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**Parole Warrants, Revocations and Intermediate Sanctions**

This procedure provides for a systematic method of imposing intermediate sanctions regarding parole violators and the process to request and issue Oklahoma Department of Corrections (ODOC) warrants.

I. Intermediate Sanctions

Intermediate sanctions may be utilized to address technical violations and minor law violations. (4-APPFS-2B-03)

A. Staffing (4-APPFS-2B-02)

The supervising officer and team supervisor will review the offender's current status to determine if intermediate sanctions are appropriate and if appropriate, what level of sanctions are recommended to be imposed. If intermediate sanctions are determined to be appropriate, a staffing will be held.

1. Results of the staffing will be included in the offender's record. The staffing will include the offender, officer, team supervisor, and when appropriate, any treatment provider involved with services provided to the offender.
2. The offender will be advised of violations and recommended sanctions as referred to in the rules and conditions of parole. If the offender acknowledges violations and agrees to comply with imposed sanctions, the "Imposition of Intermediate Sanctions (excluding temporary incarceration)" ([DOC 160901](#)), attached) will be completed and signed by the offender, officer and team supervisor.
3. If the violation is such that the officer and team supervisor agree that the intermediate sanctions agreed upon during the case conference are a sufficient action, the violation report will be completed outlining the recommended sanctions and documenting that the sanctions imposed are in lieu of revocation procedures being initiated.
4. The chronological record will include actions taken and sanctions imposed.
5. If after placement, the offender fails to comply with the sanctions imposed, a supplemental report will be written outlining efforts to gain compliance and the requested action.
6. If the offender refuses to acknowledge violations, a violation report will be written requesting revocation and outlining attempts to impose intermediate sanctions.

B. Intermediate Sanctions Facilities and Placement of Violators

Per 57 O.S. § 516, as amended, any offender determined to have violated any terms or conditions of parole by the supervising parole officer may be given the option, at the discretion of ODOC, to be placed in an intermediate sanctions facility for disciplinary sanction and programmatic services in lieu of revocation. All ODOC Community Corrections Centers may be utilized as intermediate sanctions facilities.

1. If the supervising officer, team supervisor, and assistant regional supervisor determine that the offender would benefit from placement into an intermediate sanctions facility, a recommendation for a specific amount of time, not to exceed 30 days, will be made to the deputy director.
2. Prior to placement, the supervising officer shall ensure that the offender is advised that he/she will be subject to compliance with all rules and policies of the intermediate sanction facility, to include [OP-090110](#) entitled "Work Release," if the offender is to maintain employment during the term of the placement.
3. Prior to placement, the supervising officer will ensure updated assessments are conducted indicating program need and programming is available at the proposed confining facility. If the recommended programs are not available at the facility but are available in the community and the offender has been participating in such program prior to placement, the offender will be allowed to continue participation. Transportation to programs will remain the offender's responsibility with the approval of the facility.
4. The offender will meet all eligibility requirements of the proposed confining facility as defined in [OP-060204](#) entitled "Inmate Transfers." The offender shall be advised of travel restrictions, visitation procedures and property procedures/restrictions. Under no circumstances will an offender be allowed to possess any mode of personal transportation, cell phones or pagers.
5. Upon concurrence by the deputy director, the offender will sign and date the "Imposition of Intermediate Sanctions (temporary incarceration)" form ([DOC 160901G](#), attached) and submit a copy to the director of Probation and Parole Services. The director of Probation and Parole Services, or designee, will review the recommendation and accept or modify the sanctions; the appropriate deputy director will be advised within one working day of receipt. (4-APPFS-2B-03, 4-APPFS-2B-11)
6. The officer, team supervisor and offender will sign the "Imposition of Intermediate Sanctions" form subsequent to the offender agreeing upon the sanctions and acknowledging understanding of facility rules, requirements and procedures. The sanctions will

specify that the offender agrees to the sanctions of his/her own free will and will specify that, should the sentence subsequently be revoked, the time spent at the facility is day-for-day with no additional credit. The sanctioning probation and parole office shall be responsible for advising the confining facility of any known medical needs of the offender.

7. The sanctioning deputy director will contact the receiving facility to request approval for placement. All placement requirements will be discussed and agreed upon, to include continued responsibility of the supervising officer, program placement and any special conditions imposed.
  - a. The sanctioning deputy director will ensure that a copy of the "Imposition of Intermediate Sanctions" form ([DOC 160901G](#)) and a "Consolidated Record Card" ([DOC 060211H](#)) is submitted to the receiving facility.
  - b. The deputy director of the probation and parole region imposing the sanctions will ensure that the Population Office is notified at least three working days prior to the scheduled placement in order to advise of the placement and to determine if any facility restrictions or separatees prohibit placement.
8. The supervising officer will transport or ensure transportation of the offender and his/her field file to the intermediate sanctions facility.
9. The supervising officer shall monitor progress of the offender during the term of confinement. During the term of confinement, the supervising officer shall make contact with the offender and the assigned facility case manager at least bi-monthly.
10. The director of the assigned intermediate sanctions facility shall ensure that the offender is screened by medical staff within 24 hours of arrival. (4-ACRS-4C-07)
11. While assigned to the intermediate sanctions facility, the offender shall be subject to the same privileges and restrictions as all other residents of the facility, excluding assignment to a classification or credit level and pay grade.
  - a. Upon release from the facility, the offender shall be issued a check for only the actual balance of his/her trust fund.
  - b. If the offender is employed upon placement and is to retain that employment, the offender shall be advised of restrictions and privileges associated with work release, to include

transportation requirements, verification of employment information, program support fees and mandatory savings.

12. If the offender fails to comply with the sanctions imposed, the supervising officer shall submit a supplemental report describing the offender's violations and request that a warrant be issued for the offender as per Section V. item C. of this procedure.
  - a. Upon approval, the offender shall be detained on the warrant and delivered, by the supervising officer or a regional designee, to the nearest county jail to await the revocation process as outlined.
  - b. If the offender's behavior requires immediate secure confinement, he/she may be placed in the facility's transit detention unit until a warrant can be obtained and the offender transported to the county jail.
13. If the offender is successful, the supervising officer shall ensure that the offender is appropriately released from the facility at the time specified upon placement. Should the offender's behavior justify such, the length of time originally designated may be reduced with the approval of the sanctioning deputy director.
14. Should an offender leave the intermediate sanctions facility without authorization, or fail to return to the facility from an authorized activity, the facility officer in charge shall notify the supervising parole officer.
  - a. If immediate contact cannot be made, notification shall be made to the team supervisor, deputy director assistant regional supervisor.
  - b. If the event occurs after normal business hours, on a weekend or a holiday, the sanctioning office's duty officer shall be contacted.
  - c. **Do not initiate escape procedures.** Parole offenders assigned to facilities for intermediate sanctions are not considered in-custody offenders and do not meet the definition of escape.

## II. Treatment for Parole Offenders

Parolees are eligible to receive substance abuse services through a cooperative agreement with the Department of Mental Health and Substance Abuse Services (DMHSAS). Treatment providers must be identified from DMHSAS Special Population Treatment Unit (SPTU) as providers, as long as funds are available.

A. Confidentiality

The officer will request the offender sign an "Authorization for Release of Protected Health Information" ([DOC 140108A](#)) to receive information from the agency where the offender is receiving treatment.

1. Such release shall specifically designate the Department of Corrections as the recipient of the released information. The release shall also indicate a date certain upon which the release shall expire.
2. The offender will also sign an "Authorization for Release of Protected Health Information" to the treatment provider from ODOC.
3. Releases shall be signed by the offender prior to completion of the voucher.

B. Monitoring Offender Progress

1. The officer will monitor the offender's progress toward treatment objectives as required in [OP-160103](#) entitled "Supervision of Community Offenders."
2. Periodic staffing may be conducted with the treatment provider. The officer will provide relevant information regarding the offender to the treatment provider in regard to UA results, lifestyle changes, associates, family issues, and other concerns.

III. Field Review of Warrant Requests

A. Request for Department of Corrections Warrants

All parole violation reports requesting ODOC warrants will be reviewed at the regional level taking into consideration whether or not the offender poses a threat to public safety, the type of allegation (technical or non-technical), and progressive discipline employed if applicable. (4-APPFS-2B-04)

B. Deputy Director's Responsibility

The deputy director will be responsible to review and approve all requests for ODOC warrants. This responsibility may only be delegated to the assistant regional supervisor.

IV. Warrant Requests to the Executive Revocation Administrator

A. Documentation for Warrant Request

A parole violation report requesting issuance of an ODOC warrant will be forwarded to the parole revocation administrator with the following attachments:

1. Copy of parole certificate;
2. Copy of consolidated record card;
3. Copy of court documents relating to new charges or convictions;
4. "Chronological Records" for the past one year;
5. Technical violations will require a copy of the case plan; and
6. Any other relevant documents which will be used as evidence at the revocation hearing.

Parole warrant requests which have been approved by the reviewing authority will be sent to the parole revocation administrator's office within seven working days after submission from the supervising officer. (4-APPFS-2B-02)

B. Violation Report Alleging Absconding

In the event the parole violation alleges absconding, the following additional attachments will be forwarded:

1. "Warrant Abstract" ([DOC 050103A](#));
2. "Physical Identification Form" ([DOC 040115A](#));
3. "Parole Absconder Checklist" ([Attachment B](#), attached);
4. Presentence Investigation, if available; and
5. Visiting List, if available.

V. Issuance of Department of Corrections Warrants

A. Issuance

Normally, the warrant will be issued within three working days of receipt by the parole revocation administrator. The warrant will include the following information:

1. Offender's name with any known alias names;
2. Race, gender and date of birth; and
3. Social security number.

B. Warrant Not Issued

1. A letter of denial will be sent to the requesting region by the parole revocation administrator within three working days of the decision listing the reason(s) for denial.

A warrant request log will be kept for all requests.

C. Process to Execute Department of Corrections Warrant

The following process will be executed upon the issuance of an agency warrant by the parole revocation administrator:

1. The parole revocation administrator forward a copy of the warrant to the deputy director or designee:
2. The deputy director or designee will ensure the ODOC warrant is lodged with the appropriate authority upon apprehension of the offender. If the offender is in custody at the time the warrant is issued, the warrant will be forwarded to the holding facility.
3. If NCIC placement is requested, the parole revocation administrator will forward the warrant to the Fugitive Apprehension and Investigation's office and request such placement.
4. ODOC warrants are non-bondable.

D. Procedures to Copy Department of Corrections Warrant

The executive revocation administrator will be notified any time an additional copy of the ODOC warrant is sent to another agency.

VI. Issuance of Emergency Department of Corrections Warrants

A. Emergency Warrant Request

Prior to requesting an emergency warrant, the parole officer will consult with the team supervisor and define the reason for the emergency warrant. If the team supervisor determines that an emergency exists, the deputy director will be notified through the chain of command. The deputy director will make the decision to request an emergency warrant.

B. Deputy Director's Responsibility

If the deputy director determines that an emergency exists, the parole revocation administrator will be contacted to request an ODOC warrant be issued immediately.

C. Emergency Request Documentation

The following information is necessary for the parole revocation administrator to consider an emergency warrant request:

1. Copy of the parole certificate or information from the certificate;
2. Current discharge date;
3. Verbal, detailed description of the violation and why the situation is considered to be an emergency; and.
4. Location of the offender.

A complete warrant packet will be forwarded to the executive revocation administrator no later than two working days after verbal notification.

D. Executive Revocation Administrator Responsibility

Upon issuance of an emergency warrant, the executive revocation administrator will forward a copy of the warrant to the deputy director who will ensure a hold is placed on the parolee, if applicable.

E. Emergency Contact Information

The parole revocation administrator and designee's contact number will be maintained by the region and ODOC duty officer.

VII. Withdrawal of Department of Corrections Warrants

A. Reviewing Authority Withdrawal

When the deputy director determines it is in the best interest of justice to withdraw the ODOC warrant, a "Special Report", utilizing the "Case Report" form ([DOC 160301B](#)), outlining the reasons for withdrawal will be submitted to the parole revocation administrator.

B. Emergency Withdrawal

In the event of an emergency, the deputy director will contact the parole revocation administrator advising of the decision to withdraw the warrant. Withdrawal to release the offender from custody will be coordinated through the parole revocation administrator. The special report will follow within two working days.

C. Executive Withdrawal

After the revocation process is completed and upon receipt of a certificate of revocation of parole signed by the revoking authority, the parole

revocation administrator will withdraw the warrant and notify the facility and probation and parole regional office. Upon receipt of the certificate of revocation, the facility or regional office will calculate the time remaining based upon the revocation.

#### VIII. Apprehended Offender/Notification of NCIC Cancellation

- A. When an offender on NCIC has been apprehended and communication has been established between the regional office and the holding facility, the regional office will ensure an NCIC cancellation notice is sent to the office of Fugitive Apprehension and Investigations.
- B. Offenders may be placed in local detention facilities as a result of alleged violations of the Rules and Conditions of Parole only after the issuance of an ODOC warrant.

#### IX. Parole Revocation Procedures

The parole revocation process begins once the offender has been apprehended and the ODOC warrant has been lodged. Hearing notices will only be served after a warrant is issued. The parole revocation process consists of two parts. The first part determines whether or not probable cause exists. If probable cause is determined to exist, the second part consists of the executive revocation hearing and decision by the revoking authority.

In the case of an interstate compact offender, all requests of the sending state will be honored in conducting a probable cause hearing. The conduct of a probable cause hearing will be followed and the recommendation forwarded to the sending state through the Interstate Compact Offender Tracking System (ICOTS). (4-APPFS-2A-16) The Interstate Commission for Adult Offender Supervision Probable Cause Hearing Guide and forms will be utilized.

If the offender is sentenced and incarcerated in another state or federal penal facility, the notices will be forwarded to the facility for service within four days of notification of the offender's location. If the offender waives the right to hearings, the file will be forwarded to the executive parole administrator for processing. If the offender requests a hearing, the hearing will be conducted upon the offender's return to the agency's custody. If the offender is being detained in another state for pending charges or on the parole violation warrant, the hearing notices will be served when the offender is returned to an Oklahoma county jail and/or the custody of the ODOC or the offender is sentenced and incarcerated in another state or federal penal facility.

##### A. Hearing Notices (4-APPFS-2B-08)

The supervising officer will serve the offender with hearing notices within four days of the warrant being served and/or lodged with the detaining authority. The supervising officer will prepare two sets of appropriate hearing notices and ensure any related documents are attached. The notices will include the offender's full name and ODOC number as listed

on the parole certificate and all case numbers and counties of conviction that are subject to revocation.

All alleged violations will be listed on the hearing notices. The hearing notices will be reviewed by the officer's reviewing authority. The supervising officer will be responsible for serving all hearing notices.

The "Notice of Executive Revocation Hearing" ([DOC 160901A](#), attached) will be prepared by the supervising officer for delivery to the offender in conjunction with the "Notice of Finding of Probable Cause" ([DOC 160901B](#), attached) or "Notice of Probable Cause Hearing" ([DOC 160901C](#)). This notice will be served in the event that a "Notice of Finding of Probable Cause" has been made or in the event the offender waives the probable cause hearing. If the offender desires a probable cause hearing, the "Notice of Executive Revocation Hearing" will be reserved for delivery at the conclusion of the probable cause hearing if probable cause was found to exist.

1. "Notice of Finding of Probable Cause" (New Conviction Only)
  - a. "Notice of Finding of Probable Cause" is only completed when the only allegation is a new conviction(s). Technical violation(s) will not be listed on this form. A new conviction is prima facie evidence that a city, state or federal law has been violated by the offender.
  - b. In preparing this notice the supervising officer will list city/county of new offense, case number, jurisdiction, date new offense committed, date of new offense conviction, and sentence received.

The supervising officer will, under the alleged violation, complete this section, as follows:

(Example:)

**Rule Alleged Violation**

2 Offender (**Name**) committed the offense of (**Crime**) on (**Date New Offense Occurred**), (**\_\_\_\_\_**) County/City, **Case # \_\_\_\_\_**. On (**Date of New Conviction**), he/she received (**New Sentence**). This offense occurred during offender (**Name**) parole supervision.

- c. The supervising officer will attach to the hearing notices all information sheet(s)/indictment(s) and judgment and sentences or summary of facts related to the new conviction(s), along with a parole certificate and the front

and back of the "Consolidated Record Card (CRC)" ([DOC 060211H](#)).

- d. This evidence will be given to an impartial hearing officer from either the administrative staff or a field officer, to conduct the probable cause hearing. The hearing officer will not have been involved in supervision of the offender or the recommendation for revocation. (4-APPFS-2B-09)
  - e. The hearing officer, if probable cause is found, will sign and date all copies of the "Notice of Finding of Probable Cause" and return to the supervising officer. One copy of the "Notice of Finding of Probable Cause", with all attachments, will be delivered to the offender by the supervising officer.
2. "Notice of Probable Cause Hearing" (Technical Violations and/or Violation of Law with No Conviction or Technical Violations and Violation of the Law with Conviction)
- a. The supervising officer will prepare "Notice of Probable Cause Hearing" to include: violated rule number, how the offender allegedly violated such condition of parole and evidence to be presented.

(Example)

<b>Rule</b>	<b>Alleged Violation</b>	<b>Evidence To Be Presented</b>
6	Offender (Name) has used or possessed illegal drugs or alcohol.	Violation Report, Record of Chemical Abuse Testing, Probation Officer (Name) Testimony.

- b. The probable cause hearing will be completed within 14 calendar days of notification of detention on the ODOC warrant. (4-APPFS-2B-05)
  - (1) The probable cause hearing will be scheduled at least ten calendar days following notification to allow the offender to contact witnesses.
  - (2) The offender may waive the ten day preparation time, but the hearing will not be held less than three calendar days following notification to the offender. (4-APPFS-2B-08)
  - (3) The probable cause hearing will be held in or near the

community where the violation is alleged to have occurred or where the offender has been taken into custody within the state of Oklahoma. (4-APPFS-2B-06)

- c. All potential witnesses must be listed. If a witness is not listed, he/she will not be allowed to testify.

3. "Notice of Executive Revocation Hearing"

The "Notice of Executive Revocation Hearing" ([DOC 160901A](#)) will be prepared by the supervising officer for delivery to the offender in conjunction with the "Notice of Finding of Probable Cause" ([DOC 160901B](#)) or "Notice of Probable Cause" ([DOC 160901C](#)). This notice will be served in the event the offender waives the probable cause hearing. If the offender desires a probable cause hearing, the "Notice of Executive Revocation Hearing" will be reserved for service at the conclusion of the probable cause hearing.

- a. The supervising officer will list the rule number and specific allegations in accordance with Section IX.A.2. item a. of this procedure.
- b. All potential witnesses must be listed. If a witness is not listed, he/she will not be allowed to testify.

- B. Serving the "Notice of Probable Cause Hearing"

1. Two sets of notices will be delivered, signed, witnessed, and dated. Two witnesses' signatures are required on hearing notices. The officer delivering the notice will read the "Notice of Probable Cause Hearing" ([DOC 160901B](#)) and the "Parole Revocation Fact Sheet" ([DOC 160901D](#), attached) to the offender and will allow the offender to ask questions if necessary.
  - a. One set of hearing notices will be given to the offender, one set will be retained in the revocation file and a copy will be placed in the field file.
  - b. All documents relating to the allegations of parole violation will be retained with the set of hearing notices that are placed in the revocation file.
  - c. One original of the "Parole Revocation Fact Sheet" will be given to the offender and the other original will be placed in the parole revocation file.
  - d. Any waiver will be done only after it is evident that the offender understands the consequences of such an act (as

explained on the notices). If an offender is illiterate, the notices and any attachments will be explained before the offender makes a decision. (4-APPFS-2B-07)

- e. If the offender does not understand English, the notices and any attachments will be interpreted into a language the offender understands. The officer will not make a recommendation to the offender as to whether or not to waive one or both hearings or make any statement which could later be construed as an inducement to waive.
2. At any time during the process, the probable cause hearing may be delayed or postponed for good cause as deemed appropriate by the deputy director or hearing officer. Any continuance by the deputy director or hearing officer should be delivered to the offender in writing. The offender may also request a continuance by submitting a written request. (4-APPFS-2B-07)
  3. The offender will be advised of the hearing process as follows:
    - a. During the probable cause hearing, evidence concerning whether or not probable cause to believe a violation has occurred will be considered. Mitigation may be considered only during the executive revocation hearing.
    - b. The right to confront adverse witnesses during the probable cause hearing will require presence of all adverse witnesses as to technical violations in addition to police reports or violation reports.
    - c. The right to know allegations presented at the probable cause hearing which will limit evidence to those specific allegation(s) listed on the "Notice of Probable Cause Hearing" ([DOC 160901C](#)).
    - d. The executive revocation hearing will be held only if probable cause has been found that there has been a violation of parole.
    - e. The executive revocation hearing may result in finding that a violation has occurred.
    - f. A recommendation to the revoking authority will be made:
      - (1) For or against parole revocation; and
      - (2) For or against credit for street time.

C. Hearing Officer Responsibilities (4-APPFS-2B-09)

1. Each regional office will ensure an impartial hearing officer is assigned to the case. Designated as hearing officers may be:
  - a. Assistant regional supervisors;
  - b. Probation and parole team supervisors;
  - c. Senior probation and parole officers; or
  - d. Probation and parole senior case managers.
2. The probable cause hearing is an administrative hearing and not a judicial hearing. The hearing officer is responsible for maintaining control and direction of the hearing and determining whether or not probable cause exists. Probable cause is defined as reasonable grounds exist to believe the parolee committed the acts alleged and that said acts constitute a violation of the parole conditions.
3. If an offender has retained counsel, counsel shall be permitted to attend and represent the offender at the probable cause hearing. The need to appoint counsel at a probable cause hearing is to be made on a case-by-case basis as established in Gagnon vs. Scarpelli, 411 U.S. 778 (1973), based on the offender's ability to understand and present the case.
  - a. The hearing officer shall inform the offender that he or she has a right to request counsel. Among the factors to be considered by the hearing officer when deciding whether or not to appoint counsel are whether the offender makes a request for counsel based on a timely and colorful claim:
    - (1) that the offender has not committed the alleged violation of the conditions upon which he or she is at liberty, or
    - (2) that, even if the violation is a matter of public record or is uncontested, there are substantial reasons which justified or mitigated the violation and make revocation inappropriate, and the reasons are complex or otherwise difficult to develop or present.Additionally, the hearing officer shall consider, especially in doubtful cases, whether the offender appears to be capable of speaking effectively for him or herself.

In every case in which a request for counsel at a probable cause hearing is requested and denied, the grounds for the denial shall be stated succinctly in the record.

- b. Deputy directors will ensure community resources are developed to provide volunteer counsel when necessary for probable cause hearings.
  - c. If the offender chooses to cancel the assistance of counsel, formal written waiver of counsel assistance is required. If, in the judgment of the hearing officer or deputy directors, the offender is unable to knowingly and intelligently waive such assistance, the hearing officer or deputy director may ensure that appointed counsel is provided.
  - d. For executive revocation hearings, the determination for appointment of counsel will be left to the executive hearing officer.
4. If the parole revocation is based on witness presentation of adverse information, he/she will be available for questioning at the hearing.
- a. If the hearing officer determines that there is substantial and compelling evidence that the identity of a witness may subject him/her to risk or harm, the witness need not be subjected to confrontation and cross-examination. Such circumstances will be documented as part of the probable cause hearing report.
    - (1) The risk of harm may be demonstrated by:
      - (a) An overt or covert threat to the witness;
      - (b) Implicit threats; or
      - (c) Circumstances which create a reasonable likelihood that harm would result.
    - (2) The hearing officer will inquire into facts and circumstances, document them, and make a specific finding in the record.
    - (3) The hearing officer will review all information submitted as confidential and should be satisfied with the reliability, a statement of reliability will be documented in the record. Material that is public information cannot be considered confidential.

Because of the lack of confrontation and cross-examination by the offender, the hearing officer will be especially careful to scrutinize the evidence supplied by the witness utilizing the following method:

- (a) A personal examination of the witness;
- (b) An affidavit statement signed by the witness;
- (c) A tape recording; or
- (d) A witness present at the hearing who actually interviewed the confidential witness.

The more diluted the statements of the witness become, the less reliable the testimony and the more acute the lack of confrontation and cross-examination becomes.

- b. If any part of this inquiry is done during the course of the hearing with the offender or the offender's attorney present, extreme care must be taken by the hearing officer to avoid accidental or unwitting disclosure of the witnesses' identities.
  - c. The hearing officer will take all reasonable steps to preserve the confidentiality of the information by separating it from the rest of the record and clearly marking it confidential. The offender will be notified if confidential information is considered and also whether the information was relied on in making the decision.
5. Evidence presented is not restricted to rules of evidence as in a courtroom situation. Weight and credence given to evidence or testimony presented is left to the hearing officer's judgment, but the reasons relied on for acceptance or rejection will be clearly stated.

**D. Conducting the Probable Cause Hearing**

The hearing will be recorded in its entirety and the probable cause hearing officer will protect the record. The supervising officer will ensure security is maintained throughout the hearing. The supervising officer will ensure that the offender is handcuffed and transported to and from the hearing room. Individuals will be admitted to the hearing based upon their contribution regarding the allegations. After all interested parties are present and security is ensured, the hearing officer will open the hearing. The hearing officer will ensure that each witness, prior to giving testimony, states their name and relationship to the offender.

**1. Begin Recording**

- a. "This is a probable cause hearing for \_\_\_\_\_ (offender's name and DOC#), who is on parole for \_\_\_\_\_ (case #(s) and county). The hearing is being held at \_\_\_\_\_ (place

of hearing) at \_\_\_\_\_ (date and time).”

- b. Identify the hearing officer, offender, supervising officer, and all other parties present (attorneys, witnesses, security, observers, etc.):

“This proceeding is an executive rather than a judicial function. The probable cause hearing is part one of a two-part process. As hearing officer, it is my responsibility to offer, as a result of the information supplied in the course of this hearing, a finding as to whether there is probable cause to believe the offender has committed a parole violation. Probable cause is defined as reasonable grounds exist to believe the parolee committed the acts alleged and that said acts constitute a violation of the parole conditions. It is not necessary to prove an allegation beyond a shadow of a doubt. I do not represent the final authority. The executive hearing officer will make a recommendation, however, the Governor is final authority in revoking parole.”

(If an attorney is present, read the following statement:)

“This is not a court of law and rules of evidence do not apply. Do you understand the rules under which this hearing will be conducted? Any disruption of this hearing or failure to comply with these rules will result in removal from the hearing.”

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ the State of Oklahoma has scheduled this probable cause hearing to be conducted at/ in \_\_\_\_\_ County, Oklahoma. Subject of this hearing is \_\_\_\_\_, # \_\_\_\_\_, whose parole was granted on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ by the Governor or Pardon and Parole Board of the State of Oklahoma.”

- c. The officer will present the offender’s parole certificate:

“This certificate is documented evidence of this parole as agreement to the rules and conditions of parole contained therein. \_\_\_\_\_, # \_\_\_\_\_, please acknowledge that this is your parole certificate and that it is your signature on the parole certificate.”

- (1) If the offender REFUSES TO ACKNOWLEDGE SIGNATURE AND CERTIFICATE, so indicate for the record and make a ruling as to the authenticity.

- (2) If the offender ACKNOWLEDGES, state for the record: "The parole certificate and signature thereon is ruled authentic."

"The purpose of this hearing is to determine, by means of the information presented, if probable cause exists to believe that this offender violated the rules and conditions of parole."

- d. Supervising officer submits notification of hearing to hearing officer at this time:

"Received at this time is a copy of the "Notification of Probable Cause Hearing" which informed the offender of the date, location, and purpose of this hearing and which was signed by the offender on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and witnessed."

"The alleged violations are as follows."

- e. The Miranda warning will be read when questioning the offender regarding any pending charges. If the offender requests an attorney, he/she should be directed to request this through the district court.
- f. Read the allegations and note the offender's admission or denial of each allegation. Each allegation will be reviewed separately.

- g. If witnesses are to testify, ask the following of each:

- (1) Name;
- (2) Relationship to offender/official position; and
- (3) "Did you hear the allegation as read aloud?"

- h. The hearing officer will ask the supervising officer:

"What does the state of Oklahoma have to present at this hearing to support the allegations?"

The supervising officer will answer:

"I submit violation report dated \_\_\_\_\_ and supplementals and dates supported by the following evidence/testimony.

Supervising officer will list and present physical/verbal testimony. All documents will be entered into evidence.

i. Confidential Witness Testimony

Confidential evidence will be reviewed by the hearing officer to determine the reliability of the confidential witness and whether the confidential testimony will be considered. If considered, the hearing officer will include the following written statement in the "Probable Cause Hearing Summary."

"I have independently reviewed the confidential testimony/evidence and have found that it is reliable."

j. Both the state and the offender will be allowed to present all evidence, witnesses, and cross-examine with regard to each allegation.

k. The hearing officer may ask questions for clarification and will encourage the offender to speak in self-defense, cross-examine witnesses, and review evidence.

l. After all evidence and testimony have been presented, call a short recess. Turn off the tape recorder.

m. The hearing officer's obligation will be to make a determination regarding each of the violation of rules and conditions of parole and:

(1) Complete "Probable Cause Hearing Findings" ([DOC 160901H](#), attached)

(2) Make two copies, the original will be given to offender.

(3) List allegations by rule number and evidence relied on to support or disprove.

(4) Complete a "Checklist for Probable Cause Hearing" ([DOC 160901E](#), attached) for placement in the revocation file.

2. Resume Recording

a. If probable cause exists, on any or all allegations, the hearing officer completes "Probable Cause Hearing Findings," reads the findings into the record, has the offender sign, and issues the original to the offender as written notification.

- b. If probable cause does not exist, state: "Probable cause does not exist based on the evidence/testimony presented to me in this hearing. My recommendation will be forwarded to the deputy director for further action. Your release is controlled by that authority."
  - c. Terminate hearing. Turn off the tape recorder.
3. Post Hearing Procedures (4-APPFS-2B-10)
- a. Restart the recorder
  - b. If probable cause exists on any allegation(s), the following explanation will be provided to the offender:  
  
"You are entitled to an executive parole revocation hearing to determine whether you have in fact violated the rules and conditions of parole and whether your parole will be revoked."  
  
"The purpose of the executive revocation hearing is:  
  
To examine evidence presented by ODOC that you have violated rules/conditions of your parole.  
  
You have the right to representation by your attorney or any other person. It is your responsibility to notify your witness of the date, time and place of the hearing."
  - c. The offender will be issued the "Notice of Executive Revocation Hearing" ([DOC 160901A](#)) provided by supervising officer.
    - (1) The offender will indicate whether he/she wants a hearing.
    - (2) The offender will check and initial his/her selection.
    - (3) The offender and witnesses will sign.
    - (4) The offender will be given the original copy. Two copies will be retained by the supervising officer for distribution.
  - d. Stop the recorder.
  - e. The offender's status regarding any pending charges will be determined in order to notify proper authorities of availability to transport.

- f. The hearing officer will complete a summary of the hearing on "Case Report" entitled "Probable Cause Hearing Summary."
- g. The hearing officer will compose the summary as follows:
- (1) First paragraph - the date, approximate time of hearing, location, and date offender notified of hearing. State if waiver of ten days was requested.
  - (2) Second paragraph - names of witnesses and titles/relationship that appeared on behalf of offender.
  - (3) Third paragraph - names of witnesses and titles that appeared on behalf of state.
  - (4) Fourth paragraph - opening of the hearing stating that offender acknowledged signature on the certificate.
  - (5) Paraphrase testimony of witnesses and the offender, and describe any physical evidence or documents presented. If confidential testimony was considered, it will be noted as well as a statement regarding the reliability of such evidence.
  - (6) Closing paragraph - each allegation will be addressed separately as to whether or not a violation of parole has occurred, and the reason (s) for such finding(s) should be clearly stated.
  - (7) State if offender waived the "Notice of Executive Revocation Hearing," if any pending charges are outstanding and the status of such charges, and if the offender is available for transportation.
- h. The hearing officer may recommend an alternative to incarceration to the deputy director after a finding of probable cause should the situation warrant. If the deputy director agrees, a "Special Report" will be submitted to the parole revocation administrator outlining the request for warrant withdrawal. (4-APPFS-2B-11)
- Recommendation for revocation is appropriate after less severe sanctions have been implemented without success and/or the best interest of the public would be served. (4-APPFS-2B-04)
- i. The hearing officer will identify the recording as follows:

- (1) Offender name and number;
  - (2) Date of hearing; and
  - (3) Location of hearing.
- j. The hearing officer will submit tapes, documents, and evidence along with the original copy of the probable cause hearing to the regional reviewing authority within five working days.
  - k. The reviewing authority will place the tapes, documents, evidence, and the hearing summary in the executive revocation file to be forwarded to the parole revocation administrator.
  - l. All evidence will be retained for 60 days after a decision is made by the revoking authority.

E. Preparation and Disposition of Executive Revocation File

1. The assistant regional supervisor/designee will ensure the following components are completed and included in executive revocation hearing files:
  - a. "Street Time Credit Review" ([DOC 160901F](#), attached);
  - b. Hearing notices;
  - c. Probable Cause Hearing summary (if applicable);
  - d. All court documents introduced at the hearing;
  - e. Copy of parole certificate;
  - f. "Violation Report";
  - g. "Chronological Records" for the past one year; and
  - h. Copy of "CRC."
2. Preparation
  - a. If the offender requests an executive revocation hearing, the executive revocation file containing all documents will be maintained by the supervising officer.

- (1) The supervising officer will bring this file to the executive hearing as evidence.
  - (2) A copy of all material in the executive file will be sent to the parole revocation administrator within 14 days after the probable cause hearing or the serving of the "Notice of Finding Probable Cause."
- b. If the offender waives the executive revocation hearing, the executive revocation file containing all documents will be forwarded to the parole revocation administrator within ten working days of the waiver.
  - c. The parole revocation administrator will forward all received executive revocation files to the Pardon and Parole Board by the 5<sup>th</sup> day of each month.
  - d. The parole revocation administrator will maintain a list of all pending parole revocations and will update the list to reflect the current status and location of each offender.
3. Executive Revocation Hearings
- a. Offenders who have completed the probable cause phase by way of "Notice of Finding of Probable Cause," "Probable Cause Hearing Findings" subsequent to a hearing, or a "Notice of Probable Cause Hearing" will normally be transported to the appropriate assessment and reception center (LARC/MBCC). The assistant regional supervisor will ensure the offender is transported.
  - b. A list of offenders available for revocation hearings will be forwarded to the Pardon and Parole Board.
  - c. Executive revocation hearings will be scheduled by the Pardon and Parole Board administrative office in conjunction with the parole revocation administrator's office.
  - d. The parole revocation administrator will ensure the offender, parole officer and facility are advised of the date and time of the executive revocation hearing. The offender will be served with written notice of the hearing.
  - e. All requests for continuances will be coordinated through the parole revocation administrator's office. The decision to grant or deny continuance is the authority of the parole revocation administrator.

- f. The parole revocation administrator will ensure that the supervising officer has prepared testimony for the hearing and secured all necessary documents to present as evidence prior to the executive revocation hearing.
- g. The agency's parole revocation administrator will present the ODOC case.
- h. The parole revocation administrator will ensure that the offender is notified of the revoking authority's decision.

X. References

Policy Statement No. P-160100 entitled "Purpose and Function of Probation and Parole"

OP-060204 entitled "Inmate Transfers"

OP-090110 entitled "Work Release"

57 O.S. § 516

Gagnon v. Scarpelli (411 U.S. 478)

XI. Action

The deputy directors are responsible for compliance with this procedure.

The director of Probation and Parole Services is responsible for the annual review and revisions.

Any exceptions to this procedure will require prior written approval from the agency director.

This procedure is effective as indicated.

Replaced: Operations Memorandum No. OP-160901 entitled "Parole Warrants, Revocations and Intermediate Sanctions" dated February 27, 2018

Distribution: Policy and Operations Manual  
Agency Website

<u>Referenced Forms</u>	<u>Title</u>	<u>Location</u>
<a href="#">DOC 050103A</a>	"Warrant Abstract"	<a href="#">OP-050103</a>
<a href="#">DOC 060211H</a>	"Consolidated Record Card" (CRC)	<a href="#">OP-060211</a>
<a href="#">DOC 140108A</a>	"Authorization for the Release of Protected Health Care Information"	<a href="#">OP-140108</a>
<a href="#">DOC 160201C</a>	"Termination Summary"	<a href="#">OP-160201</a>
<a href="#">DOC 160301B</a>	"Case Report"	<a href="#">OP-160301</a>
<a href="#">DOC 160901A</a>	"Notice of Executive Revocation Hearing"	Attached
<a href="#">DOC 160901B</a>	"Notice of Finding of Probable Cause"	Attached
<a href="#">DOC 160901C</a>	"Notice of Probable Cause Hearing"	Attached
<a href="#">DOC 160901D</a>	"Parole Revocation Fact Sheet"	Attached
<a href="#">DOC 160901E</a>	"Checklist for Probable Cause Hearing"	Attached
<a href="#">DOC 160901F</a>	"Street Time Credit Review"	Attached
<a href="#">DOC 160901G</a>	"Imposition of Intermediate Sanctions-(temporary incarceration)"	Attached
<a href="#">DOC 160901H</a>	"Probable Cause Hearing Findings"	Attached
<a href="#">DOC 160901I</a>	"Imposition of Intermediate Sanctions-(excluding temporary incarceration)"	Attached
<a href="#">DOC 160901J</a>	"Consideration for Indigent Status"	Attached
<a href="#">DOC 160901K</a>	"Treatment Referral Voucher"	Attached
<a href="#">DOC 160901L</a>	"Monthly Approved Treatment Referral Ledger"	Attached
<u>Attachments</u>	<u>Title</u>	<u>Location</u>
<a href="#">Attachment A</a>	"Warrant Review Checklist"	Attached
<a href="#">Attachment B</a>	"Parole Absconder Checklist"	Attached

