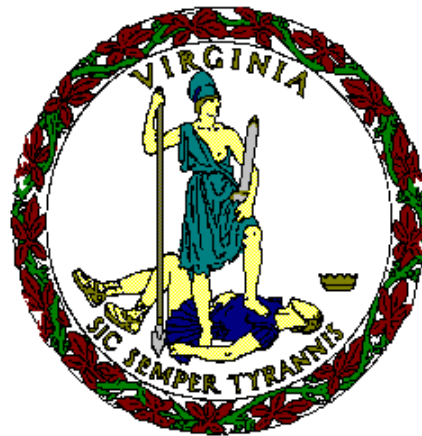


# VIRGINIA PAROLE BOARD



## POLICY MANUAL

OCTOBER 1, 2006

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## INTRODUCTION

THE VIRGINIA PAROLE BOARD IS COMPOSED OF THREE FULL-TIME AND TWO PART-TIME MEMBERS, APPOINTED BY THE GOVERNOR TO SERVE STAGGERED FOUR-YEAR TERMS AT THE PLEASURE OF THE GOVERNOR AND SUBJECT TO CONFIRMATION BY THE VIRGINIA GENERAL ASSEMBLY. ONE MEMBER IS DESIGNATED BY THE GOVERNOR TO SERVE AS CHAIRMAN OF THE BOARD. THE BOARD MAY ELECT ONE OF ITS MEMBERS AS VICE-CHAIRMAN WHO SHALL ACT IN THE ABSENCE OF THE CHAIRMAN.

IN THE EXERCISE OF THEIR QUASI-JUDICIAL FUNCTIONS OF ADULT PAROLE SELECTION, DISCHARGE OR REVOCATION, THE VIRGINIA PAROLE BOARD HAS EXCLUSIVE JURISDICTION.

PAROLE IS A PROCESS THROUGH WHICH OFFENDERS ARE PROVISIONALLY RELEASED FROM CORRECTIONAL INSTITUTIONS PRIOR TO THE COMPLETION OF THEIR SENTENCES, SUBJECT TO CONDITIONS ESTABLISHED BY THE PAROLE BOARD. THE DIRECT SUPERVISION OF PERSONS ON PAROLE IS THE RESPONSIBILITY OF THE DEPARTMENT OF CORRECTIONS.

THE GOAL OF THE PAROLE BOARD IS TO RELEASE ON PAROLE, THOSE ELIGIBLE OFFENDERS DEEMED SUITABLE FOR RELEASE AND WHOSE RELEASE WILL BE COMPATIBLE WITH THE WELFARE OF SOCIETY AND THE OFFENDER. THE PAROLE BOARD, IN CONJUNCTION WITH THE DEPARTMENT OF CORRECTIONS, STRIVES TO RESTORE WITHIN THE OFFENDER A SENSE OF SELF-ESTEEM AND PERSONAL RESPONSIBILITY AND, AT THE SAME TIME, TO SECURE ADEQUATE SAFEGUARDS ON BEHALF OF THE COMMUNITY.

THE FOLLOWING SHALL CONSTITUTE THE RULES AND POLICIES OF THE VIRGINIA PAROLE BOARD WHICH ARE PUBLISHED UNDER THE AUTHORITY OF SECTION 53.1-136.1, CODE OF VIRGINIA. WHERE THE LAW DICTATES BOARD POLICY, THE PERTINENT SECTION OF THE CODE OF VIRGINIA IS CITED IN PARENTHESES

**I. PAROLE DECISION FACTORS**

THE VIRGINIA PAROLE BOARD, IN DETERMINING WHETHER AN INDIVIDUAL SHOULD BE RELEASED ON PAROLE, IS GUIDED BY THE FOLLOWING FACTORS:

**A. COMPATIBILITY OF RELEASE (53.1-155)**

WHETHER THE INDIVIDUAL'S RELEASE AT THE TIME OF CONSIDERATION WOULD BE COMPATIBLE WITH PUBLIC SAFETY AND THE MUTUAL INTERESTS OF SOCIETY AND THE INDIVIDUAL.

**B. BASIS FOR RELEASE**

WHETHER THE INDIVIDUAL'S HISTORY, PHYSICAL AND MENTAL CONDITION AND CHARACTER, AND THE INDIVIDUAL'S CONDUCT, EMPLOYMENT, EDUCATION, VOCATIONAL TRAINING, AND OTHER DEVELOPMENTAL ACTIVITIES DURING INCARCERATION, REFLECT THE PROBABILITY THAT THE INDIVIDUAL WILL LEAD A LAW-ABIDING LIFE IN THE COMMUNITY AND LIVE UP TO ALL CONDITIONS OF PAROLE IF RELEASED.

**C. EFFECT ON INSTITUTIONAL DISCIPLINE**

WHETHER THE INDIVIDUAL'S RELEASE WOULD HAVE SUBSTANTIAL ADVERSE EFFECT ON INSTITUTIONAL DISCIPLINE.

**D. SENTENCE DATA**

1. TYPE OF SENTENCE

- A. SINGLE (INVOLVING ONE OFFENSE)
- B. MULTIPLE (INVOLVING MORE THAN ONE OFFENSE AND/OR SENTENCE)
- C. SPLIT (INVOLVING A SENTENCE TO PRISON PLUS A SUSPENDED TERM AGAINST WHICH THE OFFENDER CAN BE HELD ACCOUNTABLE BY THE COURT THROUGH PROBATION OR OTHERWISE AFTER RELEASED FROM PRISON)

2. LENGTH OF SENTENCE

3. RECOMMENDATIONS OF COURT, COMMONWEALTH'S ATTORNEY, AND OTHER RESPONSIBLE OFFICIALS

**E. PRESENT OFFENSE**

1. FACTS AND CIRCUMSTANCES OF THE OFFENSE
2. MITIGATING AND AGGRAVATING FACTORS
3. ACTIVITIES FOLLOWING ARREST AND PRIOR TO CONFINEMENT, INCLUDING ADJUSTMENT ON BOND OR PROBATION, IF ANY

**F. PRIOR CRIMINAL RECORD**

1. EXTENT, NATURE AND PATTERN OF OFFENSES
2. ADJUSTMENT TO PREVIOUS PROBATION, PAROLE AND CONFINEMENT

**G. PERSONAL AND SOCIAL HISTORY**

1. FAMILY AND MARITAL HISTORY
2. INTELLIGENCE AND EDUCATION
3. EMPLOYMENT AND MILITARY EXPERIENCE
4. PHYSICAL AND MENTAL HEALTH

**H. INSTITUTIONAL EXPERIENCE**

1. RESPONSE TO AVAILABLE PROGRAMS
2. ACADEMIC ACHIEVEMENT
3. VOCATIONAL EDUCATION, TRAINING OR WORK ASSIGNMENTS
4. THERAPY
5. GENERAL ADJUSTMENT
  - A. INTER-PERSONAL RELATIONSHIPS WITH STAFF AND INMATES
  - B. BEHAVIOR



**I. CHANGES IN MOTIVATION AND BEHAVIOR**

1. CHANGES IN ATTITUDE TOWARD SELF AND OTHERS
2. REASONS UNDERLYING CHANGES
3. PERSONAL GOALS AND DESCRIPTION OF PERSONAL STRENGTHS OR RESOURCES AVAILABLE TO MAINTAIN MOTIVATION FOR LAW-ABIDING BEHAVIOR

**J. RELEASE PLANS**

1. RESIDENCE
  - A. ALONE
  - B. WITH FAMILY
  - C. WITH OTHERS
2. EMPLOYMENT, TRAINING, OR ACADEMIC EDUCATION
3. DETAINERS

**K. COMMUNITY RESOURCES**

1. SPECIAL NEEDS
  - A. SUBSTANCE ABUSE TREATMENT AND COUNSELING
  - B. REHABILITATIVE SERVICES
  - C. INTENSIVE PAROLE SUPERVISION
2. VOLUNTEER SERVICES

**L. RESULTS OF SCIENTIFIC DATA**

1. PSYCHOLOGICAL TESTS AND EVALUATIONS
2. ~~RISK ASSESSMENT DATA~~ Revised 10/1/2006

**M. IMPRESSIONS GAINED WHEN AN INTERVIEW IS CONDUCTED**

**N. INFORMATION FROM LAWYERS, FAMILY MEMBERS, VICTIMS AND OTHER PERSONS**

~~AS OF JANUARY 1, 1992, THE VIRGINIA PAROLE BOARD HAS STRUCTURED MANY OF THE ABOVE CITED FACTORS IN A DECISION GUIDELINES MODEL CONSISTING OF 4 COMPONENTS: RISK, TIME SERVED, MAJOR INFRACTIONS AND AUXILIARY INFORMATION. THIS GUIDELINES MODEL IS A STRUCTURED INFORMATION SYSTEM TO ASSIST THE VIRGINIA PAROLE BOARD. IT IS NOT BINDING ON THE VIRGINIA PAROLE BOARD. THE VIRGINIA PAROLE BOARD DECISION IS FINAL.~~

Revised 10/1/2006

**II PAROLE CONSIDERATION POLICIES AND PRACTICES**

**A. PAROLE ELIGIBILITY**

1. PERSONS SERVING VIRGINIA FELONY SENTENCES FOR WHICH THEY ARE PAROLE ELIGIBLE, BECOME ELIGIBLE:
  - A. FOR THE FIRST TIME, AFTER SERVING ONE-FOURTH OF THEIR TERM OF IMPRISONMENT, OR AFTER 12 YEARS, WHICHEVER IS SHORTER;
  - B. FOR THE SECOND TIME, AFTER SERVING ONE-THIRD OF THEIR TERM OF IMPRISONMENT, OR AFTER 13 YEARS, WHICHEVER IS SHORTER;
  - C. FOR THE THIRD TIME, AFTER SERVING ONE-HALF OF THEIR TERM OF IMPRISONMENT, OR 14 YEARS, WHICHEVER IS SHORTER; AND
  - D. FOR THE FOURTH OR SUBSEQUENT TIME, AFTER SERVING THREE-FOURTHS OF THEIR TERM OF IMPRISONMENT, OR AFTER 15 YEARS, WHICHEVER IS SHORTER. (53.1-151; 19.2-308.1)
2. PERSONS SERVING THEIR SECOND OR SUBSEQUENT INCARCERATION FOR FELONIES

MAY BE DESIGNATED FOR EARLIER PAROLE CONSIDERATION THAN THE TIME SPECIFIED IN "B" THROUGH "D" OF THE PRECEDING SECTION IF THEY ARE REFERRED BY THE DIRECTOR TO THE BOARD FOR SUCH EARLIER CONSIDERATION. (53.1-154.1)

3. PERSONS SENTENCED TO LIFE IMPRISONMENT FOR THE FIRST TIME SHALL BE ELIGIBLE FOR PAROLE AFTER SERVING 15 YEARS. (53.1-151)
4. PERSONS SENTENCED TO TWO OR MORE LIFE SENTENCES BECOME ELIGIBLE FOR PAROLE AFTER SERVING 20 YEARS. (53.1-151)
5. PERSONS SERVING BOTH FELONY AND MISDEMEANOR SENTENCES SHALL BE ELIGIBLE FOR PAROLE ON THE COMBINATION OF SAID SENTENCES IN THE SAME MANNER AS PERSONS SERVING FELONY SENTENCES. (53.1-152)
6. PERSONS SERVING MISDEMEANOR SENTENCES IN EXCESS OF 12 MONTHS, EXCLUSIVE OF FINES, SHALL BE ELIGIBLE FOR PAROLE IN THE SAME MANNER AS PERSONS SERVING FELONY SENTENCES. (53.1-153)
7. YOUTHFUL OFFENDERS AS DEFINED IN THE CODE OF VIRGINIA SERVING SENTENCES WHICH ARE INDETERMINATE IN CHARACTER SHALL BE ELIGIBLE FOR RELEASE ON PAROLE FOLLOWING INITIAL STUDY, TESTING AND DIAGNOSIS. (19.2-313)
8. ONE-HALF OF THE CREDITS ALLOWED INMATES FOR GOOD CONDUCT MAY BE APPLIED TO REDUCE THE PERIOD OF TIME THEY MUST SERVE BEFORE BECOMING ELIGIBLE FOR PAROLE. (53.1-116; 53.1-191 THROUGH 53.1-197; 53.1-202)

**B. PERSONS NOT ELIGIBLE FOR PAROLE**

1. PERSONS SENTENCED TO DIE SHALL NOT BE ELIGIBLE FOR PAROLE. (53.1-151)
2. ANY PERSON CONVICTED OF THREE SEPARATE FELONY OFFENSES OF MURDER, RAPE, OR

ROBBERY BY PRESENTING OF FIREARMS OR OTHER DEADLY WEAPON WHEN SUCH OFFENSES WERE NOT PART OF A COMMON ACT, TRANSACTION OR SCHEME SHALL NOT BE ELIGIBLE FOR PAROLE. (53.1-151.B1)

ANY PERSON CONVICTED OF THREE SEPARATE FELONY OFFENSES OF MANUFACTURING, SELLING, GIVING, DISTRIBUTING OR POSSESSING WITH THE INTENT TO MANUFACTURE, SELL, GIVE OR DISTRIBUTE A CONTROLLED SUBSTANCE, WHEN SUCH OFFENSES WERE NOT PART OF A COMMON ACT, TRANSACTION OR SCHEME, AND WHO HAS BEEN AT LIBERTY AS DEFINED IN THIS SECTION BETWEEN EACH CONVICTION, SHALL NOT BE ELIGIBLE FOR PAROLE. (53.1-151.B2)

IN THE EVENT OF A DETERMINATION BY THE DEPARTMENT OF CORRECTIONS THAT AN INDIVIDUAL IS NOT ELIGIBLE FOR PAROLE UNDER 53.1-151.B1 THE PAROLE BOARD MAY IN ITS DISCRETION, REVIEW THAT DETERMINATION, AND MAKE A DETERMINATION FOR PAROLE ELIGIBILITY PURSUANT TO REGULATIONS PROMULGATED BY IT FOR THAT PURPOSE. ANY DETERMINATION OF THE PAROLE BOARD OF PAROLE ELIGIBILITY THEREBY SHALL SUPERSEDE ANY PRIOR DETERMINATION OF PAROLE INELIGIBILITY BY THE DEPARTMENT OF CORRECTIONS UNDER 53.1-151.B2.

3. A PERSON CONVICTED OF AN OFFENSE AND SENTENCED TO LIFE IMPRISONMENT AFTER BEING PAROLED FROM A PREVIOUS LIFE SENTENCE SHALL NOT BE ELIGIBLE FOR PAROLE. (53.1-151)
4. PERSONS SENTENCED TO DEATH WHOSE SENTENCES ARE LATER COMMUTED TO LIFE BY THE GOVERNOR ARE NOT ELIGIBLE FOR PAROLE. (OPINION OF THE ATTORNEY GENERAL ISSUED AUGUST 11, 1961)
5. FELONS CONVICTED OF AND SENTENCED FOR ESCAPE SHALL NOT BE ELIGIBLE FOR PAROLE DURING SERVICE OF THE ESCAPE SENTENCE IMPOSED. (53.1-203)

6. PERSONS SENTENCED TO LIFE IMPRISONMENT WHO ARE THEREAFTER CONVICTED BY A COURT OF LAW OF ESCAPE BECOME INELIGIBLE FOR PAROLE. (53.1-151)
7. PERSONS SENTENCED TO A FELONY OFFENSE(S) COMMITTED ON/AFTER JANUARY 1, 1995, SHALL NOT BE ELIGIBLE FOR PAROLE, EXCEPT GERIATRIC PRISONERS WHO ARE ELIGIBLE UNDER 53.1-40.01, AND SUCH REGULATION AS MAY BE PROMULGATED BY THE PAROLE BOARD.

**C. THE PAROLE INTERVIEW SCHEDULE**

1. INMATES INITIALLY ELIGIBLE FOR PAROLE CONSIDERATION SHALL BE GIVEN A PERSONAL INTERVIEW WITH A PAROLE BOARD MEMBER OR OTHER REPRESENTATIVE DESIGNATED BY THE BOARD TO CONDUCT SUCH INTERVIEW. (53.1-154)
2. PAROLE INTERVIEWS SHALL BE CONDUCTED PRIOR TO THE DATE OF ELIGIBILITY, UNLESS THERE IS REASONABLE CAUSE FOR CONDUCTING THE INTERVIEW AFTER THIS TIME. (53.1-154)
3. THE YEAR IS DIVIDED INTO CALENDAR QUARTERS FOR PURPOSES OF PAROLE CONSIDERATION SCHEDULING. (53.1-154)
4. THE CALENDAR QUARTER IN WHICH AN INMATE IS INITIALLY INTERVIEWED FOR PAROLE WILL BECOME THAT INMATE'S REGULAR REVIEW QUARTER FOR PURPOSES OF SUBSEQUENT PAROLE CONSIDERATIONS, UNLESS A SHORTER TIME IS OTHERWISE DIRECTED BY THE BOARD.
5. NO FORMAL REQUEST FOR A PAROLE INTERVIEW IS NECESSARY. ALL ELIGIBLE INMATES SHALL BE INITIALLY DOCKETED FOR CONSIDERATION FOR PAROLE UPON NOTIFICATION BY THE DEPARTMENT OF CORRECTIONS TO THE BOARD OF THEIR ELIGIBILITY AND PLACE OF CONFINEMENT.
6. INMATES ARE NOT REQUIRED TO PARTICIPATE IN THE PAROLE INTERVIEW OR TO ACCEPT DISCRETIONARY PAROLE IF GRANTED.

7. WHEN PAROLE IS NOT GRANTED, FURTHER PAROLE REVIEWS SHALL BE CONDUCTED AT LEAST ANNUALLY THEREAFTER, UNTIL THE INMATE IS PAROLED OR DISCHARGED FROM CUSTODY EXCEPT THAT UPON ANY PAROLE CONSIDERATION THE BOARD MAY SCHEDULE THE NEXT REVIEW AS MUCH AS THREE YEARS THEREAFTER, ON THE BASIS OF THE REASONS CITED FOR NOT GRANTING PAROLE PROVIDED THERE ARE TEN YEARS OR MORE, OR LIFE, REMAINING ON THE SENTENCE. (53.1-154)
8. THE PAROLE BOARD HAS CONTINUING AUTHORITY TO GRANT PAROLE ONCE ELIGIBILITY HAS BEEN ESTABLISHED. (53.1-154)
9. PERSONS WHO BECOME ELIGIBLE FOR PAROLE WHILE SERVING SENTENCES IN LOCAL JAILS SHALL BE SCHEDULED FOR PAROLE CONSIDERATION AS THEY ARE MADE KNOWN AND AVAILABLE TO THE BOARD BY THE DEPARTMENT OF CORRECTIONS.

**D. THE INTERVIEW PROCESS**

1. THE CORRECTIONAL FACILITY TO WHICH AN INMATE IS ASSIGNED SHALL BE NOTIFIED BY THE BOARD OF THE DATE(S) OF THE QUARTERLY PAROLE INTERVIEW SCHEDULE AT LEAST ONE WEEK PRIOR TO THE INTERVIEW SO THAT THE INMATE CAN BE NOTIFIED, AND APPROPRIATE ARRANGEMENTS CAN BE MADE BY THE INSTITUTION.
2. THE DEPARTMENT OF CORRECTIONS WILL MAKE AVAILABLE TO THE PAROLE BOARD A PRIVATE ROOM FOR THE PURPOSE OF CONDUCTING INMATE PAROLE PROCEEDINGS. THE ROOM SHOULD BE SEPARATE AND APART FROM AREAS ACCESSIBLE TO THE GENERAL INMATE POPULATION AND SHOULD BE ADEQUATELY FURNISHED, WITH AN ATMOSPHERE APPROPRIATE FOR CONDUCTING PAROLE PROCEEDINGS. THE ROOM SHOULD CONTAIN, AT A MINIMUM, ONE DESK, ONE COMFORTABLE CHAIR, AND NO LESS THAN THREE ADDITIONAL CHAIRS.

SECURITY SHOULD BE ADEQUATE AND THERE SHOULD BE NO DELAYS IN HAVING DOCKETED INMATES AVAILABLE FOR THE PROCEEDINGS. THE ROOM SHOULD NOT BE BEYOND THE SECOND INNER PERIMETER GATE OF THE INSTITUTION.

3. INMATES MAY PRESENT WRITTEN AND ORAL STATEMENTS AT THE INTERVIEW, AND MAY PRESENT THROUGH THE TREATMENT STAFF OTHER WRITTEN MATERIAL BEARING ON THEIR CASE FOR PAROLE. (FRANKLIN V. SHIELDS<sup>1</sup>)
4. INTERVIEWS SHALL BE CONDUCTED AT PRISONS, JAILS OR OTHER PLACES AS DESIGNATED BY THE PAROLE BOARD.
5. INTERVIEWS SHALL BE PRIVATE, EXCEPT FOR MEMBERS OF THE PAROLE BOARD, ITS DESIGNATED REPRESENTATIVES AND STAFF, TREATMENT STAFF OF THE DEPARTMENT OF CORRECTIONS, AND OTHERS AS DESIGNATED BY THE PAROLE BOARD. (53.1-154)

**E. VICTIM INPUT**

VICTIMS OF CRIMES AND/OR THEIR RELATIVES OR OTHER REPRESENTATIVES ARE ENCOURAGED TO PROVIDE THE BOARD WITH SUCH INFORMATION AS THEY CONSIDER NECESSARY OR HELPFUL TO THE BOARD IN MAKING THE DECISION IT IS REQUIRED TO MAKE IN A PARTICULAR CASE. INFORMATION MAY BE PROVIDED IN WRITTEN FORM OR THROUGH A PERSONAL APPEARANCE BEFORE A MEMBER OR OTHER REPRESENTATIVE OF THE BOARD. UPON REQUEST, VICTIMS OR OTHER INTERESTED PERSONS WILL BE NOTIFIED OF THE ELIGIBILITY AND PAROLE CONSIDERATION SCHEDULE FOR A PARTICULAR INMATE AND OF THE BOARD'S DECISION IN THE CASE. A VICTIM COULD ALSO REQUEST TO BE NOTIFIED IF THE BOARD IS INCLINED TO GRANT PAROLE. THE BOARD SHALL DEVELOP FORMS FOR PURPOSES OF SUCH REQUEST, BUT WILL RESPOND TO REQUESTS WHETHER SUBMITTED BY FORM OR NOT 53.1-155B.

**F. BOARD APPOINTMENTS**

FAMILY MEMBERS, FRIENDS, EMPLOYERS, ATTORNEYS, AND OTHER INTERESTED PERSONS, INCLUDING VICTIMS AND PERSONS OPPOSED TO THE PAROLE RELEASE OF AN INMATE, MAY MEET WITH A MEMBER, OR OTHER REPRESENTATIVE, OF THE BOARD TO DISCUSS SPECIFIC CASES AND TO OFFER INFORMATION RELATIVE TO THE PAROLE OF ANY INMATE. THESE MEETINGS SHALL BE BY APPOINTMENT ONLY.

**G. THE PAROLE DECISION**

1. BOARD DECISIONS TO GRANT OR NOT GRANT PAROLE SHALL REQUIRE THE CONCURRENCE OF NO LESS THAN THREE MEMBERS OF THE BOARD.
2. INMATES WHO ARE CANDIDATES FOR PAROLE NORMALLY WILL BE NOTIFIED, IN WRITING, OF THE BOARD'S ACTION WITHIN A REASONABLE TIME PERIOD FOLLOWING THE PAROLE INTERVIEW. THOSE WHO DO NOT RECEIVE THE BOARD'S DECISION WITHIN 60 DAYS NORMALLY WILL RECEIVE A STATUS REPORT WITHIN 60 DAYS.
3. IN CASES WHERE PAROLE IS NOT GRANTED, THE BOARD SHALL GIVE WRITTEN REASON(S) FOR ITS DECISION.
4. WHERE PAROLE IS GRANTED, THE INMATE IS NOTIFIED OF THE ACTION AND THE CASE IS REFERRED TO THE PAROLE RELEASE UNIT.
5. THE PAROLE RELEASE UNIT WILL DETERMINE THE PERIOD OF PAROLE FOR EACH PAROLEE BASED ON TIME LEFT TO SERVE FROM THE DATE OF RELEASE ON PAROLE AND SCHEDULE THE PAROLE EXPIRATION DATE CONSISTENT WITH SUCH DETERMINATION, UNLESS OTHERWISE DIRECTED BY THE BOARD.
6. THE PAROLE RELEASE UNIT WILL INVESTIGATE, OR CAUSE TO BE INVESTIGATED, THE HOME AND JOB PLAN OF THE INMATE AND APPROVE SUCH PLANS (UNLESS UNFIT AS A SUITABLE ALTERNATIVE TO CONTINUED INCARCERATION) PRIOR TO THE PAROLE RELEASE. THE PAROLE DECISION MAY BE MADE WITHOUT REQUIRING AN APPROVED HOME OR JOB PLAN.



7. WHEN DIFFICULTIES ARISE IN DEVELOPING A SUITABLE RELEASE PLAN, THE INMATE WILL BE NOTIFIED BY THE PAROLE RELEASE UNIT VIA 30-DAY STATUS REPORTS OF THE PARTICULARS OF THE CASE. THE REPORTS WILL BEGIN 30 DAYS FROM THE DATE OF THE PAROLE GRANTED NOTICE. IN THOSE CASES WHERE A SUITABLE PLAN CANNOT BE DEVELOPED WITHIN 90 DAYS OF THE DATE PAROLE WAS GRANTED, THE CASE WILL BE RETURNED TO THE BOARD FOR FURTHER REVIEW.
8. DETAINERS
  - A. WHEN DETAINERS ARE IN FORCE AGAINST INMATES, PAROLE CAN ONLY BE GRANTED TO THE DETAINER.
  - B. WHEN DETAINERS ARE BASED ON UNTRIED INDICTMENTS, AND EXPEDITIOUS DISPOSITION OF CHARGES HAS BEEN REQUESTED BY INMATES WITH SUCH DETAINERS LODGED AGAINST THEM, AND WHEN NO DETERMINATION HAS BEEN MADE WITHIN 180 DAYS OF SUCH REQUESTS, THE BOARD SHALL DECIDE THE CASE WITHOUT REGARD TO SUCH DETAINERS EXCEPT IN THOSE CASES WHERE A COURT HAS GRANTED A CONTINUANCE AT THE REQUEST OF THE INMATE OR THE INMATE'S ATTORNEY.
9. INMATES ARE ENCOURAGED TO PARTICIPATE IN THE AVAILABLE EDUCATIONAL, VOCATIONAL, AND TREATMENT PROGRAMS OFFERED BY THE DEPARTMENT OF CORRECTIONS AND THE DEPARTMENT OF CORRECTIONAL EDUCATION. AFTER THE PAROLE DECISION IS MADE, THE INMATE MAY REQUEST THAT RELEASE BE DELAYED PENDING PROGRAM COMPLETION, BY WRITING TO THE PAROLE RELEASE UNIT OF THE DEPARTMENT OF CORRECTIONS.

#### **H. PAROLE RELEASE**

THE DATE OF RELEASE ON PAROLE WILL BE SET BY THE PAROLE RELEASE UNIT. THE INMATE WILL NORMALLY BE NOTIFIED OF THE RELEASE DATE WITHIN SEVEN WORKDAYS OF THE GRANTED ACTION.

**I. RESCISSION/SUSPENSION OF PAROLE GRANT**

WHEN AN INMATE IS CONVICTED OF A LAW VIOLATION, OR IS FOUND TO HAVE VIOLATED ONE OR MORE INSTITUTIONAL RULES, OR WHERE OTHER PROBLEMS EXIST BEFORE RELEASE TO PAROLE, THE BOARD MAY SUSPEND ITS GRANTED ACTION, AND MAY THEREAFTER RESCIND THE GRANTED DECISION OR TAKE SUCH OTHER ACTION AS DEEMED APPROPRIATE. PRIOR TO A DECISION TO RESCIND PAROLE, THE INMATE SHALL BE AFFORDED AN OPPORTUNITY TO BE HEARD BY A BOARD MEMBER OR OTHER DESIGNATED REPRESENTATIVE OF THE BOARD.

THE INMATE MAY BE REPRESENTED BY AN ATTORNEY AT SUCH HEARING AND MAY PRESENT RELEVANT EVIDENCE THROUGH WITNESSES AND DOCUMENTS.

**J. MANDATORY RELEASE TO PAROLE SUPERVISION**

1. THE BOARD SHALL RELEASE TO A TERM OF PAROLE SUPERVISION ESTABLISHED BY THE VIRGINIA PAROLE BOARD ALL INMATES SERVING SENTENCES IN EXCESS OF TWELVE MONTHS WHEN SIX MONTHS ARE LEFT TO SERVE ON SUCH SENTENCE(S), PROVIDED THAT ANY SUCH INMATE HAS SERVED A MINIMUM OF THREE MONTHS OF THE SENTENCE(S). (53.1-159)
2. NOTWITHSTANDING THE IMMEDIATELY PRECEDING SUBSECTION, IF WITHIN 30 DAYS OF A DISCHARGE SCHEDULED PURSUANT TO THAT SUBSECTION, (53.1-159) NEW INFORMATION IS PRESENTED TO THE BOARD WHICH GIVES THE BOARD REASONABLE CAUSE TO BELIEVE THAT SUCH DISCHARGE POSES A CLEAR AND PRESENT DANGER TO THE LIFE OR PHYSICAL SAFETY OF ANY PERSON, THE BOARD MAY DELAY THE RELEASE FOR UP TO SIX MONTHS TO INVESTIGATE THE MATTER AND TO REFER IT TO LAW ENFORCEMENT, MENTAL HEALTH OR OTHER APPROPRIATE AUTHORITIES FOR INVESTIGATION

AND ANY OTHER APPROPRIATE ACTION BY SUCH AUTHORITIES. (53.1-159)

ANY INMATE WHOSE DISCHARGE IS SO DELAYED SHALL BE GIVEN A PROMPT HEARING REGARDING THE DELAY.

3. NO PERSON RELEASED ON DISCRETIONARY PAROLE WHO IS SUBSEQUENTLY REVOKED FROM PAROLE, SHALL BE RELEASED TO MANDATORY SUPERVISION UNTIL AT LEAST SIX MONTHS HAVE ELAPSED FROM THE DATE OF THE DECISION REVOKING PAROLE. NOR SHALL ANY PERSON REVOKED FROM MANDATORY SUPERVISION AGAIN BE RELEASED TO MANDATORY SUPERVISION ON THE SAME SENTENCE(S). (53.1-159)
4. THE VIRGINIA PAROLE BOARD SHALL UPON REVOCATION OF PAROLE PURSUANT TO 53.1-159, REQUIRE THE PRISONER TO SERVE THE FULL PORTION OF THE TERM IMPOSED BY THE SENTENCING COURT WHICH WAS UNEXPIRED WHEN THE PRISONER WAS RELEASED ON PAROLE WITHOUT REGARD TO GOOD CONDUCT CREDIT.(53.1-159)

**K. APPEALS AND REQUESTS FOR RECONSIDERATION**

1. APPEALS

UNFAVORABLE PAROLE OR REVOCATION DECISIONS OF THE BOARD MAY BE APPEALED TO THE BOARD CHAIRMAN WITHIN 60 DAYS OF THE DECISION DATE ON FORMS FURNISHED BY THE BOARD TO THE INSTITUTION, BASED ON SPECIFIED SIGNIFICANT ERROR(S) IN THE REASON(S) INDICATED FOR THE BOARD'S DECISION OR IN THE INFORMATION KNOWN TO BE BEFORE THE BOARD, OR IN THE BOARD'S APPLICATION OF ITS POLICIES AND/OR PROCEDURES IN ARRIVING AT THE DECISION. WHERE SIGNIFICANT ERROR IS SHOWN, THE CHAIRMAN WILL CAUSE A PANEL OF THREE BOARD MEMBERS TO REDETERMINE THE CASE WITH THE ERROR CORRECTED. DEFERRALS OR DELAYS IN DECISIONS ARE NOT APPEALABLE.

AN EXAMPLE OF A SIGNIFICANT ERROR IS A REFERENCE TO A PRIOR PAROLE FAILURE IN THE REASONS CITED FOR NOT GRANTING PAROLE WHEN THE INMATE HAS NEVER BEEN ON PAROLE, OR A REFERENCE TO INSTITUTIONAL INFRACTIONS AS A REASON FOR NOT GRANTING PAROLE WHEN THERE HAVE BEEN NO INSTITUTIONAL INFRACTIONS. (SEE APPENDIX II -FORMS)

2. REQUESTS FOR RECONSIDERATION

REQUESTS FOR RECONSIDERATION OF UNFAVORABLE DECISIONS MAY BE MADE TO THE CHAIRMAN BASED ON THE PRESENTATION ON FORMS, FURNISHED BY THE BOARD TO THE INSTITUTION, OF SIGNIFICANT, NEW OR DIFFERENT INFORMATION FROM THAT BEFORE THE BOARD WHEN THE CASE WAS DECIDED.

SINCE ANNUAL (OR OTHERWISE SCHEDULED) RECONSIDERATIONS OCCUR AUTOMATICALLY, SUCH REQUESTS SHOULD NOT BE BASED ON CONTINUED OR COMPLETED TRAINING OR EDUCATIONAL GOALS, GOOD CONDUCT, OR OTHER SUCH DEVELOPMENTS. AN EXAMPLE OF A SIGNIFICANT NEW DEVELOPMENT WOULD BE A CHANGE IN THE SENTENCE THROUGH A COURT APPEAL, DISCOVERY BY AN INMATE THAT HE HAS A DISABLING TERMINAL ILLNESS, OR A SUCCESSFUL APPEAL OF AN INSTITUTIONAL INFRACTION WHERE ONE OF THE REASONS CITED FOR NOT GRANTING PAROLE WAS POOR INSTITUTIONAL CONDUCT. (SEE APPENDIX II - FORMS)

**III. PAROLE CASE REPORTS AND MATERIALS**

**A. REPORTS WHEN IN STATE FACILITY**

NO PERSON SHALL BE RELEASED ON PAROLE UNTIL A THOROUGH EXAMINATION HAS BEEN MADE BY THE BOARD CONCERNING THE INMATE'S SOCIAL AND CRIMINAL HISTORY, PHYSICAL AND MENTAL CONDITION, AND THE CHARACTER, CONDUCT, EMPLOYMENT, AND ATTITUDE OF THE INMATE WHILE IN PRISON, NOR UNTIL THE BOARD HAS DETERMINED THAT

SUCH RELEASE ON PAROLE WILL NOT BE INCOMPATIBLE WITH THE INTERESTS OF SOCIETY AND THE INMATE. (53.1-155)THE EXAMINATION MAY INCLUDE PRESENTENCE REPORTS OR FIELD INVESTIGATIONS BY PAROLE OFFICERS, PROGRESS REPORTS FROM THE INSTITUTIONS, AND SUCH OTHER MEDICAL, PSYCHOLOGICAL, AND BACKGROUND REPORTS AS MAY HAVE A BEARING ON THE PAROLE DECISION.

**B. REPORTS WHEN IN LOCAL FACILITY**

IF A PERSON IS ELIGIBLE FOR PAROLE AND IS INCARCERATED IN A LOCAL CORRECTIONAL FACILITY, AND IF SUCH PERSON HAS RECEIVED A PHYSICAL OR MENTAL EXAMINATION WITHIN THE LAST 12 MONTHS AND HAS NOT REQUIRED MEDICAL OR PSYCHIATRIC TREATMENT WITHIN A LIKE PERIOD WHILE INCARCERATED, SUCH PERSON MAY BE CONSIDERED FOR PAROLE, AND IF PAROLED, RELEASED DIRECTLY FROM THE LOCAL CORRECTIONAL FACILITY, NOTWITHSTANDING THE PRECEDING PARAGRAPH. (53.1-155)

**C. BACKGROUND INVESTIGATION**

THE PREPARATION OF BACKGROUND INVESTIGATIONS AND PAROLE PLACEMENT PLANS ARE THE RESPONSIBILITY OF THE DEPARTMENT OF CORRECTIONS. BACKGROUND INVESTIGATIONS AND OFFENSE REPORTS SHOULD BE SUBMITTED WITHIN 30 DAYS OF SENTENCING TO INSURE PROMPT PAROLE CONSIDERATION.

**IV. PAROLE CASE SUPERVISION POLICIES AND PRACTICES**

**A. PAROLE CONDITIONS**

1. THE CONDITIONS OF PAROLE GOVERNING THE SUPERVISION OF PERSONS RELEASED ON PAROLE BY THE BOARD ARE ESTABLISHED BY THE BOARD. (53.1-157)

2. STANDARD CONDITIONS

THERE SHALL BE STANDARD CONDITIONS OF PAROLE IMPOSED IN EACH CASE (UNLESS WAIVED BY THE BOARD FOR GOOD CAUSE). APPENDIX 1&2

3. SPECIAL CONDITION

THE BOARD MAY ALSO IMPOSE SPECIAL CONDITIONS OF PAROLE RELATING TO TRAVEL, PROGRAM PARTICIPATION, SPECIALIZED TREATMENT OR OTHER CONDITIONS AS DETERMINED BY THE BOARD, WHICH MAY BE REMOVED BY THE PAROLE OFFICER WHEN DEEMED APPROPRIATE, HOWEVER THE BOARD MAY SPECIFY THAT CERTAIN CONDITIONS BE REMOVED ONLY WITH PRIOR APPROVAL OF THE BOARD. (SEE APPENDIX II - FORMS)

4. IN-PATIENT TREATMENT

EXCEPT AS A PART OF AN APPROVED RELEASE PLAN, NO PAROLEE SHALL BE REQUIRED TO ENTER A MENTAL HEALTH OR SUBSTANCE ABUSE TREATMENT FACILITY OF ANY TYPE, ON AN IN-PATIENT BASIS, WITHOUT HAVING BEEN EVALUATED AND APPROVED FOR SUCH FACILITY BY THE LOCAL MENTAL HEALTH AUTHORITY. AS ASSISTANCE TO THE MENTAL HEALTH AUTHORITY, THE PAROLE OFFICER ASSIGNED TO SUPERVISE THE PAROLEE, MUST MAKE AVAILABLE TO SUCH MENTAL HEALTH AUTHORITY ALL DOC INSTITUTIONAL RECORDS THAT RELATE TO TREATMENT AND/OR COUNSELING OF ANY TYPE, IMMEDIATELY UPON REQUESTING EVALUATION. ANY SUCH REQUIRED PROGRAM PARTICIPATION MUST TAKE INTO CONSIDERATION AVAILABLE RESOURCES AS WELL AS THE INMATE'S ABILITY TO PAY.

**B. PAROLE PLACEMENT**

PAROLE PLACEMENT PLANS SHALL NORMALLY INCLUDE AN APPROVED RESIDENCE AND BONA FIDE JOB OFFER. IN CERTAIN CASES AN INMATE MAY BE RELEASED WITH EMPLOYMENT TO BE SECURED UPON RELEASE. EMPLOYMENT MAY BE WAIVED IN CASES OF ADVANCED AGE, HEALTH IMPAIRMENT, OR IN SITUATIONS WHERE HOUSEKEEPING RESPONSIBILITIES OR FULL-TIME SCHOOL PARTICIPATION ARE INDICATED.

1. EVERY EFFORT WILL BE MADE TO ASSIST INMATES AND PAROLEES IN OBTAINING SUITABLE EMPLOYMENT.  
HOWEVER, THE INMATES (OR PAROLEES) ARE PRINCIPALLY RESPONSIBLE FOR OBTAINING EMPLOYMENT, AND THEIR FAMILIES AND FRIENDS ARE EXPECTED TO ASSIST IN THIS EFFORT.
2. THE PAROLE BOARD DISCOURAGES PAROLE PLANS WITH INDIVIDUALS EMPLOYED BY THE PAROLE BOARD, THE DEPARTMENT OF CORRECTIONS OR THE DEPARTMENT OF CORRECTIONAL EDUCATION.

**C. PAROLE TO OUT-OF-STATE PLAN**

PAROLE TO OTHER STATES OR TERRITORIES OF THE UNITED STATES SHALL BE IN ACCORD WITH POLICIES AND PROCEDURES ESTABLISHED BY THE STATES UNDER THE UNIFORM ACT FOR OUT-OF-STATE PAROLE SUPERVISION, COMMONLY CALLED THE INTERSTATE COMPACT. ALL 50 STATES, PUERTO RICO, THE VIRGIN ISLANDS, AND THE DISTRICT OF COLUMBIA ARE SIGNATORIES TO THE COMPACT. (53.1-166, 53.1-167)

1. PERSONS MAY NOT BE PAROLED OUTSIDE THE COMMONWEALTH OF VIRGINIA WITHOUT THE ACCEPTANCE OF THE RECEIVING STATE.
2. SUPERVISION OF VIRGINIA PAROLEES IN OTHER STATES SHALL BE IN ACCORD WITH THE RULES OF PAROLE ESTABLISHED BY THE SUPERVISING STATE AS WELL AS VIRGINIA. SPECIAL CONDITIONS MAY BE MUTUALLY AGREED UPON BY BOTH VIRGINIA AND THE RECEIVING STATE.

**D. PAROLE TO DETAINERS**

PAROLE TO DETAINERS SHALL BE IN ACCORD WITH THE POLICIES GOVERNING PAROLE GENERALLY.

1. THE STATUS OF DETAINERS WILL BE INVESTIGATED WHENEVER NECESSARY AND, SO FAR AS IS REASONABLY POSSIBLE, PRIOR TO A DECISION TO GRANT PAROLE.

2. IF AN INMATE IS OTHERWISE CONSIDERED TO BE A SATISFACTORY PAROLE RISK, PAROLE MAY BE GRANTED TO THE DETAINER.

**E. PAROLE SUPERVISION**

THE DIRECT SUPERVISION OF PERSONS ON PAROLE IS CARRIED OUT BY THE DEPARTMENT OF CORRECTIONS.

**F. PAROLE VIOLATION CHARGES AND WARRANTS**

IF A PAROLEE IS CHARGED WITH THE VIOLATION OF ANY CONDITION OF THE PAROLE RELEASE AGREEMENT, OR IS CHARGED WITH BEING OTHERWISE UNFIT TO BE ON PAROLE, AND SATISFACTORY EVIDENCE OF THE PROBABILITY OF A VIOLATION IS PRESENTED TO THE BOARD, OR A MEMBER THEREOF, A WARRANT MAY BE ISSUED BY THE BOARD, OR ANY MEMBER, AND THE PAROLEE RETURNED TO CUSTODY TO AWAIT A FORMAL PAROLE VIOLATION HEARING. (53.1-161) WARRANTS SHALL BE ISSUED OR WITHDRAWN ONLY BY THE BOARD, OR A MEMBER THEREOF, EXCEPT THAT WHEN THE HEARING OFFICER DOES NOT FIND PROBABLE CAUSE THAT PAROLE HAS BEEN VIOLATED AT A PRELIMINARY HEARING, THE WARRANT SHALL BE WITHDRAWN AND RETURNED.

1. WARRANTS SHALL BE ISSUED ONLY WITHIN THE PRESCRIBED PERIOD OF PAROLE SUPERVISION.
2. PAROLEES AGAINST WHOM PAROLE BOARD WARRANTS HAVE BEEN ISSUED, GENERALLY ARE NOT CONSIDERED ELIGIBLE FOR RELEASE ON BAIL. (OPINION OF THE ATTORNEY GENERAL OF VIRGINIA ISSUED MAY 7, 1969)
3. IF A BOARD WARRANT IS ISSUED BECAUSE OF A CHARGE OF A NEW LAW VIOLATION ONLY, THE CHAIRMAN, OR A MEMBER OF THE BOARD SHALL, UPON THE REQUEST OF THE PAROLEE OR HIS/HER ATTORNEY, CONSIDER THE CIRCUMSTANCES OF THE ALLEGED VIOLATION, INCLUDING THE PROBABILITY OF CONVICTION THEREOF, AND MAY RELEASE THE PAROLEE PENDING ADJUDICATION OF THE CHARGE(S) IF SUFFICIENT BASIS IS ESTABLISHED FOR RELEASE. (53.1-161)



4. IT SHALL BE THE POLICY OF THE PAROLE BOARD THAT ALL OUTSTANDING BOARD WARRANTS BE REVIEWED ANNUALLY, UNLESS ANY SUCH WARRANT IS OTHERWISE SCHEDULED BY THE BOARD FOR REVIEW.

**V. PAROLE REVOCATION POLICIES AND PRACTICES**

THE PROCEDURES SET FORTH IN APPENDIX I SHALL BE FOLLOWED FOR THOSE PAROLEES CHARGED WITH BEING OTHERWISE UNFIT TO BE ON PAROLE AS PRESCRIBED IN SECTION 53.1-136, PARAGRAPH 3 OF THE CODE OF VIRGINIA.

**(SEE APPENDIX I)**

**A. PAROLE REVOCATION HEARING**

1. THE PAROLE BOARD, OR A DESIGNATED REPRESENTATIVE THEREOF, SHALL CONDUCT A FULL HEARING RELATIVE TO CHARGES OF PAROLE VIOLATION PRIOR TO A DETERMINATION THAT PAROLE HAS BEEN VIOLATED. UPON A DETERMINATION OF PAROLE VIOLATION, THE BOARD MAY REVOKE PAROLE OR MAY RESTORE THE DELINQUENT PAROLEE TO PAROLE SUPERVISION. (53.1-165) HOWEVER, PAROLE WILL BE REVOKED UPON A FINDING OF PAROLE VIOLATION UNLESS THE PAROLEE ESTABLISHES CONVINCING BASIS FOR THE BOARD TO CONTINUE OR DISCHARGE PAROLE, DESPITE THE VIOLATION. THE HEARING SHALL BE INFORMAL IN NATURE, BUT BASIC DUE PROCESS RIGHTS SHALL BE ACCORDED. DUE PROCESS RIGHTS SHALL INCLUDE WRITTEN NOTICE OF THE CHARGES, THE RIGHT TO BE REPRESENTED BY AN ATTORNEY, THE RIGHT TO CROSS-EXAMINE ADVERSE WITNESSES SUBJECT TO APPROVAL OF THE BOARD, AND THE RIGHT TO PRESENT WITNESSES AND OTHER EVIDENCE. (MORRISEY V. BREWER<sup>2</sup>; GAGNON V. SCARPELLI<sup>3</sup>; FRANKLIN V. SHIELDS<sup>1</sup>)
2. THE BOARD REPRESENTATIVE CONDUCTING THE HEARING IS AUTHORIZED TO ADMINISTER OATHS AND TO TAKE TESTIMONY THEREUNDER FROM WITNESSES. (53.1-137)

3. THE BOARD, THROUGH THE CHAIRMAN OR ANY MEMBER, MAY SUBPOENA WITNESSES AND/OR DOCUMENTS. (53.1-137)
4. THE BOARD, THROUGH THE CHAIRMAN OR ANY MEMBER, MAY APPOINT AN ATTORNEY TO REPRESENT AN INDIGENT PAROLEE CHARGED WITH A PAROLE VIOLATION. (53.1-165) ANY SUCH APPOINTMENT SHALL BE BASED ON A DETERMINATION THAT THE CASE INVOLVES COMPLEXITIES BEYOND THE CAPABILITIES OF THE PAROLEE TO ADEQUATELY REPRESENT HIMSELF/HERSELF, AND THAT THE PAROLEE LACKS SUFFICIENT RESOURCES TO RETAIN AN ATTORNEY. (GAGNON V. SCARPELLI)
5. DECISIONS OF THE BOARD FOLLOWING A REVOCATION HEARING SHALL BE BY CONCURRENCE OF AT LEAST THREE BOARD MEMBERS, EXCEPT THAT IN CASES WHERE THE PAROLE VIOLATION IS BASED ON A NEW FELONY INVOLVING A SENTENCE OF INCARCERATION FOR TWO OR MORE YEARS, PAROLE MAY BE REVOKED BY ANY INDIVIDUAL MEMBER SO AUTHORIZED BY THE BOARD, FOLLOWING A HEARING AND A FINDING OF SUCH VIOLATION BY SUCH MEMBER. WHEN THE BOARD ACTS TO RESTORE TO SUPERVISION, THE PAROLEE WILL BE RELEASED FROM PRISON IMMEDIATELY AFTER THE BOARD'S OFFICIAL ACTION.

**B. NOTICE OF DECISION**

INMATES WILL RECEIVE WRITTEN NOTICE OF THE BOARD'S ACTION TO REVOKE PAROLE AND THE REASONS FOR THE REVOCATION AS SOON AS PRACTICABLE FOLLOWING THE REVOCATION HEARING. HOWEVER, THE NOTICE NORMALLY WILL BE SENT WITHIN TWO WEEKS FOLLOWING THE HEARING.

**C. REVOCATION OF VIRGINIA PAROLEE BY OTHER STATES (53.1-176)**

UPON A FINDING OF PROBABLE CAUSE OF A PAROLE VIOLATION BY A VIRGINIA PAROLEE UNDER SUPERVISION OF ANOTHER STATE (INCLUDING THE DISTRICT OF COLUMBIA) THE CHAIRMAN OR ANY MEMBER OF THE VIRGINIA PAROLE BOARD MAY REQUEST AND AUTHORIZE THE APPROPRIATE JUDICIAL OR ADMINISTRATIVE AUTHORITY OF THAT STATE HAVING AUTHORITY TO REVOKE PAROLE, TO CONDUCT A FINAL REVOCATION HEARING TO DETERMINE WHETHER THERE HAS BEEN A VIOLATION OF THE TERMS AND CONDITIONS OF PAROLE AND, IF SO, WHETHER SUCH PAROLE SHOULD BE REVOKED.

THE DECISIONS OF SUCH AUTHORITIES SHALL BE CONCLUSIVE AND SHALL NOT BE REVIEWABLE BY VIRGINIA. (53.1-176) THE VIRGINIA PAROLE BOARD IS, LIKEWISE, AUTHORIZED TO DECIDE THE CASE OF ANY PAROLEE UNDER SUPERVISION IN VIRGINIA FROM ANOTHER STATE UPON A DETERMINATION OF PROBABLE CAUSE OF A VIOLATION OF THE TERMS AND CONDITIONS OR PAROLE AND A REQUEST AND AUTHORIZATION BY AN APPROPRIATE AUTHORITY OF SUCH STATE FOR THE VIRGINIA PAROLE BOARD TO DO SO. (53.1-175) THE VIRGINIA PAROLE BOARD MAY ELECT TO RETURN THE PAROLEE TO SUPERVISION AND TO CONDUCT THE REVOCATION PURSUANT TO 53.1-161.

**D. WAIVER OF PAROLE REVOCATION HEARING**

A PAROLEE CHARGED WITH A PAROLE VIOLATION INVOLVING A NEW CRIMINAL OFFENSE WITH AN AGGREGATE SENTENCE OF 12 MONTHS OR MORE TO SERVE MAY WAIVE THE RIGHT TO A PAROLE VIOLATION HEARING ORALLY ON THE RECORD AT THE TIME SCHEDULED FOR THE HEARING, OR IN WRITING ON FORMS ADOPTED BY THE BOARD. ANY SUCH WAIVER WILL BE TAKEN AS AN ADMISSION OF GUILT TO THE CHARGE(S) OF PAROLE VIOLATION AND WILL ALLOW THE CASE TO BE DECIDED ON THAT BASIS. A DECISION TO REVOKE PAROLE PURSUANT TO SUCH A WAIVER OF A FINAL HEARING SHALL BE BY CONCURRENCE OF AT LEAST THREE (3) BOARD MEMBERS. A DECISION TO REVOKE PAROLE PURSUANT TO A WAIVER OF REVOCATION HEARING UNDER THIS PROVISION MAY BE

COMPLETED BY THE CHAIRMAN OR ANY MEMBER OF THE BOARD IF THE WAIVER IS BASED ON A NEW FELONY CONVICTION(S) RESULTING IN A SENTENCE(S) TO SERVE OF TWO (2) YEARS OR MORE.

**E. TIME ON PAROLE AND SENTENCE**

TIME ON PAROLE SHALL NOT COUNT AS SERVICE OF ANY PART OF THE TERM OF IMPRISONMENT. (53.1-156)

**F. PAROLE CONSIDERATION AFTER REVOCATION**

1. PAROLEES WHOSE PAROLES ARE REVOKED AND WHO ARE OTHERWISE ELIGIBLE FOR PAROLE SHALL BE CONSIDERED FOR PAROLE AGAIN NO LATER THAN THAT PART OF THE CALENDAR YEAR FALLING ONE YEAR SUBSEQUENT TO THAT PART OF THE CALENDAR YEAR IN WHICH THEY ARE REVOKED. (53.1-154)
2. PAROLEES WHOSE PAROLES ARE REVOKED FOR TECHNICAL VIOLATION ONLY (EXCLUDING ABSCONDERS) SHALL BE CONSIDERED FOR PAROLE AGAIN NO LATER THAN THAT PART OF THE CALENDAR YEAR FALLING SIX MONTHS SUBSEQUENT TO THAT PART OF THE CALENDAR YEAR IN WHICH THEY ARE REVOKED.

**G. VOLUNTARY RETURNS**

IN THE EVENT A PAROLEE DESIRES TO VOLUNTARILY RETURN TO PRISON TO SERVE THE BALANCE OF HIS/HER SENTENCE, THE PAROLE OFFICER WILL INSURE THAT THE RETURN IS VOLUNTARY AND THAT NO REASONABLE ALTERNATIVE EXISTS WHICH IS SATISFACTORY TO THE PAROLEE. ANY SUCH RETURN SHALL BE REPORTED TO THE BOARD FOR REVIEW. THIS POLICY SHALL INCLUDE THOSE MANDATORILY RELEASED TO SUPERVISION.(53.1-159)

**VI. DISCHARGE FROM PAROLE**

**A. PAROLE EXTENSION**

THE PAROLE BOARD MUST FIX THE PERIOD OF PAROLE UPON RELEASE OF AN INMATE TO PAROLE SUPERVISION.

THE PAROLE PERIOD MUST NOT EXCEED THE MAXIMUM PERIOD OF INCARCERATION THE PAROLEE MAY HAVE RECEIVED FOR HIS/HER CRIME(S) MINUS TIME ACTUALLY SERVED. (53.1-156) PERSONS UNDER PAROLE SUPERVISION SHALL BE DISCHARGED FOLLOWING THE EXPIRATION OF THE FIXED PAROLE PERIOD UNLESS THE BOARD EXTENDS THE PAROLE PERIOD PRIOR TO THE EXPIRATION DATE. THE PAROLE PERIOD MAY BE EXTENDED BY THE BOARD UPON A FINDING THAT DISCHARGE AT THE SCHEDULED EXPIRATION DATE WOULD BE INCOMPATIBLE WITH THE WELFARE OF SUCH PERSON OR OF SOCIETY. (53.1-136)

**B. MINIMUM PAROLE EXPIRATION DATE**

THE MINIMUM PAROLE EXPIRATION DATE FOR ANY PAROLE PERIOD SHALL BE THE DATE OF SENTENCE EXPIRATION OR SIX MONTHS, WHICHEVER IS LONGER.

**C. TERMINATION OF ACTIVE SUPERVISION PRIOR TO EXPIRATION DATE**

PAROLEES MAY BE TERMINATED FROM ACTIVE PAROLE SUPERVISION PRIOR TO THEIR MINIMUM EXPIRATION DATE UNDER THE FOLLOWING GUIDELINES:

1. THE EXPIRATION DATE ENTERED ON THE ORDER OF RELEASE AND CONDITIONS OF PAROLE SHALL BE CONSIDERED FIRM EXCEPT AS OTHERWISE PROVIDED FOR IN THIS POLICY STATEMENT.
2. A PETITION OR RECOMMENDATION FOR TERMINATION OF ACTIVE PAROLE SUPERVISION MAY BE CONSIDERED BY THE BOARD ANY TIME FOLLOWING THE EXPIRATION OF SIX MONTHS OR TWO-THIRDS OF THE FIXED PAROLE PERIOD, WHICHEVER IS LONGER, UPON THE REQUEST OF THE PAROLE OFFICER OR OTHER PERSONS. THE PAROLEE MAY THEN BE PLACED ON INACTIVE PAROLE SUPERVISION IF THE BOARD CONCLUDES THAT THE PAROLEE'S PERFORMANCE WHILE ON PAROLE HAS BEEN EXEMPLARY, AND THAT SUCH PLACEMENT WOULD BE IN THE INTEREST OF SOCIETY AND THE PAROLEE. THE BOARD MAY TERMINATE ACTIVE PAROLE SUPERVISION PENDING COMPLETION OF THE PAROLE PERIOD AT ANY TIME UPON A FINDING THAT SUCH

TERMINATION WOULD BE IN THE BEST INTEREST OF SOCIETY AND THE PAROLEE.

3. ALL CASES UNDER ACTIVE PAROLE SUPERVISION FOR THREE YEARS SHALL BE REVIEWED BY THE PAROLE DISTRICT OFFICE UNDER WHICH THE CASE IS BEING SUPERVISED, AND ANNUALLY THEREAFTER, FOR THE PURPOSE OF RECOMMENDING TO THE BOARD, TERMINATION OF ACTIVE SUPERVISION. WHEN TERMINATION OF ACTIVE SUPERVISION IS NOT RECOMMENDED REASONS MUST BE GIVEN.
4. TERMINATION OF ACTIVE SUPERVISION PRIOR TO THE MINIMUM EXPIRATION DATE, OR PRIOR TO THE PERIODS CITED IN ITEM 2 AND 3 ABOVE, WILL ALSO BE CONSIDERED BY THE BOARD IN CASES OF TERMINAL ILLNESS, SEVERE LONG-TERM PHYSICAL OR MENTAL DISABILITY, SUCH AS MIGHT RENDER THE PAROLEE INCAPABLE OF GENERAL ACTIVITY, OR WHERE CONTINUED PAROLE SUPERVISION WOULD CONSTITUTE A SEVERE HARDSHIP ON THE PAROLEE IN AREAS OF EMPLOYMENT, FAMILY RELATIONS, OR LIVING ARRANGEMENTS.

**D. DISCHARGE PRIOR TO THE MINIMUM EXPIRATION DATE**

ALL CASES UNDER PAROLE SUPERVISION (ACTIVE OR INACTIVE) FOR FIVE YEARS SHALL BE REVIEWED BY THE PAROLE DISTRICT OFFICE TO WHICH THE CASE IS UNDER SUPERVISION, AND ANNUALLY THEREAFTER, FOR THE PURPOSE OF RECOMMENDING TO THE BOARD DISCHARGE OR CONTINUED SUPERVISION. WHEN DISCHARGE IS NOT RECOMMENDED REASONS MUST BE GIVEN.

**VII. PARDON, REPRIEVE, AND COMMUTATION REPORTS**

**A. POWER TO GRANT**

THE POWER TO GRANT PARDONS, REPRIEVES, AND COMMUTATIONS RESTS EXCLUSIVELY WITH THE GOVERNOR. (53.1-229)

**B. INVESTIGATIONS**

UPON REQUEST FROM THE GOVERNOR, THE PAROLE BOARD SHALL CAUSE AN INVESTIGATION TO BE MADE INTO THE NATURE AND CIRCUMSTANCES OF ANY CASE UNDER EXECUTIVE CLEMENCY CONSIDERATION. THE BOARD SHALL THEN MAKE A REPORT TO THE GOVERNOR TO INCLUDE A RECOMMENDATION WHEN APPROPRIATE. (53.1-231)

**C. PARDON SUPERVISION**

THE GOVERNOR MAY DIRECT THAT PARDONEES BE PLACED UNDER SUPERVISION. WHEN THE GOVERNOR EXERCISES THIS OPTION, PARDONEES SHALL BE SUPERVISED THE SAME AS PAROLEES, AND IN ACCORDANCE WITH ANY SPECIAL CONDITIONS SET BY THE GOVERNOR, AS WELL AS THE CONDITIONS ESTABLISHED FOR PAROLEES.(53.1-136 [5]).

**D. PARDON REVOCATION**

THE POWER TO REVOKE PARDONS RESTS EXCLUSIVELY WITH THE GOVERNOR. PARDONEES WHO ARE UNDER SUPERVISION, AND WHO VIOLATE THE CONDITIONS UNDER WHICH THEY WERE PARDONED, SHALL BE TREATED IN THE SAME MANNER AS DELINQUENT PAROLEES. (SEE APPENDIX I) THE PAROLE BOARD SHALL FORWARD A TRANSCRIPT OF THE PARDON REVOCATION HEARING PROCEEDINGS TO THE GOVERNOR, TOGETHER WITH ITS RECOMMENDATIONS. A WRITTEN REBUTTAL MAY BE SUBMITTED BY THE PARDONEE TO THE OFFICE OF THE SECRETARY OF THE COMMONWEALTH WITHIN 20 DAYS OF THE DATE OF THE BOARD'S RECOMMENDATION.

**E. DISCHARGE FROM SUPERVISION**

PARDONEES SHALL BE CONSIDERED FOR DISCHARGE BY THE BOARD UPON THE APPROACH OF THEIR MINIMUM SUPERVISION EXPIRATION DATE.

## **VIII. PERSONS RELEASED FROM PRISON BY EXPIRATION OF SENTENCE**

PERSONS RELEASED FROM PRISON BY EXPIRATION OF SENTENCE MAY SEEK THE ASSISTANCE OF A PAROLE OFFICER IN THE COMMUNITY. (53.1-145)

### **CASE AUTHORITIES CITED**

1. FRANKLIN V. SHIELDS, 569 F. 2ND 784 (1977), CERT. DENIED, 435 U.S. 1003 (1978).
2. MORRISEY V. BREWER, 408 U.S. 471 (1972).
3. GAGNON V. SCARPELLI, 411 U.S. 778 (1973).



## **APPENDIX I**

**MAJOR VIOLATION PROCEDURE IN VIRGINIA  
FOR PAROLE AND PARDON CASES**

THE FOLLOWING REVISED VIOLATION PROCEDURE SUPERSEDES ALL GUIDELINES AND NON-CONFORMING MEMORANDA ISSUED PREVIOUSLY ON THIS TOPIC. WHEN THE WORDS "PAROLE" OR "PAROLEE" ARE USED IN THIS PROCEDURE, THEY WILL ALSO REFER TO "MANDATORY SUPERVISION" AND "MANDATORY RELEASEE," "CONDITIONAL PARDON" AND "CONDITIONAL PARDONEE", RESPECTIVELY, UNLESS OTHERWISE SPECIFIED.

WHEN A PAROLEE'S FITNESS TO REMAIN ON PAROLE IS IN QUESTION, A MEMBER OF THE PAROLE BOARD OR A DESIGNATED REPRESENTATIVE OF THE BOARD SHALL CONDUCT A HEARING PRIOR TO THE ACTIONS TO REVOKE PAROLE AND TO ORDER THE REINCARCERATION OF THE PAROLEE ON THE BASIS OF UNFITNESS TO REMAIN ON PAROLE.

**VIOLATION HANDLING PROCEDURES**

**I. PRELIMINARY HEARING**

EXCEPT IN CASES INVOLVING A NEW LAW VIOLATION ONLY, IN ALL CASES WHERE THE PAROLE OFFICER CHARGES A PAROLE VIOLATION FOR WHICH A RECOMMENDATION WILL BE MADE THAT PAROLE BE REVOKED, A PRELIMINARY VIOLATION HEARING MUST BE HELD. THE PRELIMINARY HEARING MAY, HOWEVER, BE WAIVED.

**A. ARREST FOR PRELIMINARY HEARING**

THE PAROLE OFFICER SHALL DETERMINE IF A PAROLEE SHOULD BE TAKEN INTO CUSTODY. (SECTION 53.1-152) THE OFFICER SHALL CAUSE THE PAROLEE TO BE ARRESTED ON A PB 15 WARRANT. IF A PB 15 IS ISSUED FOR THE ARREST OF THE PAROLEE, OR IF A PAROLEE IS ARRESTED FOR A NEW FELONY, THE PAROLE OFFICER SHALL PROMPTLY NOTIFY THE POST RELEASE MANAGER OF SUCH ISSUANCE AND ARREST.

**B. IDENTIFICATION AFTER ARREST**

WITHIN 72 HOURS OR AS REASONABLY SOON THEREAFTER AS PRACTICABLE AFTER A PB 15 HAS BEEN EXECUTED, THE PAROLE OFFICER SHALL VERIFY THAT THE PERSON IN CUSTODY IS IN FACT THE PERSON UNDER PAROLE SUPERVISION FOR WHICH THE WARRANT WAS ISSUED.

**II. VIOLATIONS INVOLVING ONLY A NEW CRIMINAL OFFENSE**

**A. PRELIMINARY HEARING NOT REQUIRED**

WHEN A NEW CRIMINAL OFFENSE IS THE ONLY VIOLATION CHARGED, IT WILL NOT BE NECESSARY TO HAVE A PRELIMINARY VIOLATION HEARING IN THE FOLLOWING INSTANCES:

1. NEW CONVICTION

THE PAROLEE IS CONVICTED OF A FELONY OR MISDEMEANOR; OR

2. CERTIFICATION/APPEAL

THE PAROLEE HAS A CRIMINAL CHARGE CERTIFIED OR APPEALED TO THE CIRCUIT COURT FROM THE GENERAL DISTRICT COURT OR THE JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT; OR

3. INDICTMENT

THE PAROLEE IS INDICTED BY THE GRAND JURY

**B. WARRANTS**

A PB 15, OR REQUEST FOR BOARD WARRANT, SHOULD NOT BE ISSUED PRIOR TO THE DISTRICT COURT FINDING GUILT IN A CASE OR CERTIFYING A CHARGE TO THE CIRCUIT COURT, OR THE GRAND JURY RETURNING A TRUE BILL IN THE CASE OF A CHARGE NOT GOING BEFORE THE DISTRICT COURT.

**C. NOTORIOUS OFFENSES**

IF A PAROLEE IS CHARGED WITH A NOTORIOUS OFFENSE, OR IF A PAROLEE WHO WAS PAROLED FROM A NOTORIOUS OFFENSE IS CHARGED WITH A VIOLATION OF PAROLE THE PAROLE OFFICER SHALL:

1. PROMPTLY NOTIFY THE POST RELEASE MANAGER WHO SHALL IMMEDIATELY NOTIFY THE CHAIRMAN OF THE PAROLE BOARD;

2. NOT DISCUSS THE CIRCUMSTANCES OF ANY ALLEGED VIOLATIONS WITH THE PAROLEE PRIOR TO A CONVICTION;
3. SUBMIT PROMPTLY TO THE POST RELEASE MANAGER, IN SINGLE COPY, A VIOLATION REPORT ALONG WITH THE PAROLE CASEWORK REVIEW AND RECOMMENDATION, FORM PPS 43, PREPARED BY THE CHIEF OR DEPUTY CHIEF; AND
4. CONTINUE TO REPORT SIGNIFICANT DEVELOPMENTS TO THE POST RELEASE MANAGER.

**D. PROOF OF A NEW CONVICTION**

IF THE PAROLEE IS CHARGED WITH A PAROLE VIOLATION BECAUSE OF A NEW CRIMINAL CHARGE OR CONVICTION, IT WILL BE NECESSARY FOR THE PAROLE OFFICER, IMMEDIATELY AFTER CONVICTION, TO FORWARD TO THE POST RELEASE MANAGER A CERTIFIED COPY OF THE COURT ORDER SHOWING CONVICTION. WHEN THE CONVICTION IS IN THE GENERAL DISTRICT COURT A CERTIFIED COPY OF THE PART OF THE WARRANT ON WHICH THE JUDGE USUALLY WRITES HIS/HER FINDINGS WILL SUFFICE. IF THE CHARGE IS NOT SHOWN ON THIS PART OF THE WARRANT, THE OFFICER MUST ALSO SUBMIT A COPY OF THAT PART OF THE WARRANT WHICH SHOWS THE CHARGE ON WHICH THE PAROLEE WAS CONVICTED.

**E. WARRANT SERVED AS DETAINER**

IF A PAROLEE IS IN JAIL ON CRIMINAL CHARGES OR CONVICTIONS AND A PB 15 OR BOARD WARRANT HAS SUBSEQUENTLY BEEN ISSUED, IT MUST BE SERVED IMMEDIATELY UNLESS OTHERWISE DIRECTED BY A BOARD MEMBER, AND THE PAROLE OFFICER SHALL PERSONALLY INTERVIEW AND ADVISE THE PAROLEE REGARDING THE REASON(S) FOR THE ISSUANCE OF THE PB 15 OR BOARD WARRANT.

**F. WITHDRAWAL OF WARRANTS**

IF THE PAROLEE IS CONVICTED AFTER ISSUANCE OF A PB 15 OR BOARD WARRANT, NEITHER CAN BE WITHDRAWN BY THE OFFICER WITHOUT PAROLE BOARD APPROVAL. IF CIRCUMSTANCES SHOULD CHANGE AFTER A WARRANT IS PLACED AGAINST A PAROLEE, AND THE OFFICER FEELS

PAROLE SHOULD BE CONTINUED, A REPORT NOTING THESE CHANGES AND THE OFFICER'S RECOMMENDATIONS SHALL BE SUBMITTED PROMPTLY TO THE POST RELEASE MANAGER FOR REFERRAL TO THE BOARD FOR APPROPRIATE DISPOSITION.

IF THE CRIMINAL PROCEEDINGS AGAINST THE PAROLEE ARE DISMISSED, AND THE PAROLEE HAS NO OTHER PAROLE VIOLATION CHARGES, THE PB 15 OR BOARD WARRANT IS TO BE IMMEDIATELY WITHDRAWN BY THE PAROLE OFFICER UNLESS THERE ARE ADDITIONAL PAROLE VIOLATION CHARGES OTHER THAN FAILURE TO REPORT THE ARREST FOR THE DISMISSED CHARGE. THE POST RELEASE MANAGER IS TO BE NOTIFIED AT ONCE, AND IN THE EVENT A BOARD WARRANT HAS BEEN ISSUED, BOTH COPIES SHALL BE RETURNED TO THE POST RELEASE MANAGER.

### **III. TECHNICAL VIOLATIONS**

WHEN THERE ARE VIOLATIONS OF TECHNICAL CONDITIONS, AND THE OFFICER IS OF THE OPINION THAT THE PAROLEE SHOULD BE BROUGHT BEFORE THE BOARD FOR A DETERMINATION AS TO WHETHER PAROLE SHOULD BE REVOKED, THE PAROLE OFFICER SHALL DO THE FOLLOWING:

#### **A. SCHEDULE PRELIMINARY HEARING**

CONTACT THE APPROPRIATE REGIONAL MANAGER OR HEARING OFFICER TO ESTABLISH THE TIME, DATE, AND LOCATION FOR A PRELIMINARY HEARING.

##### **1. NOTICE OF HEARING**

NOTIFY THE PAROLEE OF THE CHARGES AND THE TIME, DATE, AND LOCATION OF THE HEARING PURSUANT TO A NOTICE OF PRELIMINARY PAROLE VIOLATION HEARING, FORM PPS 24, WHICH MUST INCLUDE A SUMMARY OF THE FACTS AND CIRCUMSTANCES OF EACH CHARGE. OFFICERS SHOULD BE PRECISE AND THOROUGH IN PREPARING CHARGE AGAINST PAROLEES, IDENTIFYING THE CONDITION(S) BELIEVED VIOLATED AND EXPLAINING THE CIRCUMSTANCES OF THE ALLEGED VIOLATION(S). (NOTE: IN PARDON CASES, USE "NOTICE OF PRELIMINARY HEARING" FORM PPS 31)

2. TIME FRAME FOR PRELIMINARY HEARING

THE PRELIMINARY HEARING SHOULD BE CONDUCTED NO LESS THAN FIVE DAYS NOR MORE THAN 21 DAYS FROM THE TIME THE NOTICE OF PRELIMINARY PAROLE VIOLATION HEARING, PPS 24, IS GIVEN TO THE PAROLEE. THE HEARING MAY BE CONTINUED BEYOND SAID TIME FOR REASONABLE CAUSE UPON REQUEST OF THE PAROLEE OR HIS/HER ATTORNEY. EVERY REASONABLE EFFORT MUST BE MADE TO SERVE THE PAROLEE WITH THE NOTICE OF PRELIMINARY HEARING FORM WITHIN 72 HOURS WHERE A PB 15 OR BOARD WARRANT IS EXECUTED.

3. WAIVER OF PRELIMINARY HEARING

THE PAROLEE MAY WAIVE THE PRELIMINARY HEARING. IN THE EVENT THE ALLEGED VIOLATOR REFUSES TO APPEAR FOR THE HEARING, IT MAY BE CONDUCTED IN THE PAROLEE'S ABSENCE.

4. PAST VIOLATIONS

PAST VIOLATIONS ALREADY DEALT WITH BY THE OFFICER CANNOT BE PRESENTED AS EVIDENCE AT THE PRELIMINARY HEARING. THE BOARD CANNOT CONSIDER EVIDENCE OF PAST VIOLATIONS IN DETERMINING WHETHER OR NOT A VIOLATION HAS OCCURRED, BUT MAY CONSIDER THE TOTAL ADJUSTMENT OF THE PAROLEE IN DETERMINING WHAT DISPOSITION SHOULD BE MADE.

**B. WITNESSES, DOCUMENTS, OTHER EVIDENCE**

DURING THE PRELIMINARY HEARING, THE PAROLEE WILL BE GIVEN AN OPPORTUNITY TO PRESENT WITNESSES, DOCUMENTS, AND OTHER EVIDENCE. WHEN THE PAROLEE REQUESTS WITNESSES, THE PAROLE OFFICER WILL QUESTION THE REASON FOR THE WITNESS(ES). IF THE WITNESSES SEEM RELEVANT TO THE HEARING, THE OFFICE SHOULD MAKE EVERY EFFORT TO HAVE THEM PRESENT. IF THE WITNESSES' TESTIMONY SEEMS IRRELEVANT TO THE VIOLATION PROCEEDINGS, THE OFFICER NEED NOT MAKE ARRANGEMENTS FOR THEIR ATTENDANCE, BUT SHALL INFORM THE PAROLEE THAT AT THE PRELIMINARY HEARING THE REQUEST FOR WITNESSES CAN BE MADE TO THE

HEARING OFFICER. THE PAROLE OFFICER WILL RECORD THE ABOVE ON THE NOTICE FORM AND IN THE SUPERVISION ADJUSTMENT SUMMARY. THE PAROLEE WILL ALSO BE ADVISED OF THE RIGHT TO HAVE PRESENT ALL ADVERSE WITNESSES AND TO CROSS-EXAMINE THESE WITNESSES UNLESS THE HEARING OFFICER FINDS CAUSE TO DISALLOW THIS.

**C. RIGHT TO COUNSEL**

A PAROLEE HAS THE ABSOLUTE RIGHT TO RETAIN AN ATTORNEY FOR THE PRELIMINARY HEARING. THE PAROLEE SHALL ALSO BE INFORMED OF THE RIGHT TO HAVE AN ATTORNEY APPOINTED, AT NO COST TO THE PAROLEE, SUBJECT TO THE DETERMINATION OF THE HEARING OFFICER. IF THE PAROLEE DESIRES LEGAL COUNSEL AND CANNOT AFFORD TO EMPLOY AN ATTORNEY, THE HEARING OFFICER WILL DETERMINE, ON A CASE-BY-CASE BASIS, WHETHER DUE PROCESS REQUIRES THAT THE INDIGENT PAROLEE BE REPRESENTED BY COUNSEL. (53.1-165)

**D. ASSISTANCE TO PAROLEE**

THE PAROLE OFFICER WILL READ AND EXPLAIN THE NOTICE OF PRELIMINARY HEARING FORM TO THE PAROLEE AND ASSIST THE PAROLEE, WHERE NEEDED, IN WRITING RESPONSES OR REASONS.

**E. VIOLATION REPORT**

1. A VIOLATION REPORT SHALL BE PREPARED BY THE PAROLE OFFICER, AND SHOULD INCLUDE THE FOLLOWING:
  - A. DATE AND PLACE OF ORIGINAL CONVICTION
  - B. OFFENSE
  - C. SENTENCE IMPOSED
  - D. DATE OF PAROLE
  - E. MINIMUM EXPIRATION DATE
  - F. PLAN OF SUPERVISION

G. SUMMARY OF THE PAROLEE'S ADJUSTMENT INCLUDING:

1. SIGNIFICANT CHANGES IN LIFE HISTORY ON PAROLE, E.G. INCLUDING BUT NOT LIMITED TO DIVORCE, ADDITIONAL JOB SKILLS DEVELOPED
2. STRENGTHS AND WEAKNESSES DISPLAYED ON PAROLE, E.G. EMOTIONAL STABILITY, DRUG ABUSE
3. FACTORS LEADING TO PAROLE VIOLATION, E.G. LOSS OF JOB, INVOLVEMENT IN DRUG ACTIVITIES
4. INDICATIONS OF HOW WELL INDIVIDUAL WAS ABLE TO FUNCTION UNDER CONDITIONS OF PAROLE (HOW DID THE INDIVIDUAL INTERACT WITH THE COMMUNITY STRUCTURE?)

H. DETAILS OF THE ALLEGED VIOLATIONS

I. EVALUATION OF THE SITUATION

J. OFFICER'S RECOMMENDATION

2. THE VIOLATION REPORT, CURRENT SUPERVISION

ADJUSTMENT SUMMARY AND NOTICE OF PRELIMINARY HEARING ARE ATTACHED TO THE PAROLE CASEWORK REVIEW AND RECOMMENDATION FORM, PPS 43, THAT IS PREPARED BY THE CHIEF OR DEPUTY CHIEF - ALL OF WHICH ARE FORWARDED IN SINGLE COPY PROMPTLY TO THE POST RELEASE MANAGER. A COPY OF THE NOTICE OF PRELIMINARY HEARING IS TO BE PROVIDED THE HEARING OFFICER AT THE TIME OF THE HEARING.

3. COPIES OF THE NOTICE OF PRELIMINARY HEARING FORM SHOULD BE SENT PROMPTLY TO THE POST RELEASE MANAGER. DO NOT WAIT FOR SUPERVISION ADJUSTMENT SUMMARIES AND VIOLATION REPORT TO BE TYPED IF A DELAY IS ANTICIPATED.



4. CONTINUE TO REPORT SIGNIFICANT DEVELOPMENTS IN THE CASE.
5. COMPLY WITH CASE HANDLING INSTRUCTIONS ISSUED BY THE POST RELEASE MANAGER.
6. THE CHIEF PAROLE OFFICER WILL REVIEW THE CASE TO:
  - A. DETERMINE WHETHER THE CASE RECORD CONTAINS ADEQUATE AND SPECIFIC DOCUMENTATION OF THE ALLEGED VIOLATIONS;
  - B. ENSURE THAT THE CORRECT PROCEDURE WAS FOLLOWED BY THE DISTRICT LEVEL, AND TAKE REMEDIAL ACTION WHERE IT WAS NOT;
  - C. APPRAISE THE CASEWORK SERVICES RENDERED FROM BOTH THE VIEWPOINT OF THE OFFICER AND PAROLEE, TO INCLUDE AN EXAMINATION OF COURSES OF ACTION THAT MIGHT HAVE BEEN TAKEN EARLIER AND AN EVALUATION OF BOTH THE POSITIVE AND NEGATIVE ASPECTS OF THE SUPERVISION AND CASEWORK SERVICES RENDERED. THESE POINTS WILL BE DISCUSSED WITH THE PAROLE OFFICER.

#### **IV. CONDUCTING PRELIMINARY HEARING**

##### **A. UNBIASED HEARING OFFICER**

THE PRELIMINARY HEARING WILL BE CONDUCTED BY AN UNBIASED OFFICER WHO HAS NOT BEEN CONNECTED WITH THE CASE, TO DETERMINE WHETHER THERE EXISTS PROBABLE CAUSE TO BELIEVE THE PAROLEE HAS COMMITTED A VIOLATION AND SHOULD BE REFERRED FOR FINAL DETERMINATION BY THE PAROLE BOARD.

##### **B. WHEN PROBABLE CAUSE FOUND**

IN CONDUCTING A PRELIMINARY HEARING, THE HEARING OFFICER MAY ONLY DETERMINE WHETHER THERE IS PROBABLE CAUSE TO BELIEVE THAT THE CONDITION(S), WHICH THE PAROLEE IS CHARGED WITH VIOLATING, HAS/HAVE BEEN VIOLATED. IF PROBABLE CAUSE IS FOUND, THE HEARING OFFICER MUST FORWARD THE RESULTS OF

PRELIMINARY PAROLE VIOLATION HEARING REPORT, FORM PPS 25, TO THE POST RELEASE MANAGER FOR FURTHER ACTION WITHIN TEN DAYS.

IF AN OFFICER HAS A PAROLEE CONFINED FOR SOME MINOR OR VERY TECHNICAL VIOLATION(S) AND THE HEARING OFFICER FINDS PROBABLE CAUSE THAT THE CONDITION(S) HAS/HAVE BEEN VIOLATED, THE HEARING OFFICER HAS NO ALTERNATIVE BUT TO FORWARD THE CASE TO THE POST RELEASE MANAGER FOR REVOCATION PROCEEDINGS IN VIRGINIA PAROLE CASES.

**C. CHANGED CIRCUMSTANCES**

IN THE EVENT CIRCUMSTANCES CHANGE AFTER A FORM PPS 24 HAS BEEN SERVED ON THE PAROLEE AND THE HEARING OFFICER FINDS PROBABLE CAUSE AND FORWARDS THE CASE TO THE BOARD, THE PAROLE OFFICER MAY WRITE TO THE POST RELEASE MANAGER AND RECOMMEND THAT THE PAROLEE BE CONTINUED ON PAROLE. THE CHANGES THAT HAVE OCCURRED IN THE CASE SINCE SERVICE OF THE FORM PPS 24 OR BOARD WARRANT, AS WELL AS THE OFFICER'S REASONS FOR MAKING THE RECOMMENDATION, MUST BE INCLUDED IN THE LETTER TO THE POST RELEASE MANAGER. BASED ON THIS, THE BOARD WILL TAKE APPROPRIATE ACTION AND NOTIFY THE OFFICER.

**D. WHEN PROBABLE CAUSE NOT FOUND**

SHOULD THE HEARING OFFICER, AFTER A HEARING, FIND NO PROBABLE CAUSE FOR DETAINING THE PAROLEE, THE HEARING OFFICER SHALL DIRECT THAT ANY PB 15 OR BOARD WARRANT BE WITHDRAWN AT ONCE.

**E. DETERMINATION ON EVIDENCE AT HEARING**

THE HEARING OFFICER WILL MAKE A FACTUAL DETERMINATION THAT PROBABLE CAUSE EXISTS THAT PAROLE VIOLATION(S) HAS/HAVE OCCURRED OR THAT PROBABLE CAUSE DOES NOT EXIST, BASED SOLELY UPON THE EVIDENCE PRESENTED AT THE HEARING. THE HEARING OFFICER WILL NOT HAVE ACCESS TO THE CASE FILE BEFORE THE HEARING.

**F. RIGHT TO ATTORNEY**

THE HEARING OFFICER SHALL INFORM THE PAROLEE OF THE RIGHT TO HAVE AN ATTORNEY, RETAINED BY THE PAROLEE, PRESENT AT THE HEARING, AND OF THE RIGHT TO HAVE AN ATTORNEY APPOINTED, AT NO COST THE PAROLEE, SUBJECT TO THE DETERMINATION OF THE HEARING OFFICER. THE HEARING OFFICER WILL DECIDE THIS ON A CASE-BY-CASE BASIS. THE PAROLEE IS ENTITLED TO HAVE COUNSEL APPOINTED IF INDIGENT AND IF THE VIOLATION ALLEGATIONS ARE DENIED AND IF PRESENTING A DEFENSE WILL BE TOO DIFFICULT OR COMPLEX TO EXPECT THE PAROLEE TO PRESENT IT ADEQUATELY ALONE. IN THE EVENT THE HEARING OFFICER DETERMINES THAT AN APPOINTED ATTORNEY IS NOT NECESSARY, REASONS FOR THE DENIAL MUST BE NOTED IN SPECIFIC DETAIL. IF THE REQUEST FOR COUNSEL IS GRANTED, THE HEARING WILL HAVE TO BE CONTINUED. IF THE HEARING OFFICER DECIDES THAT IT IS NECESSARY FOR AN ATTORNEY TO BE APPOINTED FOR THE INDIGENT PAROLEE, THE HEARING OFFICER WILL, UNDER SECTION 53.1-165, ASK THE COMMONWEALTH'S ATTORNEY IN THE JURISDICTION WHERE THE HEARING WILL BE HELD, AND REQUEST THE CIRCUIT COURT TO APPOINT AN ATTORNEY. THE ATTORNEYS THAT ARE APPOINTED ARE TO BE PAID AS DIRECTED BY THE COURTS FROM FUNDS APPROPRIATED FOR COURT COSTS AND EXPENSES. (53.1-165)

**G. CONTINUANCES**

THE PAROLEE MAY BE HELD IN JAIL PENDING THE AVAILABILITY OF HIS/HER ATTORNEY WHERE IT HAS BEEN DETERMINED TO BE NECESSARY TO ARREST THE PAROLEE FOR THE PRELIMINARY HEARING. CONTINUANCES MAY BE GRANTED WHEN REQUESTED BY ATTORNEYS OR PAROLEES. ALTHOUGH THERE IS NO LIMIT TO THE NUMBER OF CONTINUANCES, OR TO THE AMOUNT OF TIME LAPSE, REASON WILL DICTATE THAT SUCH HEARINGS SHOULD NOT BE DELAYED UNNECESSARILY.

**H. SUBPOENAS**

UNDER SECTION 53.1-165, THE HEARING OFFICER HAS THE POWER TO ISSUE SUBPOENAS, FORM PPS 20, REQUIRING THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF RECORDS AND OTHER PAPERS.

**I. OATHS**

THE HEARING OFFICER HAS THE POWER TO ADMINISTER OATHS. ALL WITNESSES WILL BE SWORN AT ANY OFFICIAL HEARING.

**J. WITNESSES AND DOCUMENTS**

THE PAROLEE SHALL APPEAR AND MAY SPEAK AT THE PRELIMINARY HEARING AND MAY BRING LETTERS, DOCUMENTS, OR INDIVIDUALS WHO CAN GIVE RELEVANT INFORMATION TO THE HEARING OFFICER.

**K. ADVERSE WITNESSES**

THE PAROLEE CAN HAVE PERSONS WHO HAVE GIVEN ADVERSE INFORMATION PRESENT FOR QUESTIONING AT THE HEARING. HOWEVER, IF THE HEARING OFFICER DETERMINES THAT SUCH PERSONS WOULD BE SUBJECT TO RISK OR HARM IF THEIR IDENTITIES WERE DISCLOSED OR IF THEY WERE SUBJECT TO CROSS-EXAMINATION BY THE PAROLEE, THE HEARING OFFICER NEED NOT SUBJECT THEM TO CONFRONTATION AND CROSS-EXAMINATION. IN SUCH CASE, THE HEARING OFFICER WILL HEAR THE WITNESSES IN PRIVATE AND REVEAL THE SUBSTANCE OF THE TESTIMONY TO THE PAROLEE.

**L. HEARING IN ABSENTIA**

SHOULD THE PAROLEE REFUSE TO APPEAR FOR THE HEARING, IT MAY BE CONDUCTED IN THE PAROLEE'S ABSENCE.

**M. WHEN ABSCONDING IS CHARGED**

WHEN THE PAROLE OFFICER HAS MADE ALL REASONABLE EFFORTS TO LOCATE A PAROLEE AT THE PAROLEE'S PLACE OF RESIDENCE OF RECORD AND IS OF THE CONSIDERED JUDGMENT THAT THE PAROLEE HAS MOVED FROM THAT PLACE OF RESIDENCE WITHOUT ESTABLISHING A NEW RESIDENCE WITHIN THE DESIGNATED AREA OF TRAVEL, THE PAROLEE MAY BE CHARGED AS AN ABSCONDER. "REASONABLE EFFORT" INCLUDES FOLLOW-UP INQUIRY AT THE PLACE RECORDED FOR HOME AND EMPLOYMENT, LOCAL JAILS AND HOSPITALS, AND THE QUESTIONING OF FAMILY MEMBERS AND CLOSE FRIENDS. THE PAROLE OFFICER SHOULD QUICKLY FOLLOW-UP ON ANY SUSPECTED ABSCONDMENT BUT RESERVE JUDGMENT PENDING RESULTS

OF REASONABLE EFFORTS EXTENDED TO LOCATE THE PAROLEE AND AN ASSESSMENT OF THE CIRCUMSTANCES. ALL EFFORTS EXTENDED TO LOCATE ANY SUSPENDED ABSCONDERS SHOULD BE RECORDED.

1. PROCEDURE

- A. WHEN A PAROLEE IS CHARGED WITH ABSCONDING, A MAJOR VIOLATION REPORT SHOULD BE PROMPTLY SENT TO THE POST RELEASE UNIT. THE REPORT SHOULD SUMMARIZE EFFORTS TO LOCATE THE CLIENT.
- B. LOCAL LAW ENFORCEMENT AGENCIES SHOULD BE NOTIFIED OF THE ABSCONDER'S WANTED STATUS.
- C. ALL REASONABLE LEADS AND SOURCES OF INFORMATION REGARDING THE LOCATION OF THE PAROLEE SHOULD BE FOLLOWED-UP AFTER THE CHARGE IS ISSUED.
- D. IF THE PAROLEE HAS NOT BEEN FOUND WITHIN 30 DAYS, THE POST RELEASE UNIT WILL PROVIDE CLOSING INSTRUCTIONS AND, ACCORDING TO PREVAILING PAROLE BOARD CRITERIA, WILL ENTER THE ABSCONDER AS A WANTED PERSON ON THE APPROPRIATE ABSCONDER LOCATOR NETWORK.
- E. WHEN INFORMATION HAS BEEN RECEIVED BY THE DISTRICT OFFICE FROM THE LOCAL POLICE THAT A PROBATION ABSCONDER HAS BEEN APPREHENDED, THE SENTENCING COURT SHALL BE NOTIFIED PROMPTLY. IN VIRGINIA PAROLE ABSCONDER CASES, THE LOCAL POLICE ARE TO BE DIRECTED TO CONTACT THE POST RELEASE UNIT - NIGHT OR DAY - TO DETERMINE VERIFICATION OF THE WARRANT STATUS AND OTHER PERTINENT INFORMATION ABOUT THE ALLEGED ABSCONDER. ON THOSE OCCASIONS WHEN A PAROLE OFFICER LEARNS OF A PAROLE ABSCONDER'S WHEREABOUTS FROM OTHER SOURCES, THE LOCAL POLICE ARE TO BE REQUESTED TO CONTACT THE POST RELEASE UNIT TO OBTAIN VERIFICATION OF THE INDIVIDUAL'S STATUS BEFORE INITIATING AN

ARREST. THE EXTRADITION OF PROBATIONERS IS HANDLED BY THE SENTENCING JURISDICTION'S COMMONWEALTH'S ATTORNEY OFFICE.

FOLLOWING THE PRELIMINARY HEARING OF THOSE PAROLE ABSCONDERS APPREHENDED WITHIN THE STATE, THE FORMER PAROLE OFFICER SHALL CONSIDER RECOMMENDING RESTORATION TO ACTIVE SUPERVISION THOSE WHO WERE MAKING A SATISFACTORY ADJUSTMENT PRIOR TO ABSCONDING, WHO HAVE NOT BEEN CONVICTED OF NEW CRIMES, AND WHO ARE REGARDED AS NOT POSING AN UNDUE RISK TO THE COMMUNITY.

**N. DECISION**

UPON COMPLETION OF THE EVIDENCE, THE HEARING OFFICER WILL MAKE A DECLARATION AS TO WHETHER OR NOT PROBABLE CAUSE WAS FOUND ON EACH OF THE "CONDITIONS" ALLEGEDLY VIOLATED.

**O. REPORT OF DECISION**

THE HEARING OFFICER WILL PREPARE THE RESULTS OF THE PRELIMINARY PAROLE VIOLATION HEARING REPORT, FORM PPS 25, WHICH INCLUDES A COMPLETE DIGEST OF THE EVIDENCE PRESENTED BY THE PAROLE OFFICER, STATEMENTS OF THE CLIENT AND THE FINDINGS OF THE HEARING OFFICER. THE FINDINGS WILL BE SPECIFIC, BASED UPON THE EVIDENCE, BUT WILL NOT INCLUDE EDITORIAL STATEMENTS ABOUT THE PAROLE DECISION, THE OFFICER'S HANDLING OF THE CASE OR THE PERSONAL OPINIONS OF THE HEARING OFFICER. A COPY OF THE RESULTS OF PRELIMINARY PAROLE VIOLATION HEARING REPORT WILL BE FURNISHED THE PAROLEE, THE POST RELEASE MANAGER, AND THE PAROLE OFFICER. (IN PARDON CASES, USE RESULTS OF PRELIMINARY PARDON VIOLATION HEARING, FORM PPS 33)

**V. POST RELEASE UNIT'S PROCEDURE IN VIRGINIA PAROLE CASES**

DETERMINATION OF BOARD WARRANT ISSUANCE: THE RESULTS OF PRELIMINARY PAROLE VIOLATION HEARING, FORM PPS 25, TOGETHER WITH THE REPORT AND RECOMMENDATION OF THE PAROLE OFFICER AND THE PAROLE CASEWORK REVIEW AND RECOMMENDATION, FORM PPS 43, WILL BE REVIEWED BY THE POST RELEASE MANAGER'S STAFF AS QUICKLY AS THE CASE FILE CAN BE SECURED. CASE HANDLING INSTRUCTIONS WILL BE GIVEN THE PAROLE OFFICER, AND OTHER APPROPRIATE PERSONS, WITHIN 15 DAYS OF RECEIPT OF THE REPORT UNLESS REASONABLE CAUSE EXISTS FOR A DELAY. FOLLOWING AN INVESTIGATION OF THE FILE AND ALL RELEVANT INFORMATION, THE UNIT WILL REFER THE MATTER TO THE PAROLE BOARD WITH ITS RECOMMENDATION FOR ACTION. THE POST RELEASE UNIT WILL CONSIDER ALTERNATIVES TO THE RETURN OF THE PAROLEE TO PRISON CUSTODY. IF THE ALLEGED VIOLATION(S) OF PAROLE IS/ARE DEEMED TO BE SUFFICIENTLY SERIOUS TO MERIT THE RETURN OF THE PAROLEE TO PRISON CUSTODY, A BOARD WARRANT, PB 14, WILL BE ISSUED AND INSTRUCTIONS WILL BE GIVEN BY THE POST RELEASE MANAGER'S STAFF TO ALL PARTIES CONCERNED. ANY JAILER'S CERTIFICATES FOR EARLIER ALLOWABLE JAIL CREDIT MUST BE IMMEDIATELY FORWARDED TO THE POST RELEASE MANAGER.

## **VI. PAROLE REVOCATION PROCEDURE**

REQUESTS FOR THE RETAKE AND RETURN OF VIRGINIA PAROLEES BEING SUPERVISED IN VIRGINIA AND THOSE WHO ABSCOND AND WHO ARE SUBSEQUENTLY APPREHENDED IN VIRGINIA OR OTHER JURISDICTIONS ARE MADE IN WRITING BY THE POST RELEASE MANAGER, OR HIS/HER STAFF, TO THE MANAGER OF CLASSIFICATION AND RECORDS OR HIS/HER DESIGNEE, AN AGENT OF THE DEPARTMENT OF CORRECTIONS. REQUEST FOR THE RETAKE AND RETURN TO VIRGINIA PAROLEES BEING SUPERVISED IN OTHER JURISDICTIONS, ARE SIMILARLY MADE BY THE DEPUTY ADMINISTRATOR FOR INTERSTATE COMPACT SERVICES, OR HIS/HER STAFF. AFTER THE POST RELEASE UNIT HAS BEEN NOTIFIED BY THE MANAGER OF CLASSIFICATION AND RECORDS OR HIS/HER DESIGNEE, OF ANY PAROLEE'S RETURN TO PRISON CUSTODY, THE LATTER WILL BE INTERVIEWED AS SOON AS REASONABLY POSSIBLE AND SERVED WITH A NOTICE OF PAROLE REVOCATION HEARING.

DOCKETING OF CASES FOR REVOCATION HEARING SHOULD BE COORDINATED WITH DESIGNATED PAROLE BOARD PERSONNEL. PRELIMINARY PAROLE VIOLATION HEARINGS MAY

OCCASIONALLY BE REQUIRED FOLLOWING THE PAROLEE'S RETURN TO PRISON CUSTODY AND, IF SO, ARE CONDUCTED BY A DESIGNATED HEARING OFFICER. IF PROBABLE CAUSE IS FOUND, THE PAROLEE WILL BE SERVED WITH A NOTICE OF PAROLE REVOCATION HEARING AND THE CASE WILL BE PROCESSED AS ANY OTHER.

**A. NOTICE**

WITHIN A REASONABLE TIME PRIOR TO A REVOCATION HEARING A PAROLEE IS TO BE GIVEN WRITTEN NOTICE OF THE HEARING ON FORMS PROVIDED BY THE PAROLE BOARD. THE NOTICE OF PAROLE REVOCATION HEARING WILL LIST THE PAROLE CONDITION, OR CONDITIONS, ALLEGED TO HAVE BEEN VIOLATED AND PROVIDE NOTICE OF THE DATE AND TIME OF THE PAROLEE'S SCHEDULED REVOCATION HEARING. THE NOTICE OF PAROLE REVOCATION HEARING, SHALL BE (AND WILL CONTAIN A STATEMENT THAT THE NOTICE WAS) READ AND EXPLAINED TO AND RECEIVED BY THE PAROLEE.

IT WILL FURTHER STATE THAT THE PAROLEE MAY HAVE THE RIGHT TO HAVE AN ATTORNEY APPOINTED, AT NO COST TO THE PAROLEE, SUBJECT TO DETERMINATION BY THE PAROLE BOARD.

THE PAROLEE SHALL SIGN THE NOTICE IN THE SPACE PROVIDED AND THE SIGNATURE SHALL BE WITNESSED. IF THE PAROLEE REFUSES TO ACKNOWLEDGE RECEIPT OF THE NOTICE OF PAROLE REVOCATION HEARING BY SIGNING IT, THAT FACT SHALL BE STATED AND WITNESSED ON SAID FORM.

**B. WAIVER OF NOTICE OF HEARING**

THE TEN-DAY PERIOD OF PRIOR NOTICE MAY BE WAIVED BY THE PAROLEE FOLLOWING EXPLANATION AND PRESENTATION OF THE NOTICE AND WAIVER SHOULD THE PAROLEE PREFER TO PROCEED SOONER WITH THE HEARING.

**C. RIGHT TO ATTORNEY**

THE PAROLEE WILL BE INFORMED OF THE RIGHT TO REQUEST REPRESENTATION BY COUNSEL AT THE REVOCATION HEARING. A PAROLEE HAS THE ABSOLUTE RIGHT TO EMPLOY LEGAL COUNSEL FOR REPRESENTATION AT THE REVOCATION HEARING. IF THE PAROLEE DESIRES



LEGAL COUNSEL AND CANNOT AFFORD TO EMPLOY AN ATTORNEY, THE PAROLE BOARD, OR DESIGNATED REPRESENTATIVE(S) THEREOF, WILL DETERMINE, ON A CASE-BY-CASE BASIS, WHETHER DUE PROCESS REQUIRES THAT THE INDIGENT PAROLEE BE REPRESENTED BY COUNSEL AT NO COST TO THE PAROLEE. THE PAROLE BOARD WILL USE THE FOLLOWING GUIDELINES IN MAKING THIS DETERMINATION:

1. THE PAROLEE IS ENTITLED TO HAVE COUNSEL APPOINTED IF INDIGENT, AND IF:
  - A. THE ALLEGATIONS ARE DENIED AND THE POTENTIAL DEFENSES WILL BE DIFFICULT FOR THE PAROLEE TO DEVELOP OR PRESENT, OR
  - B. THE ALLEGATIONS ARE ADMITTED, BUT THERE ARE SUBSTANTIAL REASONS WHICH JUSTIFY OR MITIGATE THE VIOLATION(S) AND MAKE REVOCATION INAPPROPRIATE AND THE REASONS ARE COMPLEX OR OTHERWISE DIFFICULT FOR THE PAROLEE TO DEVELOP OR PRESENT.
2. IF THE PAROLE BOARD, OR A DESIGNATED REPRESENTATIVE THEREOF, DETERMINES THAT APPOINTED COUNSEL IS NOT NECESSARY, THE REASON FOR THE DECISION WILL BE NOTED FOR THE RECORD IN SPECIFIC DETAILS. THE PAROLEE IS SUBSEQUENTLY NOTIFIED IN WRITING OF THE BOARD'S DECISION BY THE POST RELEASE UNIT.

**D. DISCLOSURE OF EVIDENCE**

WHEN NOTICE OF THE PAROLE REVOCATION HEARING IS GIVEN THE EVIDENCE AGAINST THE PAROLEE MUST ALSO BE DISCLOSED.

**E. WITNESSES AND DOCUMENTS**

THE PAROLEE MUST ALSO BE ADVISED OF THE RIGHT TO BE HEARD IN PERSON AND TO PRESENT WITNESSES AND DOCUMENTARY EVIDENCE. THE PAROLEE SHALL ADVISE THE POST RELEASE STAFF MEMBER ASSIGNED TO HIS/HER CASE OF THE NAMES AND ADDRESSES OF ALL WITNESSES HE WISHES TO BE PRESENT AT THE REVOCATION HEARING. THE STATEMENT BY THE PAROLEE CONCERNING WITNESSES MUST CONTAIN A SHORT STATEMENT AS TO THE

RELEVANCY OF THE TESTIMONY OF EACH. THE PAROLE BOARD, OR DESIGNATED REPRESENTATIVE THEREOF, SHALL HAVE THE DISCRETION TO DETERMINE THE RELEVANCY AND NECESSITY OF ALL WITNESSES REQUESTED BY THE PAROLEE. IF THE PAROLE BOARD, OR DESIGNATED REPRESENTATIVE THEREOF, DETERMINES THAT ANY WITNESS IS NECESSARY TO AFFORD THE PAROLEE A FULL AND FAIR HEARING, SUCH WITNESS(ES) SHALL BE SUMMONED OR SUBPOENAED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 53.1-3, CODE OF VIRGINIA, 1950, AS AMENDED.

OTHERWISE, THE PAROLEE IS RESPONSIBLE FOR SECURING WITNESSES DESIRED FOR THE HEARING. IF THE BOARD, OR DESIGNATED REPRESENTATIVE, DETERMINES THAT A WITNESS IS NOT NECESSARY TO BE SUMMONED OR SUBPOENAED TO AFFORD THE PAROLEE A FULL AND FAIR HEARING, THE REASON FOR ITS DECISION WILL BE NOTED FOR THE RECORD IN SPECIFIC DETAIL. THE PAROLEE IS SUBSEQUENTLY NOTIFIED IN WRITING OF THE BOARD'S DECISION BY THE POST RELEASE MANAGER'S STAFF. ON THE DATE ESTABLISHED FOR THE BOARD HEARING, THE PAROLEE SHALL APPEAR BEFORE THE BOARD, OR DESIGNATED REPRESENTATIVE THEREOF, FOR A HEARING ON THE PAROLE VIOLATION CHARGE(S). ANY NECESSARY WITNESSES SHALL BE PRESENT AND DULY SWORN AND SHALL GIVE TESTIMONY CONCERNING THEIR KNOWLEDGE OF THE ALLEGED PAROLE VIOLATION(S).

**F. CROSS-EXAMINATION**

THE PAROLEE MUST ALSO BE ADVISED OF THE RIGHT TO CONFRONT AND CROSS-EXAMINE ADVERSE WITNESSES UNLESS GOOD CAUSE IS SHOWN FOR NOT ALLOWING IT. (SEE NO. 4 UNDER TECHNICAL VIOLATIONS)

**G. REASONS FOR REVOCATION**

IF PAROLE IS REVOKED, THE BOARD WILL INFORM THE PAROLE VIOLATOR IN WRITING AS TO THE EVIDENCE RELIED UPON AND REASONS FOR REVOCATION.

**H. CONTINUANCE/DISCHARGE**

IF PAROLE IS NOT REVOKED, THE BOARD MAY (1) DISCHARGE THE PAROLEE FROM SUPERVISION, OR (2)

DIRECT HIS/HER RELEASE FROM PRISON CUSTODY AND HIS/HER CONTINUANCE UNDER ACTIVE PAROLE SUPERVISION WITH, OR WITHOUT, AN AMENDED MINIMUM PAROLE SUPERVISION EXPIRATION DATE. THE POST RELEASE MANAGER'S STAFF IS RESPONSIBLE FOR FACILITATING THE RELEASE OF ALL "CONTINUED" CASES WITHIN THE TIME PERIOD SPECIFIED BY THE BOARD. THE TIME PERIOD WILL NORMALLY BE SEVEN DAYS.

**I. NOT GUILTY**

IN THE EVENT THE BOARD SHOULD FIND THAT A PAROLEE HAS NOT VIOLATED A PAROLE CONDITION AND PAROLE IS CONTINUED, THE PAROLEE'S RELEASE FROM CONFINEMENT MUST BE EFFECTED IMMEDIATELY (NO LATER THAN THE NEXT DAY AFTER THE DECISION IS COMMUNICATED). THIS DOES NOT, HOWEVER, APPLY FOR THOSE WHERE THE BOARD FINDS A VIOLATION BUT ACTS TO CONTINUE PAROLE. THEY CAN BE RELEASED VIA THE PROCESS NOW COVERED IN THE PRECEDING SECTION.

**VII. VOLUNTARY RETURNS WITHOUT VIOLATIONS**

IN THE EVENT THE PAROLEE DESIRES TO RETURN TO PRISON TO SERVE THE BALANCE OF HIS/HER SENTENCE, THE PAROLE OFFICER WILL PREPARE AND EXECUTE A REQUEST TO BE REMOVED FROM PAROLE AND FOR REIMPRISONMENT, FORM PPS 44. IT WILL BE NECESSARY TO HAVE THE PAROLEE SIGN THE FORM IN THE PRESENCE OF A WITNESS. AFTER WHICH, THE PAROLEE SHALL BE PLACED IN JAIL CONFINEMENT. THE POST RELEASE MANAGER IS TO BE NOTIFIED PROMPTLY OF THE ACTION TAKEN INCLUDING THE JAIL LOCATION WHERE THE PAROLEE IS CONFINED. THE CASE WILL THEN BE REFERRED TO THE BOARD.

COPIES OF FORM PPS 44 ARE TO BE PROVIDED THE CLIENT, POST RELEASE MANAGER, PAROLE OFFICER AND THE JAILER

