICON. Rules and behavior codes are added to the Field Rule Violation Incidents prior to adding the Parole Violation Review ► Report of Violation.
  - C. The Parole Violation Review ► Report of Violation is generated in ICON. The officer selects the report type and includes the recommendation for disposition.
  - D. The Report of Violation report types requires the filing a Parole Violation Complaint/PPVI (705B). The Parole Violation Complaint/PPVI is generated in ICON (or is scanned into ICON).
  - E. A Parole Violation Complaint/PPVI must be filed in order to schedule and conduct a revocation hearing, as this transfers the jurisdiction to the BOP. In all cases involving the filing of a Parole Violation Complaint/PPVI, the officer ensures the parolee has an initial appearance and an opportunity to request counsel before a judge, an associate judge, or magistrate without unnecessary delay.
  - F. It is not mandatory to recommend a warrant with bond or detention on a Parole Violation Complaint/PPVI. Bond or detention recommendations are based on case review factors noted above. No bond holds are reserved for serious safety and/or manageability concerns. The officer's options for recommendations are release with supervision, schedule an initial appearance or setting a bond. If it is determined that custody is not necessary, the officer may opt for the parolee to report for an out of custody initial appearance. This requires the officer to coordinate the initial appearance with the Clerk of Court and the Court Administrator's office. If a parolee is arrested on a PPVI and held in custody for any length of time, a hearing is held. It is not acceptable to withdraw the PPVI without consulting the BOP Liaison Officer.
  - G. The Parole Violation Review Request is submitted within five (5) business days of

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the filing of the Parole Violation Complaint/PPVI.

- H. Whenever a parolee is in custody, the supervision modifier is updated to reflect the proper status (new charges, technical hold, or other) in the Supervision Status Information screen.
- I. If a parolee is held solely on the parole violation as a technical status, the officer conducts the parole revocation hearing within fourteen (14) calendar days, whenever possible. It may be necessary to contact the BOP's Liaison Officer for additional hearing options.
- J. Types of Formal Parole Violation Responses:
  - 1) Absconded (the parolee has kept whereabouts unknown and has been unavailable for contact for thirty (30) days or reliable information indicates flight is being taken):
    - a. 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.
    - b. A Parole Violation Review Report is submitted in ICON within five (5) business days of the date the Parole Violation Complaint/PPVI is filed. The officer selects Delay Action as the request; the report type then defaults to Report of Information.
    - c. Files are retained until the parolee is apprehended and there is final closure.
    - d. 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.
    - e. If a parolee is apprehended after the discharge date and has time loss available, then **the hearing is scheduled as soon after apprehension as practicable**. It may be necessary to contact the Board of Parole's Liaison Officer for additional hearing options.
  - 2) In Custody Hearings (the parolee is being held in custody on new charges and/or technical violations pending revocation hearing):
    - a. 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; unless the officer and/or parolee would like to proceed with a hearing.
    - b. 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

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- status) and the State Confinement Fund is being charged, the officer schedules the parole revocation hearing.
- c. It is the general expectation to conduct the hearing within fourteen (14) calendar days of the arrest.
  - d. Hearings can be scheduled prior to the resolution of charges.
  - e. If the new charges are not resolved at the time of the parole revocation hearing, the officer prepares to prove the violations at the hearing and/or to move forward with the hearing on other violations that merit a recommendation for revocation.
  - f. The officer monitors the status of pending charges relative to a parolee's discharge date. **Whenever possible, a revocation hearing is scheduled prior to the discharge date. If a parolee is arrested on a PPVI and held in custody for any length of time, a hearing is held. It is not acceptable to withdraw the PPVI without consulting the BOP Liaison Officer.**
- 3) Written Stipulation (this process may be used in lieu of a hearing when there is a joint recommendation for a continued disposition, reinstatement or revoke and discharge)
- a. The stipulation and waiver form (form #) is signed by the officer, parolee and parolee's attorney. The attorney may sign for the parolee.
  - b. The Parole Violation Review Report is completed as if a hearing is being conducted.
  - c. The entire joint recommendation is documented in the signed waiver form, including when the parolee is to be released from custody.
  - d. Once the form has been signed by all parties, it is sent to an APJ for review. If approved, the APJ issues the order. If not approved, the APJ advises the officer to move to hearing.
- 4) 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 is a felony or aggravated misdemeanor, the parole is deemed revoked as of the

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date of the commission of the offense):

- a. 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 request and recommendation.
  - b. The file-stamped sentence order and trial information for the new charges are scanned into Parole Violation Review Attachments.
  - c. There is no revocation hearing. The Board of Parole issues an order of revocation accordingly.
  - d. If a Parole Violation Complaint/PPVI was filed, the parole officer files the revocation order with the Clerk of Court to close the court file and ensure any outstanding warrants are quashed.
- 5) Out of Custody Hearing (reporting the violation(s) to the BOP with a hearing request, but no confinement pending hearing):
- a. This occurs when a parolee bonds out or is released from custody pending the parole revocation hearing.
  - b. This may also occur when the violating behavior was significant or was a mandatory reportable violation and thus a hearing is required; however, the officer determined that the parolee can be safely managed in the community pending the hearing and the recommendation is not revocation.
  - c. Any time there is an out of custody hearing, the officer makes arrangements to have appropriate staff ready to take the parolee into custody if remanded by the presiding APJ.
- 6) Disposition Hearing with New Violations (the parolee had a prior hearing resulting in a continued disposition and the parolee committed new violations):
- a. A new Parole Violation Review ► Report of Violation is created with the new violation incidents.
  - b. A new Parole Violation Complaint/PPVI is filed; if it is determined that custody is necessary. Note: The out of custody hearing option is not used if it is determined the parolee cannot be safely managed in the community or when the recommendation is for revocation.
  - c. The officer includes prior Parole Violation Complaint/PPVI number(s) and new Parole Violation Complaint/PPVI number(s) in the Report of Violation.
  - d. Report request type is Disposition Hearing with New Violations.



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This allows for the prior hearing information to be included on the final order.

- e. If the new violation is absconding, a Delay Action request is submitted and then updated to request type of Disposition Hearing with New Violations after the parolee is apprehended.
- 7) Reinstatement Request (original hearing resulted in a continued disposition. Parolee has completed the requirements ordered at the prior hearing and no new violations have occurred and parole officer is requesting the parole status to be reinstated).
- a. This request is only made if a prior hearing resulted in a continued disposition and is submitted prior to the parolee's discharge date. If the prior hearing resulted in a continued *hearing*, then the original report is scheduled for hearing.
  - b. A new Parole Violation Review Report is created with a request of Reinstatement Order. This allows the prior hearing information to be selected so it is included in the final reinstatement order.
  - c. The officer includes information regarding the parolee's supervision since the previous hearing and any other information that is relevant for the APJ to review before issuing the reinstatement order.
  - d. There is no hearing scheduled. The request is submitted and reviewed by the APJ.

5. Formal Violation Hearing Process and Procedure:

- A. Following submission of the Parole Violation Review Report in ICON, the officer schedules the hearing by clicking Links to access the Parole Revocation Hearing Scheduling Screen.
  - 1) 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 just long enough to complete the update 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.
  - 2) The Notice of Parole Revocation Hearing (705C) is generated in ICON after scheduling the hearing.
- B. If the officer is considering a recommendation for treatment or revocation to work release, the treatment referral or work release screening occurs prior to the revocation hearing, whenever possible, as the Board of Parole's APJ needs to know the status of referrals at the time of the hearing. This process prevents denial of work release placements after the hearing and ultimately saves staff time and

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unnecessary parolee confinement. Parolees who have been revoked to work release are considered priority placements and are placed at the top of residential facility waiting lists.

- C. The revocation hearing is 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 is required at the time of the hearing.
- D. The officer prepares for the revocation hearing and is responsible for:
  - 1) Scheduling location, security and control of the parole hearing;
  - 2) Preparing notice of hearing forms and serving the notice;
  - 3) Notifying the parolee's attorney of record of the hearing date, time, and place and of continuances;
  - 4) Notifying all necessary state witnesses of the hearing date, time and place and notifying the parolee or the parolee's attorney of requested witnesses;
  - 5) Processing any required subpoenas on behalf of the state;
  - 6) 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.
  - 7) Attending the hearing;
  - 8) Arranging security for post-hearing transfer of the parolee in the event incarceration is ordered.
- E. The parolee and the parolee's attorney is 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 (705D) at least seven (7) days prior to the parole revocation hearing unless the parolee waives the right to seven (7) days' advance notice.
  - 1) These forms are generated in ICON.
  - 2) Waivers and notice are confirmed on record at the time of hearing.
  - 3) Updates to the Parole Violation Review Report are also served on the parolee and attorney.
  - 4) A listing of attorneys is located in ICON under Maintenance-Legal People.
- F. Subpoenas may be requested by the parolee, the parolee's attorney, parole officer

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or Board of Parole staff.

- 1) Subpoenas may be issued to require the attendance of witnesses or the production of documents at parole revocation hearings.
  - 2) If a Report of Violation is already submitted at the time of subpoena request, the officer updates the report by adding witnesses and resubmits the report so all parties are aware of the possibility of additional witnesses.
  - 3) Attorney or parolee requests for subpoenas are submitted to the officer to enter in ICON in the Parole Violation Review Witness section. The parole officer provides the necessary information to the BOP in order to process the request prior to the scheduled hearing.
  - 4) A declaration of support of the request is submitted with the subpoena by the requesting party which shows good cause for production of the documentary evidence and specifies precisely the evidence to be produced, relevance and materiality of the evidence to the hearing, and verification that the required witness has possession or control of the documentary evidence.
  - 5) Subpoenas are issued at the APJ's discretion. If there are questions regarding witness testimony, the Board of Parole may contact requesting parties to provide additional information. The BOP is not required to pay service fees, witness fees, or witness transportation expenses.
  - 6) Hearing is scheduled prior to requesting a subpoena.
  - 7) If witnesses are subpoenaed for a hearing date that gets continued or rescheduled with APJ approval, new subpoenas are requested requiring attendance for the new hearing and the officer remains responsible for notifying the parties of the rescheduled hearing date. If this occurs within the ten (10) days preceding the scheduled hearing, an ICON Master Trainer or supervisor is contacted.
- G. Witnesses who refuse to attend the hearing either because they would be subjected to risk of harm if their identities are disclosed or who fear for their safety should they attend the hearing are interviewed by the officer prior to the hearing.
- 1) The witness information and reasons for fear are documented in writing in Parole Violation Review Witness section after the Parole Violation Review Report is submitted and carefully labeled as CONFIDENTIAL as defined in Administrative Code 205. This allows the APJ to review and rule without disclosing the confidential information to the parolee or other parties.
  - 2) The officer assesses if this testimony is necessary to proceed with the hearing on parole violations.

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- 3) If there are other alleged violations that merit a recommendation of revocation, this testimony may not be necessary.
  - 4) The APJ or hearing officer determines whether good cause exists to excuse the witness from attendance and documents the decision reasons.
  - 5) Continuances may be granted by the APJ for good cause shown, either upon the APJ's own motion or upon request of a party. Once a hearing noticed has been served, the hearing is not rescheduled without the BOP's approval. If a continuance is necessary, a motion for continuance is submitted via email (with all parties included) to the BOP. The APJ then issues the continuance order. This provides the record in ICON as to the reason for the continuance.
  - 6) A party's request for continuance is made in writing, prior to the hearing.
  - 7) Each party must present the other with the request for continuance and an argument (statement) in agreement or in objection of the continuance.
  - 8) The officer then furnishes this information to the Board of Parole via e-mail.
  - 9) 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.
  - 10) If a party is opposed to the continuance, a mechanical recording of the argument is conducted.
- H. 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.
- I. At the conclusion of the hearing, the APJ issues the Revocation Hearing Findings of Fact and Order (705E). The officer files the Order with the Clerk of Court to close the court file. In the event a PPVI was not closed; the Motion/Order Complaint Disposition (705F) can be used to accomplish that.
- J. If a Revocation Hearing Findings of Fact and Order (705E) is in need of modification or correction after the conclusion of the hearing, the parties, including the parolee's attorney, electronically notify the BOP Liaison Officer of agreement to the requested modification. This might occur, for example, if a

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parolee is ordered to complete a specific treatment program, but a suitable and timelier alternative is found.

- K. If the parolee is revoked to prison, the officer arranges for immediate transport of the parolee to the designated prison reception center.

BY ORDER OF:

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Bruce Vander Sanden, District Director

## Parole Revocation Process

### How will the Parole Revocation Process Work?

The Parole Revocation Process will become integrated with the Board of Parole with all reporting and data entry happening inside of ICON. The Process will allow for both DOC and BOP users to access the safe information and work.

Below is a workflow illustrating the Revocation Process. DOC will be responsible for all data entry except the Subpoena Processing and the Revocation Hearing Processing, which the Board of Parole will complete.

