

<b>POLICY BULLETIN (PB)</b>			
<b>Subject: Juvenile Parole Revocation Process (CN 416)</b>			
<b>PB Number:</b>			
	California Department of Corrections and Rehabilitation  Division of Juvenile Justice	<b>Manual:</b> <input type="checkbox"/> Administrative (YAM) <input type="checkbox"/> Education Services (ES) <input type="checkbox"/> Institutions and Camps (I&C) <input type="checkbox"/> Parole Services (PS) <input type="checkbox"/> Special Education (SE)	<b>Revision #:</b> _____ <b>Section #:</b> _____

The purpose of this Policy Bulletin (PB) is to provide all Division of Juvenile Justice (DJJ) Institutions and Camps and Paroles Services manual holders with information regarding the attached revised DJJ policy for Division of Juvenile Facilities Revocation Extension Process.

This is the annual review and the policy revisions were required for compliance with negotiated agreements between the parties in L.H. V. Schwarzenegger. Failure to implement the required amendments may result in exposure of CDCR to further litigation.

**Instructions**

This PB contains changes to the above referenced manual(s). To update your manual(s), please follow the directions below step by step.

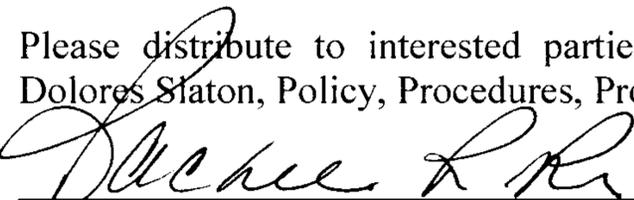
1. Locate the correct manual(s), as marked above.

2.	<b>Remove</b>	<b>Insert</b>	<b>Special Instructions</b>
	N/A	Insert the forms behind index in numerical order.	For the most current versions of forms, go to: <a href="http://intranet/ops/JJ/Pages/Forms.aspx">http://intranet/ops/JJ/Pages/Forms.aspx</a>

3. Update the Revision Record Log (first page of the manual) using the revision number reference above.

This cover sheet does not need to be archived in the manual, only the attached items.

Please distribute to interested parties and make additional copies if necessary. Please direct any inquiries to Dolores Slaton, Policy, Procedures, Programs, and Regulations (PPP&R) Unit Manager, at (916) 262-1431.

  
 \_\_\_\_\_  
 RACHEL R. RIOS  
 Chief Deputy Secretary (A)

\_\_\_\_\_  
 10/7/10  
 Approval Date

Attachment(s)



# DIVISION OF JUVENILE JUSTICE

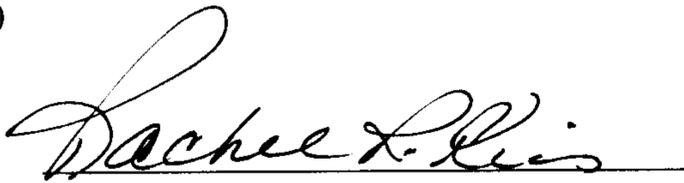
## Juvenile Parole Revocation Process

### Juvenile Parole Board

**Manual****Section #****Replace(s)**

- Administrative (YAM)
- Education Services (ES)
- Institutions and Camps (I&C)
- Parole Services (PS)
- Special Education (SE)

**Signature/Approval Date**

  
 RACHEL R. RIOS  
 Chief Deputy Secretary (A)

10/7/10  
 Approval Date

**Policy Statement**

The Division of Juvenile Parole Operations (DJPO) and the Juvenile Parole Board (JPB) afford procedural due process to juveniles undergoing parole revocation proceedings, in accordance with the Fourteenth Amendment of the United States Constitution.

**Scope**

The JPB, DJPO, Division of Juvenile Facilities (DJF), and Juvenile Parolees.

**Authority**

Welfare and Institutions Code Section, 1719

**Related Standards/References**

- Welfare and Institutions Code, Sections 1721, 1726, and 1767.35
- Institutions and Camps Manual, Sections 7300-7394
- California Code of Regulations, Title 15, Division 4, Section 4034.4
- Conformity with Americans with Disabilities Act During Revocation Proceedings, I&C Manual, Section 6158.4, and PS Manual, Section 5255
- Standards for Attorneys in Revocation Proceedings, I&C Manual, Section 6154.5, and PS Manual, Section 5560

**Related Remedial Plan or Court Order****Farrell Lawsuit**

- Education Services
- Health Care Services
- Mental Health
- Safety and Welfare
- Sexual Behavior Treatment Program
- Wards with Disabilities Program

**Other Lawsuits & Court Orders**

- L.H. Lawsuit
- Other: \_\_\_\_\_

**Requirements**

This policy has a training requirement:  
 This policy has an audit requirement:  
 This policy has restricted distribution:  
 This policy requires annual review:  
 This policy requires a local procedure:

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |

**Revision Date(s)**

7/30/10

**Effective Date**



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#### DEFINITION(S)

**Board Coordinating Parole Agent** - Division of Juvenile Parole Board agent responsible for coordination and facilitation of parole violation hearings, ensuring coordination and communication with counsel and witnesses, assisting with the provision of necessary accommodations and effective communication for parolees, and providing security at parole violation hearings.

**Charges** - Behaviors and corresponding codes describing the alleged violation(s) of parole conditions.

**Charge Section** - A section of the Violation Report form (DJJ 3.264) that lists the alleged charges and includes an evidentiary narrative that describes the alleged behavior.

**Confidential Informant** - A person whose identity is not known to the parolee and whose status as a confidential informant has been established by an outside law enforcement agency.

**Confidential Information** - Any information that may lead to the identity of a Confidential Witness, or that, if disclosed, would present a threat to the safety and security of an institution/facility, or is part of an ongoing investigation that would be compromised if the information was disclosed. Information material to innocence or guilt that does not lead to the identity of the Confidential Witness in a pending revocation proceeding shall be disclosed.

**Confidential Witness** - A person whose identity is not known to the parolee and whose status as a confidential witness has been established by law enforcement or by an agent of the Division of Juvenile Parole Operations.

**Corrective Action Plan** - A treatment and supervision sanction in the community developed at the parole field unit level, imposed upon parolees in response to parole violations, for which detention is not warranted as an alternative to revocation.

**Date of Discovery** - The date that the Division of Juvenile Justice obtains knowledge that an alleged violation of parole has occurred.

**Day(s)** - Calendar days, unless otherwise specified.

**Detention Criteria** - Factors or behavior(s) that may demonstrate a need for detention.

1. Parolee is a danger to himself/herself,
2. Parolee is a danger to the person or property of another,
3. Parolee is a risk to abscond from parole supervision, or
4. Parolee's mental state has deteriorated to the point where it is likely that there is a threat to public safety.

**Detention Section** - A section of the Violation Report form (DJJ 3.264) summarizing reasons why the parolee meets detention criteria.

**Developmental Disability** - A condition attributable to a mental or physical impairment, manifested before age twenty-two, and likely to continue indefinitely, resulting in substantial limitation in three or more specified areas of



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functioning (i.e., caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working) and will require specific and lifelong extended care.

**Disability** - A physical or mental impairment that substantially limits one or more of the major life activities of an individual; a record of such impairment or condition; or being regarded as having such an impairment or condition.

**Disciplinary Decision-Making System** - Division of Juvenile Justice facility disciplinary system which has the ability to impose a sanction, deprive a youth of something possessed, or deny something which a youth reasonably expects as part of his/her prescribed program because the youth commits an institutional rule or law violation.

**Dismissal** - Action required if there is insufficient evidence to support a probable cause finding at the Probable Cause Hearing, if there is insufficient admissible evidence to make a finding of good cause by a preponderance of the evidence at the Revocation Hearing or Revocation Extension Hearing, or in the interest of justice.

**Disposition Section** - A section of the Violation Report form (DJJ 3.264) recommending an appropriate disposition for the violation behavior and outlining reasons for the recommendation.

**Dual Commitment** - A person who is under the jurisdiction of both the Division of Juvenile Justice and the adult division of the California Department of Corrections and Rehabilitation.

**Effective Communication** - Communication with persons with disabilities or those with limited English skills and reading ability that is as effective as communication with others. Effective communication may require the use of an appropriate auxiliary aid or service, or may be achieved by methods such as speaking clearly or using simple language and soliciting feedback to ensure understanding.

**Exit Interview** - A meeting with a parole violator and a hearing officer of the Juvenile Parole Board prior to a parole violator's Revocation Release Date at which the general and special conditions of parole are issued and explained to the parole violator.

**Expedited Probable Cause Hearing** - A Probable Cause Hearing held at an earlier stage in the proceedings upon sufficient offer of proof by the parolee or his/her counsel that there is a complete defense to all parole violation charges that are the basis for the parole hold.

**Fearful Witness** - A person whose identity is known to the parolee, but who has indicated that he/she: 1) does not wish to testify; and 2) fear the risk of harm if he/she testifies at a hearing in the presence of the parolee.

**Good Cause** - Justifiable, legitimate and unforeseeable reason for delay, asserted in good faith and caused by factors that are beyond the control of the Division of Juvenile Parole Operations, the Juvenile Parole Board, or the Division of Juvenile Justice.

**McPherson Status** - Status applicable to a youth, juvenile parolee, or juvenile parole violator who is on adult parole or who has discharged from his/her adult case and has voluntarily consented to serve his/her juvenile commitment in an adult institution, which includes parole violations and revocation extensions.

**Minor Victim/Witness** - Any victim or witness under the age of eighteen (18).

**Not in Custody** - A parolee who is not on a Division of Juvenile Justice parole hold.



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**'Not in Custody Hearing'** - A revocation hearing for a parolee who is not under a Division of Juvenile Justice parole hold.

**Notice of Charges** - An official action conducted by Division of Juvenile Justice staff to personally serve a parolee notice of the charges against him/her including a short factual summary of charged conduct.

**Notice of Conditions of Parole** - A document that notifies a juvenile parolee of behavior and treatment requirements while under parole supervision.

**Notice of Rights** - An advisement to a parolee of his/her procedural and due process rights in parole revocation proceedings pursuant to the L.H. stipulated permanent injunction and State and federal constitutions.

**Parole Hold** - Any invocation by the Division of Juvenile Justice of their authority to involuntarily detain a parolee for revocation proceedings and/or commence revocation proceedings pursuant to Welfare & Institutions Code §1767.3. This term shall not apply to the detention of a parolee who has absconded from the State of California until he or she is physically returned to the State of California and is in custody.

**Parole Placement Plans** - A report prepared by the Division of Juvenile Parole Operations and provided to the Juvenile Parole Board in preparation for a parole violator's release to parole supervision, which includes but is not limited to: identified placement, recommended special conditions of parole, supervision plans, educational/vocational plans, and community treatment plans.

**Parole Report** - A report provided to the Juvenile Parole Board that is informational in nature or requests an administrative action other than a parole violation, including but not limited to requests to lift parole holds, continue on parole, and miscellaneous decisions.

**Parole Violator** - A parolee who violated a condition of parole, and who has been revoked and returned to custody.

**Physical Impairment** - A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that affects one or more of the bodily systems.

**Preponderance of Evidence** - Standard of proof that requires a finding that it is more likely than not that a fact or charge is true.

**Probable Cause** - Facts as would lead a person of ordinary caution and prudence to conscientiously entertain a strong suspicion that an alleged charge is true.

**Probable Cause Hearing** - A hearing in which the juvenile parolee appears and at which it is determined whether there is probable cause to believe that the juvenile parolee has violated a condition of parole and, if so, whether the juvenile parolee should be detained during the revocation process.

**Reasonable Accommodation** - A modification or adjustment that will help provide equal access to programs, activities and services for parolees with disabilities or effective communication needs.

**Return to Custody Assessment or Revocation Extension Assessment** - A recommended disposition offered by the Juvenile Parole Board which is presented to a parolee prior to a probable Cause Hearing (also termed the Offer.)



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**Revocation Extension Hearing** - The two-phase hearing (evidentiary and disposition) in which the parolee appears before the Juvenile Parole Board, at which it is determined whether the preponderance of the evidence shows that the parolee committed Willful Program Failure or Serious In-Custody Misconduct, and in which a parolee's parole revocation period may be extended. A parolee's parole revocation period may not be extended because of the Division of Juvenile Justice's failure to provide a recommended program at all or in a timely manner.

**Revocation Hearing** - A two-phase hearing (evidentiary and disposition) at which it is determined whether the preponderance of the evidence shows that the parolee violated a condition of parole and whether the parolee should be returned to parole supervision or remanded to custody.

**Revocation Proceeding/Revocation Process** - All stages of the process by which a parolee/parole violator may be returned to or retained in custody following an alleged parole violation up to and including the revocation or revocation extension hearing and any administrative appeal. In the case of alleged parole violators who are not in custody, the revocation process begins when the parolee is notified of the pending charges and of his or her rights.

**Revocation Release Date** - The date in which a parole violator will be released to the community.

**Revocation Release Report** - A report prepared by the facility and provided to the Juvenile Parole Board in preparation for a parole violator's release to parole supervision, which includes but is not limited to: facility adjustment, demonstrated behaviors, treatment program participation and completion, accommodation/effective communication issues

**Serious In-Custody Misconduct** - In-custody behavior by a parole violator that poses an immediate and serious threat to the safety and security of youth, staff or property within the facility. (See Revocation Extension Matrix)

**Sufficient Offer of Proof** - A reasonable likelihood that a parolee would produce un-controverted evidence of his/her innocence at an expedited probable cause hearing.

**Supplemental Charges** - Additional charges based on evidence discovered by the Division of Juvenile Parole Operations after the parole hold for detained cases or after the Notice of Rights step for Not-In-Custody cases.

**Victim** - A person against whom a parole violation has been committed.

#### **Violation Levels:**

**Level I:** Minor violations of parole for which detention may not be warranted.

**Level II:** Selected minor law violations, moderate technical violations, or repetitive Level I behavior for which detention may not be warranted.

**Level III:** Any behavior that the Division of Juvenile Parole Operations believes represents a risk or threat to public safety. Level 3 violations are mandatory referrals to the Juvenile Parole Board.

**Violation Report** - A three-part report (Charge Section, Detention Section and Disposition Section) describing a parolee's alleged violations of parole and recommendations presented to the Juvenile Parole Board during parole revocation proceedings.



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**Willful Program Failure** - Repeated and intentional refusal to attend and/or participate in a treatment and training program. The repeated refusal shall be documented by treatment staff. Staff shall specify the dates of non-participation and shall include information demonstrating that the parole violator does not have a mental or physical impairment that prevents him/her from fully participating in the program. A parole violator shall not be charged with willful program failure when program unavailability, facility lockdown, instructor absence or other circumstances beyond the parole violator's control prevent him/her from completing the program prior to the expiration of his/her revocation term.

#### **TRAINING**

The Division of Juvenile Justice (DJJ) shall provide comprehensive annual training to DJJ staff, including but not limited to all JPB Commissioners, JPB hearing officers, JPB Board Coordinating Parole Agents, JPB Americans with Disabilities Act (ADA) Coordinators, DJJ Parole Agents, DJJ Correctional Counselors, and other JPB and DJJ personnel who have direct or supervisory responsibility for communicating with or making decisions affecting juvenile parolees in connection with revocation proceedings.

This training shall include the general requirements of Title II of the Americans with Disabilities Act (ADA) and effective communication needs, requirements of the L.H. v. Schwarzenegger Permanent Injunction, due process rights of juvenile parolees, and the policies and procedures developed pursuant to the L.H. v. Schwarzenegger Permanent Injunction. The training shall be tailored to the job classification(s) and responsibilities of the staff present at the training sessions.

#### **GOAL(S)**

To reach resolution of parole violation matters while ensuring due process rights and disability/effective communication accommodations consistent with the Stipulated Order for Permanent Injunctive Relief in L.H. v. Schwarzenegger and the ADA.

#### **QUALITY ASSURANCE**

Monitoring and compliance will be accomplished through:

1. Executive oversight.
2. Tracking and reporting of the timeliness of hearing and other proceedings, timely provision of accommodations and effective communication assistance, and reasons for delay, through a computerized, statewide, real-time networked database tracking and reporting system known as Juvenile Scheduling and Tracking System (JSTS).
3. Compliance and self-monitoring team who will perform audits and assessments regarding compliance with the terms of the injunction, policies and procedures.

#### **Anti-Discrimination**

The Division of Juvenile Justice shall comply with all anti-discrimination laws in making parole placements or referral to programs, activities, or services.

#### **ADDITIONAL ADMINISTRATIVE DUTIES**



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#### **Board Coordinating Parole Agent**

In addition to the duties outlined in the policies and procedures for the parole revocation process, Board Coordinating Parole Agents shall comply with the following procedures:

1. At the beginning of each business day, the Board Coordinating Parole Agents shall check JPB voice-mailbox, mobile phone voicemail and email.
2. At the conclusion of each days hearing responsibilities, the Board Coordinating Parole Agents shall:
  - Fax all necessary hearing documentation to JPB headquarters and parole units.
  - Provide a status update of casework conducted that same day to their supervisor.
  - Determine, through their supervisor, if there is a need to be directed to other work assignments or other locations.
  - Verify upcoming hearing schedules and attorney appointments with the JPB Scheduler.
  - Verify accommodations/effective communication assistance for upcoming hearings with the JPB ADA Coordinator.
3. At the conclusion of each business day, the Board Coordinating Parole Agents shall check JPB voice-mailbox, mobile phone voicemail and email.
4. At the conclusion of the work week, the Board Coordinating Parole Agents shall submit a written weekly caseload report to JPB headquarters, which includes the following:
  - Status of all open cases, including information regarding hold dates, scheduled hearing dates, extraordinary circumstances
  - Cases received
  - Cases in which a final disposition has been rendered
  - Cases postponed and reason for postponement
  - Any issues (i.e. subpoenas, facility access and security, etc.)
5. Perform other administrative duties as assigned by the Executive Officer, supervisor, or his/her designee, on an as needed basis.
6. Be assigned to duties in all fifty-eight (58) counties or the JPB headquarters office in Sacramento, on an as needed basis, as directed by their supervisor.
7. Utilize and ensure operability of electronic technology in the performance of their duties (i.e. blackberries, cellular phones, email, computers, digital audio recording equipment, etc.).

#### **Board Representative**

In addition to the duties outlined in the policies and procedures for the parole revocation process, Board Representatives shall comply with the following procedures:

At the beginning and conclusion of each business day, Board Representatives shall:

- Check Juvenile Parole Board voice-mailbox, mobile phone voicemail and email.



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- Perform other administrative duties as assigned by the Executive Officer, supervisor, or his/her designee, on an as needed basis.
- Be assigned to duties in all fifty-eight (58) counties or the Juvenile Parole Board headquarters office in Sacramento, on an as needed basis, as directed by their supervisor.
- Utilize electronic technology in the performance of their duties (i.e. blackberries, cellular phones, email, computers, etc.).

### PROCEDURES

#### 1.0 APPOINTMENT OF ATTORNEY

- 1.1. All parolees shall be appointed counsel in the revocation process:
  - 1.1.1. On or before the eighth (8<sup>th</sup>) business day following the parole hold for detained/in-custody cases,
  - 1.1.2. On or before the twenty-first (21<sup>st</sup>) business day following service of the Notice of Charges form (DJJ 3.274) for Not-In-Custody (NIC) cases, or
  - 1.1.3. On or before the eighth (8<sup>th</sup>) business day from the date of notice to the parole violator for revocation extension proceedings.
- 1.2. A parolee may choose to retain a private attorney or be represented by a Public Defender; however, until the parolee exercises that right, he/she will be assigned an attorney.
- 1.3. The Division of Juvenile Parole Operations (DJPO) shall send notice of a parole hold to the parolee's last known private attorney or public defender no later than four (4) business days after the placement of a parole hold. Through this written notification, the private attorney/public defender is advised that, should they choose to represent the parolee in the revocation process, they must:
  - 1.3.1. Obtain representation authorization from the parolee
  - 1.3.2. Notify the Juvenile Parole Board (JPB) by fax or telephone of the substitution as the parolee's counsel, and
  - 1.3.3. Submit a completed Intention of Counsel form (DJJ 3.294) and signed L.H. Protective Order Notice and Acknowledgement form (DJJ 3.298) to the JPB.
- 1.4. Upon receiving a notification via fax or telephone of representation from a privately retained attorney or public defender, the JPB Revocation Desk will:
  - 1.4.1. Document the request for substitution of counsel on an internal tracking database.
  - 1.4.2. Immediately, fax a copy of the Intention of Counsel form (DJJ 3.294) and the L.H. Protective Order Notice and Acknowledgement form (DJJ 3.298) to the requesting attorney.
- 1.5. Upon receiving a completed Intention of Counsel form (DJJ 3.294) and signed L.H. Protective Order Notice and Acknowledgement form (DJJ 3.298), the JPB Revocation Desk will:
  - 1.5.1. Document the substitution of counsel on an internal tracking database.
  - 1.5.2. Send the private attorney/public defender an 'attorney copy' of the revocation packet via overnight mail, fax or email (private counsel's method of choice), including information concerning the availability of these policies and procedures for the attorney's review.
  - 1.5.3. Immediately fax a copy of the completed Intention of Counsel form (DJJ 3.294) and L.H. Protective Order Notice and Acknowledgement form (DJJ 3.298) forms to the Attorney Panel administrator in order to notify him/her of the substitution of counsel.



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- 1.5.4. Fax a copy of the Intention of Counsel form (DJJ 3.294) and L.H. Protective Order Notice and Acknowledgement form (DJJ 3.298) forms to the parole unit for inclusion in the parolee's field file.

*(See Standards for Attorneys in Revocation Proceedings CN 426)*

## 2.0 AMERICANS WITH DISABILITIES ACT/EFFECTIVE COMMUNICATION ACCOMMODATION

- 2.1. The Juvenile Parole Board (JPB) is required by law to ensure that all parolees are provided with equal access, which includes effective communication assistance, during the revocation process. The type of accommodation or service necessary to achieve effective communication will vary from case to case.
- 2.2. Parolees with disabilities or effective communication needs will have the opportunity to request an accommodation via the Request for Accommodation and Assistance form (DJJ 3.260). The parolee's request will be given primary consideration. The presumption is that the parolee's request for accommodation and/or assistance is reasonable.

*(See Ensuring Disability and Effective Communication During Revocation Proceedings CN-418)*

## 3.0 REMEDIES FOR LATE HEARINGS

### 3.1. Probable Cause Hearing

- 3.1.1. The Probable Cause Hearing shall occur no later than thirteen (13) business days after the parole hold is placed. However, if the Probable Cause Hearing occurs after the thirteenth (13<sup>th</sup>) business day following placement of the parole hold without a showing of good cause, the remedy shall be a hearing to be held at the earliest possible date.
- 3.1.2. In any event, if the Probable Cause Hearing occurs after the thirteenth (13<sup>th</sup>) business day following placement of the parole hold with or without a showing of good cause, the hearing shall be held at the earliest possible date.
- 3.1.3. If the Probable Cause Hearing occurs after the thirty-fifth (35<sup>th</sup>) calendar day following placement of the parole hold without a showing of good cause, the parolee shall be entitled to a reduction in his/her return to custody by one day for every day the Probable Cause Hearing occurs beyond the thirty-fifth (35<sup>th</sup>) calendar day.

### 3.2. Revocation Hearing

- 3.2.1. The Revocation Hearing shall occur no later than thirty-five (35) calendar days after the parole hold is placed. However, if the Revocation Hearing occurs after the thirty-fifth (35<sup>th</sup>) calendar day following placement of the parole hold without a showing of good cause, the parolee shall be entitled to a reduction in his/her return to custody by one day for every day the Revocation Hearing is late. Any reduction for time frame violations shall not be considered in determining the appropriate disposition.



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3.2.2. In any event, if the Revocation Hearing occurs after the thirty-fifth (35<sup>th</sup>) calendar day following placement of the parole hold with or without a showing of good cause, the hearing shall be held at the earliest possible date.

3.2.3. If the Revocation Hearing occurs after ninety (90) calendar days following the placement of a parole hold without a showing of good cause, prejudice shall be presumed, the case shall be dismissed, the hold lifted and the parolee released as soon as possible but no later than three (3) business days from the date of the hearing.

#### 3.3. Not-In-Custody Revocation Hearing

3.3.1. The NIC Revocation Hearing shall occur no later than sixty (60) calendar days following the service of Notice of Charges form (DJJ 3.274). However, if the NIC Revocation Hearing occurs after sixty-one (61) calendar days following the service of Notice of Charges form (DJJ 3.274) without a showing of good cause, the remedy shall be a hearing unless the parolee can demonstrate actual prejudice from the delay. Actual prejudice would result in a dismissal of those charges where such prejudice was found.

#### 3.4. Revocation Extension Hearing

3.4.1. The Revocation Extension Hearing shall take place at the earliest practical time after the alleged conduct that is grounds for the charge but no later than thirty-five (35) calendar days following the notice of charges. In the event that the alleged conduct that is grounds for the charge occurs within thirty (30) days prior to the Revocation Release Date (RRD), the Revocation Extension Hearing must occur at the earliest practical time after the alleged conduct, but, in any event, no later than thirty-five (35) days after his/her RRD, absent good cause for going beyond that time.

3.4.2. In any event, if the Revocation Extension Hearing occurs after the thirty-fifth (35<sup>th</sup>) calendar day following the notice of charges with or without a showing of good cause, the hearing shall be held at the earliest possible date.

3.4.3. For parole violators held beyond their RRD, if the Revocation Extension Hearing occurs after the thirty-fifth (35<sup>th</sup>) calendar day following the notice of charges without a showing of good cause, the parole violator shall be entitled to a reduction in his/her extension by one day for every day the Revocation Extension Hearing is late. Any reduction for time frame violations shall not be considered in determining the appropriate disposition.

3.4.4. For parole violators held beyond their RRD, if the Revocation Extension Hearing does not occur within ninety (90) calendar days following the notice of charges without a showing of good cause, prejudice shall be presumed, the case shall be dismissed, an Exit Interview shall be conducted and the parole violator released as soon as possible but no later than three (3) business days from the date of the Exit Interview.

#### 4.0 OPTIONAL WAIVER

4.1. A parolee who is undergoing criminal prosecution may conditionally waive the Revocation/Revocation Extension Hearing, but retains the option to request a hearing. Upon receipt



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- of a signed Parolee-Attorney Decision form (DJJ 3.273), which documents that the parolee has elected to optionally waive his/her Revocation/Revocation Extension Hearing, the parolee will be revoked or have his/her revocation extended for the agreed upon period, which shall be indicated on the Parolee-Attorney Decision form (DJJ 3.273).
- 4.2. A parolee who signs an optional waiver may later request a Revocation/Revocation Extension Hearing. A parolee is entitled to no more than one (1) activation of an optional waiver unless the parolee's attorney represents that the activation was requested in error. A hearing request must be received by the Juvenile Parole Board (JPB) or postmarked no later than thirty-five (35) days before expiration of the revocation period as ordered by the JPB.
- 4.3. Upon receipt of a hearing request, the JPB shall schedule an Optional Waiver Review. At the hearing, the hearing officer may take any appropriate action not to exceed the Return to Custody Assessment (RTCA)/ Revocation Extension Assessment (REA).
- 4.4. Probable Cause Hearing
- 4.4.1. At the Probable Cause Hearing, in the presence of the hearing officer and with the assistance of his/her attorney, a parolee may:
- 4.4.1.1.1. Accept the RTCA/REA or an alternative offer made by the hearing officer at the hearing,
- 4.4.1.1.2. Reject the RTCA/REA and request a Revocation/Revocation Extension Hearing, or
- 4.4.1.1.3. Conditionally accept the RTCA/REA and optionally waive the Revocation/Revocation Extension Hearing. In order for the parolee to be eligible to optionally waive his/her Revocation/Revocation Extension Hearing, charges must have been filed on a charge that is based on the same behavior as one or more of the violation charges. Information that the District Attorney is considering filing charges is insufficient to allow the parolee to optionally waive his/her Revocation/Revocation Extension Hearing.
- 4.4.2. If, at the time of the Probable Cause Hearing, the parolee has pending court charges on one or more of the parole violation charges, the parolee's attorney will explain and discuss the optional waiver process with the parolee.
- 4.4.2.1. If the parolee chooses to optionally waive the Revocation/Revocation Extension Hearing, the hearing officer will have the parolee indicate his/her decision and sign the Parolee-Attorney Decision form (DJJ 3.273).
- 4.4.2.2. The Board Coordinating Parole Agent will provide the parolee with an Optional Waiver Activation Card form (DJJ 3.280), which the parolee will send in to the JPB to activate the optional waiver if the parolee so chooses at a later date.
- 4.5. Activating the Optional Waiver
- 4.5.1. A parolee may request the revocation process to resume on the violation charges that had been waived. In order to do this, the parolee sends the JPB Revocation Desk an Optional Waiver Activation Card form (DJJ 3.280) or written notification requesting a Revocation/Revocation Extension Hearing. Upon receipt of the parolee's request to activate the optional waiver, the written request shall be stamped with the date received and an



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Optional Waiver Review shall be scheduled with a Revocation/Revocation Extension Hearing to be held within thirty-five (35) days from the date of receipt.

#### 5.0 SAFETY AND SECURITY DURING HEARINGS

- 5.1. The Board Coordinating Parole Agent shall provide safety and security for the hearing consistent with the policies and regulations of the California Department of Corrections and Rehabilitation (CDCR) and the facility at which the hearing will occur.
  - 5.1.1. To ensure the safety and security of all hearing participants, the Board Coordinating Parole Agent shall inform facility security staff of the parolee's history of and propensity for violence.
  - 5.1.2. Decisions regarding the use of mechanical restraints during hearings, consistent with the American's with Disabilities Act (ADA), due process clause, and Title 15 of the California Code of Regulations Section 4034.4, shall be made on a case by case basis.
  - 5.1.3. Staff shall not routinely restrain parolees during parole revocation proceedings. Parolees/parole violators may only be hand-cuffed or shackled during parole revocation proceedings based on evidence that the individual parolee's present behavior, apparent emotional state or other conditions present a reasonable likelihood that he/she may become violent or attempt to escape.
  - 5.1.4. Other conditions may include behavior while on parole or violent behavior during the period of incarceration for this alleged parole violation.
- 5.2. The final determination regarding the use of mechanical restraints resides with the Board Coordinating Parole Agent and shall be made prior to the commencement of the hearing, and shall be documented on the board order at the conclusion of the hearing.
  - 5.2.1. If the use of restraints is determined to be appropriate, it shall be the responsibility of the Board Coordinating Parole Agent and/or the parole agent present at the hearing to properly restrain the parolee prior to or immediately upon being escorted into the hearing room.
  - 5.2.2. The Board Coordinating Parole Agent or parole agent responsible for applying the restraints shall double check the restraints for proper application and to ensure that they are not causing pain or loss of circulation for the parolee/parole violator.
  - 5.2.3. Any restraints shall allow the parolee limited movement of the hands to read and handle documents and writings necessary to the hearing.
  - 5.2.4. Under no circumstances should a parolee/parole violator be restrained using fixed restraints to a wall, floor or furniture. Pregnant parolees/parole violators should not be shackled in a "belly belt" around the waist or in leg restraints.
  - 5.2.5. When mechanical restraint is required, handcuffs, alone or attached to a waist chain, will be the means of restraint normally used. However, additional mechanical restraint, including leg irons, additional chains, leather cuffs, or other specialized restraint equipment may be used when the circumstances indicate the need for the level of control that such devices will provide, and when applied by custodial staff who have received training in the proper use of such devices.



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- 5.3. If parolees/parole violators who need sign language interpreters meet the above criteria for restraints the Executive Officer of the Juvenile Parole Board (JPB), or his/her designee, shall personally approve the use of restraints prior to use. That approval shall be only granted if the Executive Officer, or his/her designee, determines that no other accommodation, such as increasing the number of officers in the hearing, can ensure the security of the hearing. If a local jurisdiction requires that a parolee/parole violator who uses sign language have his/her hands restrained during revocation proceedings, the hearing shall be heard at an alternate location. If a local jurisdiction requires that a pregnant parolee/parole violator be restrained in waist restraints or hands restrained behind her back, the hearing shall be heard at an alternate location.
- 5.4. If proper security is not in place at all revocation proceedings, the hearing officer shall not allow the hearing to begin or to continue. The hearing shall be trailed to the end of the calendar or until the hearing room is properly secured. In the event the hearing cannot be held on the same day, it shall be rescheduled within no more than five (5) business days unless there are witnesses.

## 6.0 PAROLE REVOCATION PROCEEDINGS

- 6.1. A parolee, who is alleged to have committed a violation of his/her conditions of parole, is subject to parole revocation proceedings. The DJPO has the authority and responsibility to investigate all alleged violations of parole. If the investigation supports a preliminary probable cause determination regarding the validity of the charges, the DJPO shall make a determination whether the parolee will be:
- 6.1.1. Retained in the community under parole supervision with community sanctions,
  - 6.1.2. Retained in the community pending a review by the JPB, or
  - 6.1.3. Detained pending a review by the JPB.
- 6.2. The JPB shall review the evidence submitted and make a determination as to whether probable cause exists to pursue revocation proceedings, the need for continued detention of the parolee pending completion of revocation proceedings, and appropriate disposition of the charges. The parolee shall be subject to continuation of parole supervision, alternatives to incarceration or revocation of his/her parole for a period not to exceed twelve (12) months.
- 6.3. The parolee shall be afforded appointment of counsel within eight (8) business days and a Probable Cause Hearing within thirteen (13) business days following the placement of the parole hold. If the case is not resolved at the Probable Cause Hearing, the parolee will be afforded a Revocation Hearing within thirty-five (35) calendar days following the placement of the parole hold.
- 6.4. 'Not-In-Custody' Revocation Proceedings:
- 6.4.1. For 'Not in Custody' (NIC) cases, the parolee shall receive due process and ADA/effective communication protections during the revocation process, consistent with the L.H. Stipulated Permanent Injunction and these policies and procedures.
  - 6.4.2. The parolee shall be afforded the appointment of counsel within twenty-one (21) business days following service of the Notice of Charges form (DJJ 3.274) a Revocation Hearing within sixty (60) calendar days following service of the Notice of Charges form (DJJ 3.274).
  - 6.4.3. If the parolee is not detained, he/she shall be noticed of the date, time and location of his/her hearing by the Parole Agent. If the parolee is released at the Probable Cause Hearing pending a not-in-custody Revocation Hearing, the date, time and location of the not-in-



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custody Revocation Hearing shall be provided to the parolee by his/her attorney at the conclusion of the Probable Cause Hearing.

## 7.0 PROCESSING OF REVOCATION PACKETS

### JPB Revocation Desk

- 7.1. The JPB Revocation Desk will receive the revocation packet in JSTS as scanned by the parole unit(s):
  - 7.1.1. No later than the eighth (8<sup>th</sup>) business day following the parole hold for detained/in-custody cases, or
  - 7.1.2. No later than the twenty-first (21<sup>st</sup>) business day following service of the Notice of Charges form (DJJ 3.274) for NIC cases.
- 7.2. Upon receipt, the JPB Revocation Desk shall immediately:
  - 7.2.1. Print the revocation packet from JSTS.
  - 7.2.2. Review the revocation packet to ensure completeness of all necessary documents. The revocation packet received shall include, but is not limited to:
    - 7.2.2.1. The Revocation Packet Content Checklist form (DJJ 3.281) with Column 1 completed.
    - 7.2.2.2. A copy of the Notice of Charges form (DJJ 3.274) bearing the parolee's signature.
    - 7.2.2.3. The Request for Accommodation and Assistance form (DJJ 3.260) with Sections 1 through 3 completed and the following source documents:
      - 7.2.2.3.1. Disability-Effective Communication Summary Report (DJJ 3.299)
      - 7.2.2.3.2. WDP Board Information Report
      - 7.2.2.3.3. Youth Request for Reasonable Accommodation (DJJ 8.043)
      - 7.2.2.3.4. Prior Request for Accommodation and Assistance forms (DJJ 3.260) or notation that these forms were reviewed in JSTS
    - 7.2.2.4. Notice of Parole Revocation Rights and Acknowledgement form (DJJ 3.270) bearing the parolee's signature.
    - 7.2.2.5. A copy of the Parole Hold Notification form (DJJ 3.267).
    - 7.2.2.6. The Violation Report form (DJJ 3.264), Sections A, B, and C.
    - 7.2.2.7. Documentary evidence (i.e. law enforcement reports, lab results, etc).
    - 7.2.2.8. Supplemental Reports (if applicable)
    - 7.2.2.9. Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268)
    - 7.2.2.10. Confidential Information Disclosure form (DJJ 3.286) (if applicable)
    - 7.2.2.11. A copy of the Action Log form (DJJ 1.601F).
    - 7.2.2.12. A copy of the Notice of Conditions of Parole form (DJJ 3.207) bearing the parolee's signature.
    - 7.2.2.13. Parole Violation Disposition Log (CAP 1 & 2) form (DJJ 3.266) (if applicable).
    - 7.2.2.14. Jurisdiction and Confinement History
    - 7.2.2.15. Clinical Summary
  - 7.2.3. If the packet is incomplete, the JPB Revocation Desk shall contact the parole unit to request the missing documents be scanned into JSTS within forty-eight (48) hours. The JPB will continue to process the packet and forward missing documents to the parolee's attorney as soon as they become available.
  - 7.2.4. Enter the charges into the Juvenile Scheduling and Tracking System (JSTS).



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- 7.2.5. Forward the revocation packet to the JPB Scheduler to schedule a Probable Cause Hearing.
- 7.2.6. Upon receiving the revocation packet back from the JPB Scheduler, forward the packet to the Officer of the Day for preparation of a Return to Custody Assessment (RTCA).
- 7.2.7. Upon receiving the revocation packet back from the Officer of the Day, forward the packet to the JPB ADA Coordinator for scheduling of accommodation and/or effective communication assistance.
- 7.2.8. Upon receiving the revocation packet back from the JPB ADA Coordinator, place the packet in the Officer of the Day's office pending decision review.

#### JPB Scheduler

#### 7.3. If the parolee is detained/in-custody

- 7.3.1. No later than the eighth (8<sup>th</sup>) business day following the parole hold, the JPB Scheduler shall:
  - 7.3.1.1. Identify the parolee's detention location and where the Probable Cause Hearing will occur.
  - 7.3.1.2. Identify the 'no later than date' for the Probable Cause Hearing
    - 7.3.1.2.1. Thirteen (13) business days following the parole hold.
  - 7.3.1.3. Cross-reference other hearings scheduled on this same date.
  - 7.3.1.4. Determine a date and time for the Probable Cause Hearing.
  - 7.3.1.5. Identify a hearing officer and Board Coordinating Parole Agent for the Probable Cause Hearing.
  - 7.3.1.6. Enter the date, time and location of the Probable Cause Hearing in the Juvenile Scheduling and Tracking System (JSTS).
  - 7.3.1.7. Notify the parolee's attorney, Board Coordinating Parole Agent, Agent of Record and Supervising Parole Agent of the date, time and location of the Probable Cause Hearing via email.
    - 7.3.1.7.1. If the parole violator's attorney is private counsel or a public defender, notification shall include transmission of the revocation extension packet.

#### 7.4. If the parolee is Not-in-Custody (NIC)

- 7.4.1. No later than the twenty-first (21<sup>st</sup>) business day following service of the Notice of Charges form (DJJ 3.274), the JPB Scheduler shall:
  - 7.4.1.1. Identify the 'no later than date' for the NIC Revocation Hearing sixty (60) calendar days following service of the Notice of Charges form (DJJ 3.274).
  - 7.4.1.2. Consult with the Board Coordinating Parole Agent in identifying a location for the NIC Revocation Hearing.
  - 7.4.1.3. Cross-reference other hearings scheduled on this same date.
  - 7.4.1.4. Determine a date and time for the NIC Revocation Hearing.
  - 7.4.1.5. Identify a hearing officer and Board Coordinating Parole Agent for the NIC Revocation Hearing.
  - 7.4.1.6. Enter the date, time and location of the NIC Revocation Hearing in the Juvenile Scheduling and Tracking System (JSTS).



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- 7.4.1.7. Notify the parolee's attorney, Board Coordinating Parole Agent, Agent of Record and Supervising Parole Agent of the date, time and location of the NIC Revocation Hearing via email.

#### JPB ADA Coordinator

- 7.5. Upon receipt of the revocation packet from the JPB Revocation Desk, on or before the ninth (9<sup>th</sup>) business day following placement of the parole hold or the twenty-second (22<sup>nd</sup>) business day following service of the Notice of Charges form (DJJ 3.274) for NIC cases, the JPB ADA Coordinator shall:
- 7.5.1. Review the Request for Accommodation and Assistance form (DJJ 3.260) and all supporting/source documents to determine if there are any accommodation/effective communication needs to be provided at the hearing.
  - 7.5.2. Enter accommodation/effective communication data into an internal tracking database.
  - 7.5.3. Complete Section IV (Probable Cause) of the Request for Accommodation and Assistance form (DJJ 3.260) in the Juvenile Scheduling and Tracking System (JSTS).
  - 7.5.4. Return the revocation packet to the JPB Revocation Desk.
  - 7.5.5. Print and retain a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) from JSTS and source documents.
- 7.6. If the parolee is detained/in-custody
- 7.6.1. No later than ten (10) business days following the date of the parole hold, the JPB ADA Coordinator shall:
    - 7.6.1.1. Arrange for needed accommodation and/or effective communication assistance to be provided at the Probable Cause Hearing.
      - 7.6.1.1.1. Two (2) business days prior to the hearing, confirm the interpreter (if applicable) scheduled to attend the hearing.
    - 7.6.1.2. Transmit the interpreter's identification information (if applicable) to the hearing location for gate clearance.
    - 7.6.1.3. Prepare an Interpreter Authorization Memo and transmit to the vendor to confirm services requested and provide verification of services provided.
- 7.7. If the parolee is Not-in-Custody (NIC)
- 7.7.1. See procedures to occur no later than five (5) business days prior to the Revocation Hearing as outlined in 'Preparing the Revocation Hearing'.

#### Board Coordinating Parole Agent

- 7.8. If the parolee is detained/in-custody
- 7.8.1. Upon receiving notification of the Probable Cause Hearing from the JPB Scheduler, no later than ten (10) business days following the placement of the parole hold, the Board Coordinating Parole Agent shall:
    - 7.8.1.1. Review and prepare the revocation packet.
    - 7.8.1.2. Contact the hearing location to confirm the date and time of the Probable Cause Hearing.
    - 7.8.1.3. Verify any security requirements of the hearing facility for the Probable Cause Hearing.



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- 7.8.1.4. Contact the JPB Scheduler to confirm the date, time and location of the hearing.
- 7.8.2. No later than 48 hours prior to the scheduled Probable Cause Hearing, the Board Coordinating Parole Agent shall:
  - 7.8.2.1. Review the Request for Accommodation and Assistance form (DJJ 3.260) to identify any need for accommodation/effective communication assistance at the Probable Cause Hearing.
  - 7.8.2.2. Contact the JPB Scheduler to obtain the identification of the hearing officer and attorney.
  - 7.8.2.3. Contact the JPB ADA Coordinator to confirm any accommodation/effective communication assistance to be provided.
  - 7.8.2.4. Provide the hearing facility with the identification of those scheduled to attend the Probable Cause Hearing.
  - 7.8.2.5. Utilizing an electronic mapping system (i.e. Map Quest), map a 50-mile radius of the location where the violation occurred.
  - 7.8.2.6. Identify a Revocation Hearing location within the 50-mile radius of the location where the violation occurred.
    - 7.8.2.6.1. All Revocation Hearings shall be held within a 50-mile radius of the location where the violation occurred unless knowingly waived by the parolee in consultation with his/her attorney and approved by the Executive Officer, or his/her designee.
- 7.9. If the parolee is Not-in-Custody (NIC)
  - 7.9.1. Upon request, the Board Coordinating Parole Agent shall:
    - 7.9.1.1. Utilizing an electronic mapping system (i.e. Map Quest), map a 50-mile radius of the location where the violation occurred.
    - 7.9.1.2. In consultation with the JPB Scheduler, identify a location for the NIC Revocation Hearing.
      - 7.9.1.2.1. All Revocation Hearings shall be held within a 50-mile radius of the location where the violation occurred unless knowingly waived by the parolee in consultation with his/her attorney and approved by the Executive Officer, or his/her designee.
  - 7.9.2. Upon receiving notification of the Probable Cause Hearing from the JPB Scheduler, the Board Coordinating Parole Agent shall:
    - 7.9.2.1. Review and prepare the revocation packet.
    - 7.9.2.2. Review the Request for Accommodation and Assistance form (DJJ 3.260) to identify any need for accommodation/effective communication assistance at the Probable Cause Hearing.
    - 7.9.2.3. Continue to procedures outlined in 'Preparing the Revocation Hearing'.

## 8.0 RETURN TO CUSTODY ASSESSMENT

### Officer of the Day

- 8.1. On or before the ninth (9<sup>th</sup>) business day following placement of the parole hold, the Officer of the Day shall prepare a Return to Custody Assessment (RTCA). The RTCA shall be communicated to the parolee's attorney no later than ten (10) business days following the placement of the parole hold.



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- 8.1.1. Upon receipt of the revocation packet from the JPB Revocation Desk, the Officer of the Day shall:
  - 8.1.1.1. Ensure that the JPB has jurisdiction over the parolee.
  - 8.1.1.2. Ensure the revocation packet is complete.
  - 8.1.1.3. Determine whether or not probable cause exists on each charge.
  - 8.1.1.4. Determine if there is probable cause to detain the parolee pending a Revocation Hearing.
  - 8.1.1.5. Review any known factors in aggravation or mitigation.
  - 8.1.1.6. Determine if an alternative to incarceration is appropriate. The Officer of the Day has the discretion to use all remedies, including, but not limited to a RTCA, alternatives to incarceration, dismissal or continuation on parole.
  - 8.1.1.7. Make a RTCA based on the Revocation Assessment Matrix. (see attached)
  - 8.1.1.8. Document the RTCA on the Summary of Revocation Decision: Return to Custody Assessment form (DJJ 3.276-RTCA) in JSTS.

#### 9.0 SUPPLEMENTAL CHARGES

- 9.1. A parole agent must notify a parolee of any and all known alleged parole violations at the initial notice of charges. New violations of parole may occur, or may be discovered, after the initial revocation packet is delivered to the JPB and may result in additional charges. Any charges that occur in this way shall be considered "supplemental charges."
- 9.2. If the original charges have not yet been adjudicated when the supplemental charges are submitted to the JPB, all charges shall be merged and adjudicated as one action when practical according to the due process deadlines calculated using the hold date on the original charges.
- 9.3. All known charges arising from conduct known to the DJPO must be brought at a reasonable time prior to the hearing.
- 9.4. **NOTE:** If the original and supplemental charges are not merged into one action, the due process timeframes for the supplemental charges will be calculated from the date that the underlying behavior was discovered and all L.H. timeframes apply.
- 9.5. Parolees charged with serious in-custody misconduct involving violence against a person that occurs while the parolee is in custody pending revocation proceedings may be assessed up to an additional twelve (12) months, based upon relevant assessments as provided in the Revocation Extension Matrix. NIC parolees charged with additional violation behavior involving felony misconduct while out of custody and pending a revocation hearing may also be assessed up to an additional twelve (12) months, based upon relevant assessments as provided in the Revocation Matrix.

#### 10.0 EXPEDITED PROBABLE CAUSE HEARING

- 10.1. The JPB shall provide an expedited Probable Cause Hearing within ten (10) business days following the parole hold upon a sufficient offer of proof by a parolee's attorney that there is a complete defense to all parole violation charges that are the basis of the parole hold. The attorney shall be provided with telephone and email or fax access to the Officer of the Day who shall receive requests for



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expedited Probable Cause Hearings. Such requests may be made by the parolee's attorney at any time. The JPB shall respond to such requests no later than one (1) business day after receiving such request but shall make every effort to respond the same day. If the request for an expedited Probable Cause Hearing is denied, the basis for denial shall be stated in writing.

- 10.2. The JPB shall track requests and responses for expedited Probable Cause Hearings in an internal tracking database.

#### 11.0 THE PROBABLE CAUSE HEARING

- 11.1. A Probable Cause Hearing shall be held no later than thirteen (13) business days after placement of the parole hold, absent good cause. The parolee shall have the right to a continuance of a timely Probable Cause Hearing. Any such request shall be made in the presence of the hearing officer. A hearing officer, Board Coordinating Parole Agent, and the parolee represented by his/her attorney, shall be present.
- 11.2. The purpose of the Probable Cause Hearing is:
- 11.2.1. To determine whether there is probable cause to believe that the parolee has violated a condition of parole,
  - 11.2.2. Whether the parolee should be detained during the revocation process, and
  - 11.2.3. To attempt to resolve the case at an early stage in the proceedings.
- 11.3. The State has the burden of proof to establish probable cause and that the hold should be maintained.
- 11.4. The Probable Cause Hearing shall not be audio or video recorded, but a written record will be made of the proceeding.

#### 12.0 CONDUCTING THE PROBABLE CAUSE HEARING

##### Hearing Officer

- 12.1. The hearing officer shall conduct the following reviews in preparation for the Probable Cause Hearing:
- 12.1.1. Jurisdiction Review: Locate the Available Confinement Time (ACT)/jurisdiction expiration dates on the Jurisdiction and Confinement History. If this date appears to have passed, contact the JPB Revocation Desk to confirm the date. If it is confirmed that the parolee has reached the expiration of his/her available confinement time/jurisdiction, the case shall be dismissed. The hold shall be lifted and the parolee released as soon as possible, but no later than three (3) business days from the date of the hearing.
  - 12.1.2. Accommodation/Effective Communication Review: Locate and review the Request for Accommodation and Assistance form (DJJ 3.260) and all supporting documents. Ensure all needed accommodations or effective communication assistance will be available prior to beginning the hearing.
  - 12.1.3. Due Process Review: Review the Notice of Charges form (DJJ 3.274) and the Notice of Parole Revocation Rights and Acknowledgement form (DJJ 3.270). Determine if the



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Probable Cause Hearing is within thirteen (13) business days after the date of the parole hold, and if not, determine whether good cause exists for the delay.

- 12.1.4. Charge Review: Review the behavior described in the Violation Report form (DJJ 3.264) and any other reports presented. Determine if the behavior meets the elements of the violations listed.
  - 12.1.5. Evidentiary Review: Review all other written evidence provided, including but not limited to, police reports, witness statements and toxicology (lab) reports.
    - 12.1.5.1. Evidence or documents not provided to the parolee's counsel at least forty-eight (48) hours prior to the hearing shall not be admitted or considered in the hearing unless the Division of Juvenile Justice (DJJ) can show good cause for the delay.
  - 12.1.6. Parole Adjustment Review: Review the Violation Report form (DJJ 3.264). Note the comments of the Parole Agent for consideration of continued detention.
  - 12.1.7. Prior Violation Review: Review the Violation Report form (DJJ 3.264) and the Action Log form (DJJ 1.601F). Note the number and severity of prior violations for consideration of continued detention.
  - 12.1.8. Recommendation Review: Review the Violation Report form (DJJ 3.264). Note and consider the detention recommendation and comments of the Parole Agent and a Supervising Parole Agent.
- 12.2. During the Probable Cause Hearing, the hearing officer shall:
- 12.2.1. Ensure that the parolee receives a fair hearing.
  - 12.2.2. Indicate to the attorney, Board Coordinating Parole Agent and escort officer that he/she is ready to begin and have the parolee brought into the room.
    - 12.2.2.1. In the event that the parolee refuses to attend the hearing, the parolee's attorney shall be escorted to the housing unit to confer with the parolee regarding the refusal to attend when the hearing is taking place in a DJJ facility. After meeting with the attorney, verify that the parolee has signed a Refusal to Participate in Revocation Proceeding form (DJJ 3.284) in the presence of his/her attorney or by documentation of the refusal to attend and the reason for the refusal by the facility staff/Board Coordinating Parole Agent. In such instances, the facility staff/Board Coordinating Parole Agent documenting the refusal shall testify under oath as to the facts surrounding the parolee's refusal to attend the hearing.
    - 12.2.2.2. Document whether the parolee is restrained. If so, document the BCPA's basis for that decision.
  - 12.2.3. Ask the attorney, when all parties are present, if there are any preliminary objections or any legal cause for not conducting the Probable Cause Hearing.
    - 12.2.3.1. If there are preliminary objections, make a decision on each objection and document the objection(s), the decision(s), and the reason for the decision(s), which will be placed in the official record.
  - 12.2.4. Ask all parties to identify themselves by stating their name, spelling their last name, and in the case of the parolee stating the YA number.



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- 12.2.5. Review the Request for Accommodation and Assistance form (DJJ 3.260) and conduct an interactive accommodation/effective communication review with the parolee in order to identify any need for reasonable accommodations/effective communication assistance.
  - 12.2.5.1. Verify the accommodation/effective communication needs assessment with the attorney.
  - 12.2.5.2. If a physical/mental impairment, or effective communication need that would affect the parolee's ability to effectively participate is identified, but has not been accommodated, make all reasonable efforts to immediately secure the necessary accommodation, including but not limited to granting a brief recess to arrange for the accommodation.
  - 12.2.5.3. If it is not possible to secure the accommodation in order to hold the hearing the same day, postpone the proceeding for no more than five (5) business days in order to obtain the accommodations.
  - 12.2.5.4. Document any relevant observations or accommodations in Section V of the Request for Accommodation and Assistance form (DJJ 3.260).
- 12.2.6. Explain to the parolee the purpose of the Probable Cause Hearing as follows:
  - 12.2.6.1. The purpose of the hearing.
    - 12.2.6.1.1. To determine whether there is probable cause to believe that the parolee has violated a condition of parole.
    - 12.2.6.1.2. To determine whether the parolee should be detained during the revocation process.
    - 12.2.6.1.3. To attempt to resolve the case.
  - 12.2.6.2. His/Her right to appeal to the Executive Officer of the Juvenile Parole Board (JPB) within twenty (20) business days of the receipt of written parole revocation decision with the assistance of an attorney.
    - 12.2.6.2.1. There will be only one level of appeal.
    - 12.2.6.2.2. The appeal will be decided by the Executive Officer, or his/her designee, within ten (10) business days of receipt of the appeal.
    - 12.2.6.2.3. The appeal decision will be served on the parolee within five (5) business days of the appeal decision.
    - 12.2.6.2.4. Advise parolee that he must submit any appeals to JPB headquarters.
- 12.2.7. State each charge and the basis of the charge(s), one at a time.
- 12.2.8. Ask the attorney to enter a plea to each pending charge, either: 'Admit', 'Deny' or 'No Plea'.
  - 12.2.8.1. If the parolee admits to the charge(s), thereby waiving his right to the evidentiary phase of the Revocation Hearing, ask the attorney and/or the parolee if they wish to make a statement regarding disposition, and then skip to step 12.1.10.19 below.
- 12.2.9. Allow the attorney and the parolee to make statements, present oral, physical and/or documentary evidence concerning probable cause, and/or ask questions.
- 12.2.10. Determine if there is probable cause to believe that the parolee committed a violation of parole.
- 12.2.11. Render a decision. This decision must include a probable cause determination with regard to each charge, which must be announced separately, and the specific facts upon which the probable cause determination was based.



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- 12.2.11.1. If probable cause to believe that the parolee committed at least one violation of parole is not found, the charge(s) shall be dismissed. The hold shall be dropped, and the parolee released as soon as possible but no later than three (3) business days from the date of the Probable Cause Hearing.
- 12.2.12. Review the Summary of Revocation Decision: Return to Custody Assessment form (DJJ 3.276-RTCA) with the parolee and his/her attorney. Allow the attorney and the parolee to make statements and present oral, physical and/or documentary evidence that may affect the disposition.
- 12.2.12.1. Consider dispositions other than the Return to Custody Assessment (RTCA), including:
- 12.2.12.1.1. Dismissal of some or all of the charges
  - 12.2.12.1.2. Continue on parole, including community placements
  - 12.2.12.1.3. Credit for time served
  - 12.2.12.1.4. Release from custody pending a not-in-custody hearing (for detained/in-custody cases only)
  - 12.2.12.1.5. Reduction of the RTCA
- Note: The hearing officer does not have the authority to adjust the RTCA upward during the Probable Cause Hearing.
- 12.2.12.2. The parolee and his/her attorney shall have an opportunity to accept the RTCA or an alternative offer made by the hearing officer at the hearing.
- 12.2.12.2.1. If the RTCA/ alternative offer is rejected, the hearing officer shall order that a Revocation Hearing be scheduled no later than the thirty-fifth (35<sup>th</sup>) calendar day following placement of the parole hold. (continue to 12.1.10.23)
  - 12.2.12.2.2. If the RTCA/ alternative offer is accepted, ensure the parolee and his/her attorney sign the Parolee-Attorney Decision form (DJJ 3.273). (skip to 12.1.11.17)
- 12.2.12.3. If an alternative to incarceration is not offered, document why.
- 12.2.13. Determine if there is probable cause to believe that detention is warranted pending a Revocation Hearing.
- 12.2.13.1. If a determination is made that probable cause exists, but that continued detention is not warranted, order that the parole hold be dropped and order the parolee appear at a not-in-custody Revocation Hearing at a date to be determined, but no later than sixty (60) calendar days following the service of the Notice of Charges form (DJJ 3.274).
  - 12.2.13.2. Document this determination regarding whether continued detention is warranted and the basis for the determination.
- 12.2.14. Review the Request for Witnesses form (DJJ 3.271) and Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268).
- 12.2.14.1. If parolee's attorney is not prepared to provide a list of witnesses, order a short recess and request that the list be developed. When the attorney has had time to prepare the list, the hearing will be reconvened. Should the attorney require additional time to prepare a complete witness list, the hearing will be concluded



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and the attorney shall submit a final witness list to the Board Coordinating Parole Agent for review by the Officer of the Day.

12.2.15. Allow parolee's attorney to justify the request for witnesses, and either approve or disapprove each witness. The request for witnesses by the State and the parolee must be reviewed using the same criteria for approval or disapproval.

12.2.15.1. The parolee's attorney may challenge the 'confidential' or 'fearful' designation of a witness. Upon challenge, the hearing officer shall make a determination regarding the designation based upon the qualifying criteria (see 'Witnesses').

12.2.16. Ensure the contact information and name of each witness to be called is documented on the Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268) by the Board Coordinating Parole Agent. The original list will be placed in the revocation packet for processing by the Board Coordinating Parole Agent.

12.2.17. Ensure that all objections are documented along with the hearing officer's ruling on each objection and the basis for each ruling.

12.2.18. Document the final result of the Probable Cause Hearing as to each charge and the basis for the decision(s) on the Summary of Revocation Hearing and Decision form (DJJ 3.275-PCH) in the Juvenile Scheduling and Tracking System (JSTS).

12.2.18.1. If the offered disposition is accepted, document any factors in aggravation or mitigation when the disposition agreed upon is outside of the Return to Custody guidelines in JSTS.

12.2.18.2. If the hearing officer orders the parolee released (i.e. continue on parole, credit for time served or release pending a not-in-custody hearing), the parolee shall be released as soon as possible but no later than three (3) business days after the hearing.

12.2.19. Return the revocation packet and all forms and documents generated during the Probable Cause Hearing to the Board Coordinating Parole Agent for continued processing.

### 13.0 CONCLUDING THE PROBABLE CAUSE HEARING

#### 13.1. If the case has not been resolved:

##### Board Coordinating Parole Agent

13.1.1. At the conclusion of the Probable Cause Hearing, the Board Coordinating Parole Agent shall:

13.1.1.1. Ensure the Parolee – Attorney Decision form (DJJ 3.273) has been completed and contains the signatures of the parolee and his/her attorney.

13.1.1.2. Ensure the hearing officer has completed Section V (Probable Cause) of the Request for Accommodation and Assistance form (DJJ 3.260) in JSTS.

13.1.1.3. Determine a location for the Revocation Hearing, which shall be within fifty (50) miles of where the violation occurred.

13.1.1.4. Schedule a Revocation Hearing: (NOTE: A parolee may be granted a continuance of his/her Revocation Hearing for good cause shown. Any such request shall be made in the presence of the hearing officer)

13.1.1.4.1. If the parolee is detained in a DJJ facility: Contact the JPB Scheduler, in consultation with the attorney, to schedule a date for



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- the Revocation Hearing to occur on or before the thirty-fifth (35<sup>th</sup>) calendar day after placement of the parole hold.
- 13.1.1.4.1.1. If the thirty-fifth (35<sup>th</sup>) calendar day falls on a weekend or holiday, the hearing will occur no later than the next business day after the weekend or holiday.
- 13.1.1.4.2. If the parolee is detained in a non-DJJ facility: Within two (2) business days, in consultation with the attorney, contact the JPB Scheduler to schedule a date for the Revocation Hearing to occur on or before the thirty-fifth (35<sup>th</sup>) calendar day after placement of the parole hold.
- 13.1.1.4.2.1. If the thirty-fifth (35<sup>th</sup>) calendar day falls on a weekend or holiday, the hearing will occur no later than the next business day after the weekend or holiday.
- 13.1.1.4.3. If the parolee is ordered released pending a Not-In-Custody (NIC) Revocation Hearing: Within five (5) business days, in consultation with the attorney, contact the JPB Scheduler to schedule a date for the Revocation Hearing to occur on or before the sixtieth (60<sup>th</sup>) calendar day following service of the Notice of Charges form (DJJ 3.274).
- 13.1.1.4.3.1. If the sixtieth (60<sup>th</sup>) calendar day falls on a weekend or holiday, the hearing will occur no later than the next business day after the weekend or holiday.
- 13.1.1.5. Complete the Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268).
- 13.1.1.6. Provide the parolee and his/her attorney with copies of the following documents:
- 13.1.1.6.1. Summary of Revocation Hearing and Decision form (DJJ 3.275-PCH)
- 13.1.1.6.2. Request for Witnesses form (DJJ 3.271), documenting approval/denial of witnesses
- 13.1.1.6.3. Sufficient signed blank Subpoena forms (DJJ 1.300) and Subpoena Duces Tecum forms (DJJ 3.287)
- 13.1.1.7. By the end of the same day, fax the following document to the JPB Revocation Desk and the parole unit:
- 13.1.1.7.1. Parolee – Attorney Decision form (DJJ 3.273) containing the signatures of the parolee and his/her attorney
- 13.1.1.7.2. Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268) (page 1)
- 13.1.1.8. If the case requires transfer of the parolee to comply with the fifty-mile due process requirement, the Board Coordinating Parole Agent shall:
- 13.1.1.8.1. Contact the JPB Scheduler to identify the appropriate Board Coordinating Parole Agent for the Revocation Hearing.
- 13.1.1.8.2. Transfer the completed revocation packet and all original documentation to the appropriate Board Coordinating Parole Agent.



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##### JPB Scheduler

- 13.1.2. In consultation with the Board Coordinating Parole Agent, the scheduler shall:
- 13.1.2.1. Identify the parolee's detention location and where the Revocation Hearing will occur.
  - 13.1.2.2. Identify the 'no later than date' for the Revocation Hearing:
    - 13.1.2.2.1. Thirty-five (35) calendar days after placement of the parole hold for detained/in-custody cases
    - 13.1.2.2.2. Sixty (60) calendar days following service of the Notice of Charges form (DJJ 3.274) for not-in-custody Revocation Hearings
  - 13.1.2.3. Identify a hearing officer and Board Coordinating Parole Agent for the Revocation Hearing.
  - 13.1.2.4. Cross-reference other hearings scheduled on this same dates.
  - 13.1.2.5. Schedule the date, time and location of the Revocation Hearing.
  - 13.1.2.6. Enter the date, time, location, hearing officer and Board Coordinating Parole Agent into the Juvenile Scheduling and Tracking System (JSTS).
  - 13.1.2.7. Notify the parolee's attorney, Board Coordinating Parole Agent, Agent of Record and Supervising Parole Agent of the date, time and location of the Revocation Hearing via email.

##### JPB Revocation Desk

- 13.1.3. Upon receipt of the Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268), the JPB Revocation Desk shall proceed with preparing the case for a Revocation Hearing.
- 13.1.4. Upon conclusion of the Probable Cause Hearing, the JPB Revocation Desk shall:
- 13.1.4.1. Print a copy of the Summary of Revocation Hearing and Decision form (DJJ 3.275-PCH) from JSTS.
  - 13.1.4.2. Print a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) from JSTS.
  - 13.1.4.3. Print a copy of the Summary of Revocation Decision: Return to Custody Assessment form (DJJ 3.276-RTCA) from JSTS.
  - 13.1.4.4. Stamp (bottom of the first page) each document as "original".
  - 13.1.4.5. Forward all original documents to the Master File unit for inclusion in the parolee's Master File.

##### JPB ADA Coordinator

- 13.1.5. Upon conclusion of the Probable Cause Hearing the JPB ADA Coordinator shall print and retain a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) and source documents from JSTS.

#### 13.2. **If the case has been resolved:**

##### Board Coordinating Parole Agent

- 13.2.1. Ensure the Parolee – Attorney Decision form (DJJ 3.273) has been completed and contains the signatures of the parolee and his/her attorney.



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- 13.2.2. Ensure the hearing officer has completed Section V (Probable Cause) of the Request for Accommodation and Assistance form (DJJ 3.260) in JSTS.
- 13.2.3. Provide the parolee and his/her attorney with copies of the Summary of Revocation Hearing and Decision form (DJJ 3.275-PCH)
- 13.2.4. By the following business day, return the revocation packet and all original documentation to the JPB Revocation Desk.

#### JPB Revocation Desk

- 13.2.5. Upon conclusion of the Probable Cause Hearing, the JPB Revocation Desk shall:
  - 13.2.5.1. Print a copy of the Summary of Revocation Hearing and Decision form (DJJ 3.275-PCH) from JSTS.
  - 13.2.5.2. Print a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) from JSTS.
  - 13.2.5.3. Print a copy of the Summary of Revocation Decision: Return to Custody Assessment form (DJJ 3.276-RTCA) from JSTS.
  - 13.2.5.4. Stamp (bottom of the first page) each document as "original".
  - 13.2.5.5. Forward all original documents to the Master File unit for inclusion in the parolee's Master File.

#### JPB ADA Coordinator

- 13.2.6. Upon conclusion of the Probable Cause Hearing, the JPB ADA Coordinator shall print and retain a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) and source documents from JSTS.

## 14.0 PROCESSING THE REQUEST FOR OPTIONAL WAIVER ACTIVATION

#### JPB Revocation Desk

- 14.1. Immediately upon receipt of an Optional Waiver Activation Card form (DJJ 3.280) or written notification requesting a Revocation Hearing, the JPB Revocation Desk shall:
  - 14.1.1. Activate the optional waiver in JSTS.
  - 14.1.2. Forward the revocation packet to the JPB Scheduler to schedule an Optional Waiver Review.
  - 14.1.3. Upon receiving the revocation packet back from the JPB Scheduler, forward the packet to the JPB ADA Coordinator for scheduling of accommodation and/or effective communication assistance.
  - 14.1.4. Upon receiving the revocation packet back from the JPB ADA Coordinator, place the packet in the Officer of the Day's office pending decision review.

#### JPB Scheduler

- 14.2. Upon receiving the request for optional waiver activation from the JPB Revocation Desk, no later than the eighth (8<sup>th</sup>) business day from receipt of the request for optional waiver activation, the JPB Scheduler shall:
  - 14.2.1. Identify the parolee's detention location and where the Optional Waiver Review will occur.
  - 14.2.2. Identify the 'no later than date' for the Optional Waiver Review:



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- 14.2.2.1. Thirteen (13) business days from receipt of the request for optional waiver activation.
- 14.2.3. Cross-reference other hearings scheduled on this same dates.
- 14.2.4. In coordination with the parolee's attorney, determine a date and time for the Optional Waiver Review.
- 14.2.5. Identify a hearing officer and Board Coordinating Parole Agent for the Optional Waiver Review.
- 14.2.6. Enter the date, time and location of the Optional Waiver Review into the Juvenile Scheduling and Tracking System (JSTS).
- 14.2.7. Notify the parolee's attorney, Board Coordinating Parole Agent, Agent of Record and Supervising Parole Agent of the date, time and location of the Optional Waiver Review via email.

#### JPB ADA Coordinator

- 14.3. Upon receiving the request for optional waiver activation from the JPB Revocation Desk, no later than nine (9) business days from receipt of the request for optional waiver activation, the JPB ADA Coordinator shall:
  - 14.3.1. Review the Summary of Revocation Hearing and Decision form (DJJ 3.275-PCH) and Request for Accommodation and Assistance form (DJJ 3.260) and any supporting documents to confirm any accommodation/effective communication needs to be provided at the hearing, including any accommodation/effective communication needs of the witnesses.
  - 14.3.2. Enter accommodation/effective communication data into an internal tracking database.
  - 14.3.3. Complete Section IV (Probable Cause) of the Request for Accommodation and Assistance form (DJJ 3.260) in JSTS.
  - 14.3.4. Return the revocation packet to the JPB Revocation Desk.
  - 14.3.5. Print and retain one copy of the Request for Accommodation and Assistance form (DJJ 3.260) and source documents.
- 14.4. No later than ten (10) business days from receipt of the request for optional waiver activation, the JPB ADA Coordinator shall:
  - 14.4.1. Arrange for needed accommodation and/or effective communication assistance to be provided at the Optional Waiver Review.
    - 14.4.1.1. Two (2) business days prior to the hearing, confirm the interpreter (if applicable) scheduled to attend the hearing.
  - 14.4.2. Transmit the interpreter's identification information (if applicable) to the hearing location for gate clearance.
  - 14.4.3. Prepare an Interpreter Authorization Memo and transmit to the vendor to confirm services requested and provide verification of services provided.

#### Board Coordinating Parole Agent

- 14.5. Upon receiving notification of the Optional Waiver Review from the JPB Scheduler, but no later than ten (10) business days from the receipt of the request for optional waiver activation, the Board Coordinating Parole Agent shall:
  - 14.5.1. Review and prepare the revocation packet.



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- 14.5.2. Contact the hearing location to confirm the date, time and location of the Optional Waiver Review.
- 14.5.3. Verify any security requirements of the hearing facility for the Optional Waiver Review.
- 14.5.4. Contact the JPB Scheduler to confirm the date, time and location of the hearing.
- 14.6. No later than forty-eight (48) hours prior to the Optional Waiver Review, the Board Coordinating Parole Agent shall:
  - 14.6.1. Review the Request for Accommodation and Assistance form (DJJ 3.260) to identify any need for accommodation/effective communication assistance at the Optional Waiver Review.
  - 14.6.2. Contact the JPB Scheduler to obtain the identification of the hearing officer and attorney.
  - 14.6.3. Contact the JPB ADA Coordinator to confirm any accommodation/effective communication assistance to be provided.
  - 14.6.4. Provide the hearing facility with the identification of those scheduled to attend the Optional Waiver Review.
  - 14.6.5. Utilizing an electronic mapping system (i.e. MapQuest), map a 50-mile radius of the location where the violation occurred.
  - 14.6.6. Identify a Revocation Hearing location within the 50-mile radius of the location where the violation occurred.
    - 14.6.6.1. All Revocation Hearings shall be held within a 50-mile radius of the location where the violation occurred unless knowingly waived by the parolee in consultation with his/her attorney and approved by the Executive Officer, or his/her designee.

## 15.0 THE OPTIONAL WAIVER REVIEW

- 15.1. An Optional Waiver Review shall be held no later than thirteen (13) business days from the receipt of request for optional waiver activation.
- 15.2. A hearing officer, Board Coordinating Parole Agent, and the parolee represented by his/her attorney, shall be present.
- 15.3. The purpose of the Optional Waiver Review is to re-negotiate disposition of the case based upon the outcome of sentencing or final disposition at the trial court level in the criminal proceedings, or if resolution is not reached, to arrange for witnesses and to schedule the Revocation Hearing.
- 15.4. The Optional Waiver Review shall not be audio or video recorded, but a written record will be made of the proceeding.

## 16.0 CONDUCTING THE OPTIONAL WAIVER REVIEW

### Hearing Officer

- 16.1. The hearing officer shall conduct the following reviews in preparation for the Optional Waiver Review:
  - 16.1.1. Jurisdiction Review: Locate the available confinement time (ACT)/jurisdiction expiration dates on the Jurisdiction and Confinement History. If this date appears to have passed, contact the JPB Revocation Desk to confirm the date. If it is confirmed that the parolee has



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reached the expiration of his/her available confinement time/jurisdiction, the case shall be dismissed. The hold shall be lifted and the parolee released as soon as possible, but no later than three (3) business days from the date of the proceeding.

- 16.1.2. **Accommodation/Effective Communication Review:** Locate and review the Request for Accommodation and Assistance form (DJJ 3.260) and all supporting documents. Ensure all needed accommodations or effective communication assistance will be available prior to beginning the hearing.
  - 16.1.3. **Due Process Review:** Review the Notice of Charges form (DJJ 3.274) and the Notice of Parole Revocation Rights and Acknowledgement form (DJJ 3.270).
    - 16.1.3.1. Determine if the Optional Waiver Review is within thirteen (13) business days from receipt of the request for optional waiver activation, and if not, determine whether good cause exists for the delay.
  - 16.1.4. **Charge Review:** Review the behavior described in the Violation Report form (DJJ 3.264) and any other reports presented. Determine if the behavior meets the elements of the violations listed.
  - 16.1.5. **Evidentiary Review:** Review all other written evidence provided, including but not limited to, police reports, witness statements and toxicology (lab) reports.
    - 16.1.5.1. Evidence or documents not provided to the parolee's counsel at least forty-eight (48) hours prior to the hearing shall not be admitted or considered in the hearing unless the DJJ can show good cause for the delay.
  - 16.1.6. **Parole Adjustment Review:** Review the Violation Report form (DJJ 3.264). Note the comments of the Parole Agent for consideration of continued detention.
  - 16.1.7. **Prior Violation Review:** Review the Violation Report form (DJJ 3.264) and the Action Log form (DJJ 1.601F). Note the number and severity of prior violations for consideration of continued detention.
  - 16.1.8. **Recommendation Review:** Review the Violation Report form (DJJ 3.264). Note and consider the detention recommendation and comments of the Parole Agent and a Supervising Parole Agent.
- 16.2. During the Optional Waiver Review, the hearing officer shall:
- 16.2.1. Ensure that the parolee receives a fair hearing.
  - 16.2.2. Indicate to the attorney, Board Coordinating Parole Agent and escort officer that he/she is ready to begin and have the parolee brought into the room.
    - 16.2.2.1. In the event that the parolee refuses to attend the hearing, the parolee's attorney shall be escorted to the housing unit to confer with the parolee regarding the refusal to attend when the hearing is taking place in a DJJ facility. After meeting with the attorney, verify that the parolee has signed a Refusal to Participate in Revocation Proceeding form (DJJ 3.284) in the presence of his/her attorney or by documentation of the refusal to attend and the reason for the refusal by the facility staff/Board Coordinating Parole Agent. In such instances, the facility staff/Board Coordinating Parole Agent documenting the refusal shall testify under oath as to the facts surrounding the parolee's refusal to attend the hearing.



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- 16.2.2.2. Document whether the parolee is restrained. If so, document the BCPA's basis for that decision.
- 16.2.3. Ask the attorney, when all parties are present, if there are any preliminary objections or any legal cause for not conducting the Optional Waiver Review.
  - 16.2.3.1. If there are preliminary objections, make a decision on each objection and document the objection(s), the decision(s) and the reason for the decision(s), which will be placed in the official record.
- 16.2.4. Ask all parties to identify themselves by stating their name, spelling their last name, and in the case of the parolee stating the YA number.
- 16.2.5. Review the Request for Accommodation and Assistance form (DJJ 3.260) and conduct an interactive accommodation/effective communication review with the parolee in order to identify any need for reasonable accommodations/effective communication assistance.
  - 16.2.5.1. Verify the accommodation/effective communication needs assessment with the attorney.
  - 16.2.5.2. If a physical/mental impairment, or effective communication need that would affect the parolee's ability to effectively participate is identified, but has not been accommodated, make all reasonable efforts to immediately secure the necessary accommodation, including but not limited to granting a brief recess to arrange for the accommodation.
  - 16.2.5.3. If it is not possible to secure the accommodation in order to hold the hearing the same day, postpone the proceeding for no more than five (5) business days in order to obtain the accommodations.
  - 16.2.5.4. Document any relevant observations or accommodations in Section V of the Request for Accommodation and Assistance form (DJJ 3.260).
- 16.2.6. Explain to the parolee the purpose of the Optional Waiver Review as follows:
  - 16.2.6.1. The purpose of the hearing.
    - 16.2.6.1.1. To re-negotiate the disposition based upon the outcome of his/her court proceedings.
  - 16.2.6.2. His/Her right to appeal to the Executive Officer of the Juvenile Parole Board (JPB) within twenty (20) business days of the receipt of written parole revocation decision with the assistance of an attorney.
    - 16.2.6.2.1. There will be only one level of appeal.
    - 16.2.6.2.2. The appeal will be decided by the Executive Officer, or his/her designee, within ten (10) business days of receipt of the appeal.
    - 16.2.6.2.3. The appeal decision will be served on the parolee within five (5) business days of the appeal decision.
    - 16.2.6.2.4. Advise parolee that he must submit any appeals to JPB headquarters.
- 16.2.7. State each charge and the basis of the charge(s), one at a time.
- 16.2.8. Ask the attorney to enter a plea to each pending charge, either: 'Admit', 'Deny' or 'No Plea'.
  - 16.2.8.1. If the parolee admits to the charge(s), thereby waiving his right to the evidentiary phase of the Revocation Hearing, ask the attorney and/or the parolee if they wish to make a statement regarding disposition, and then skip to 16.1.11.21 below.
- 16.2.9. Allow the attorney and the parolee to make statements, present oral, physical and/or documentary evidence concerning probable cause, and/or ask questions.



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- 16.2.10. Determine if there is probable cause to believe that the parolee committed a violation of parole.
- 16.2.11. Render a decision. This decision must include a probable cause determination with regard to each charge, which must be announced separately, and the specific facts upon which the probable cause determination was based.
- 16.2.11.1. If probable cause to believe that the parolee committed at least one violation of parole is not found, the charge(s) shall be dismissed. The hold shall be dropped, and the parolee released as soon as possible but no later than three (3) business days from the date of the Optional Waiver Review.
- 16.2.12. Review the Summary of Revocation Decision: Return to Custody Assessment form (DJJ 3.276-RTCA) with the parolee and his/her attorney. Allow the attorney and the parolee to make statements and present oral, physical, and/or documentary evidence that may affect the disposition.
- 16.2.12.1. Consider dispositions other than the Return to Custody Assessment (RTCA), including:
- 16.2.12.1.1. Dismissal of some or all of the charges
  - 16.2.12.1.2. Continue on parole, including community placements
  - 16.2.12.1.3. Credit for time served
  - 16.2.12.1.4. Release from custody pending a not-in-custody hearing (for detained/in-custody cases only)
  - 16.2.12.1.5. Reduction of the RTCA
- 16.2.12.2. The hearing officer does not have the authority to adjust the RTCA upward during the Probable Cause Hearing.
- 16.2.12.3. The parolee and his/her attorney shall have an opportunity to accept the RTCA or an alternative offer made by the hearing officer during the hearing.
- 16.2.12.3.1. If the RTCA/alternative offer is rejected, the hearing officer shall order that a Revocation Hearing be scheduled no later than the thirty-fifth (35<sup>th</sup>) calendar day following placement of the parole hold. (continue to 16.1.16)
  - 16.2.12.3.2. If the RTCA/alternative offer is accepted, ensure the parolee and his/her attorney sign the Parolee-Attorney Decision form (DJJ 3.273). (skip to 16.1.22)
- 16.2.12.4. If an alternative to incarceration is not offered, document why.
- 16.2.13. Determine if there is probable cause to believe that detention is warranted pending a Revocation Hearing.
- 16.2.13.1. If a determination is made that probable cause exists, but that continued detention is not warranted, order that the parole hold be dropped and order the parolee appear at a not-in-custody Revocation Hearing at a date to be determined, but no later than sixty (60) calendar days following the service of the Notice of Charges form (DJJ 3.274).
- 16.2.13.2. Document this determination regarding whether continued detention is warranted and the basis for the determination.
- 16.2.14. Review the Request for Witnesses form (DJJ 3.271) and Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268).



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- 16.2.14.1. If parolee's attorney is not prepared to provide a list of witnesses, order a short recess and request that the list be developed. When the attorney has had time to prepare the list, the hearing will be reconvened. Should the attorney require additional time to prepare a complete witness list, the hearing will be concluded and the attorney shall submit a final witness list to the Board Coordinating Parole Agent for review by the Officer of the Day.
- 16.2.15. Allow parolee's attorney to justify the request for witnesses, and either approve or disapprove each witness. The request for witnesses by the State and the parolee must be reviewed using the same criteria for approval or disapproval.
- 16.2.15.1. The parolee's attorney may challenge the 'confidential' or 'fearful' designation of a witness. Upon challenge, the hearing officer shall make a determination regarding the designation based upon the qualifying criteria (see 'Witnesses').
- 16.2.16. Ensure the contact information and name of each witness to be called is documented on the Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268) by the Board Coordinating Parole Agent. The original list will be placed in the revocation packet for processing by the Board Coordinating Parole Agent.
- 16.2.17. Ensure that all objections are documented along with the hearing officer's ruling on each objection and the basis for each ruling.
- 16.2.18. Document the final result of the Optional Waiver Review as to each charge and the basis for the decision(s) on the Summary of Revocation Hearing and Decision form (DJJ 3.275-OWR) in the Juvenile Scheduling and Tracking System (JSTS).
- 16.2.18.1. If the offered disposition is accepted, document any factors in aggravation or mitigation when the disposition agreed upon is outside of the Return to Custody guidelines in JSTS.
- 16.2.18.2. If the hearing officer orders the parolee released (i.e. continue on parole, credit for time served or release pending a not-in-custody hearing), the parolee shall be released as soon as possible but no later than three (3) business days after the proceeding.
- 16.2.19. Return the revocation packet and all forms and documents generated during the Optional Waiver Review to the Board Coordinating Parole Agent for continued processing.

## 17.0 CONCLUDING THE OPTIONAL WAIVER REVIEW

### 17.1. If the case has not been resolved:

#### Board Coordinating Parole Agent

- 17.1.1. At the conclusion of the Optional Waiver Review, the Board Coordinating Parole Agent shall:
- 17.1.1.1. Ensure the Parolee – Attorney Decision form (DJJ 3.273) has been completed and contains the signatures of the parolee and his/her attorney.
- 17.1.1.2. Ensure the hearing officer has completed Section V (Probable Cause) of the Request for Accommodation and Assistance form (DJJ 3.260) in JSTS.
- 17.1.1.3. Determine a location for the Revocation Hearing, which shall be within fifty (50) miles of where the violation occurred.



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- 17.1.1.4. Schedule a Revocation Hearing: (NOTE: A parolee may be granted a continuance of his/her Revocation Hearing for good cause shown. Any such request shall be made in the presence of the hearing officer)
  - 17.1.1.4.1. If the parolee is detained in a DJJ facility: Contact the JPB Scheduler, in consultation with the attorney, to schedule a date for the Revocation Hearing to occur on or before the thirty-fifth (35<sup>th</sup>) calendar day after receipt of the request for optional waiver activation.
    - 17.1.1.4.1.1. If the thirty-fifth (35<sup>th</sup>) calendar day falls on a weekend or holiday, the hearing will occur no later than the next business day after the weekend or holiday.
  - 17.1.1.4.2. If the parolee is detained in a non-DJJ facility: Within two (2) business days, in consultation with the attorney, contact the JPB Scheduler to schedule a date for the Revocation Hearing to occur on or before the thirty-fifth (35<sup>th</sup>) calendar day after receipt of the request for optional waiver activation..
    - 17.1.1.4.2.1. If the thirty-fifth (35<sup>th</sup>) calendar day falls on a weekend or holiday, the hearing will occur no later than the next business day after the weekend or holiday.
  - 17.1.1.4.3. If the parolee is ordered released pending a Not-In-Custody (NIC) Revocation Hearing: Within five (5) business days, in consultation with the attorney, contact the JPB Scheduler to schedule a date for the Revocation Hearing to occur on or before the sixtieth (60<sup>th</sup>) calendar day following receipt of the request for optional waiver activation.
    - 17.1.1.4.3.1. If the sixtieth (60<sup>th</sup>) calendar day falls on a weekend or holiday, the hearing will occur no later than the next business day after the weekend or holiday.
- 17.1.1.5. Complete the Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268).
- 17.1.1.6. Provide the parolee and his/her attorney with copies of the following documents:
  - 17.1.1.6.1. Summary of Revocation Hearing and Decision form (DJJ 3.275-OWR)
  - 17.1.1.6.2. Request for Witnesses form (DJJ 3.271), documenting approval/denial of witnesses
  - 17.1.1.6.3. Sufficient signed blank Subpoena forms (DJJ 1.300) and Subpoena Duces Tecum forms (DJJ 3.287).
- 17.1.1.7. By the end of the same day, fax the following document to the JPB Revocation Desk and the parole unit:
  - 17.1.1.7.1. Parolee-Attorney Decision form (DJJ 3.273) containing the signatures of the parolee and his/her attorney.
  - 17.1.1.7.2. Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268) (page 1)
- 17.1.1.8. If the case requires transfer of the parolee to comply with the fifty-mile due process requirement, the Board Coordinating Parole Agent shall:



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- 17.1.1.8.1. Contact the JPB Scheduler to identify the appropriate Board Coordinating Parole Agent for the Revocation Hearing.
- 17.1.1.8.2. Transfer the completed revocation packet and all original documentation to the appropriate Board Coordinating Parole Agent.

#### JPB Scheduler

- 17.1.2. In consultation with the Board Coordinating Parole Agent, the JPB Scheduler shall:
  - 17.1.2.1. Identify the parolee's detention location and where the Revocation Hearing will occur.
  - 17.1.2.2. Identify the 'no later than date' for the Revocation Hearing:
    - 17.1.2.2.1. Thirty-five (35) calendar days from receipt of request for optional waiver activation.
  - 17.1.2.3. Identify a hearing officer and Board Coordinating Parole Agent for the Revocation Hearing.
  - 17.1.2.4. Cross-reference other hearings scheduled on this same date.
  - 17.1.2.5. Schedule the date, time and location of the Revocation Hearing.
  - 17.1.2.6. Enter the date, time, location, hearing officer and Board Coordinating Parole Agent into the Juvenile Scheduling and Tracking System (JSTS).
  - 17.1.2.7. Notify the parolee's attorney, Board Coordinating Parole Agent, Agent of Record and Supervising Parole Agent of the date, time and location of the Revocation Hearing via email.

#### JPB Revocation Desk

- 17.1.3. Upon receipt of the Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268), the JPB Revocation Desk shall proceed with preparing the case for a Revocation Hearing.
- 17.1.4. Upon conclusion of the Optional Waiver Review, the JPB Revocation Desk shall:
  - 17.1.4.1. Print a copy of the Summary of Revocation Hearing and Decision form (DJJ 3.275-OWR) from JSTS.
  - 17.1.4.2. Print a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) from JSTS.
  - 17.1.4.3. Stamp (bottom of the first page) each document as "original".
  - 17.1.4.4. Forward all original documents to the Master File unit for inclusion in the parolee'

#### JPB ADA Coordinator

- 17.1.5. Upon conclusion of the Optional Waiver Review, the JPB ADA Coordinator shall print and retain a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) and source documents from JSTS.

#### 17.2. **If the case has been resolved:**

#### Board Coordinating Parole Agent

- 17.2.1. Ensure the Parolee – Attorney Decision form (DJJ 3.273) has been completed and contains the signatures of the parolee and his/her attorney.



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- 17.2.2. Ensure the hearing officer has completed Section V (Probable Cause) of the Request for Accommodation and Assistance form (DJJ 3.260) in JSTS.
- 17.2.3. Provide the parolee and his/her attorney with copies of the Summary of Revocation Hearing and Decision form (DJJ 3.275-OWR)
- 17.2.4. By the following business day, return the revocation packet and all original documentation to the JPB Revocation Desk.

#### JPB Revocation Desk

- 17.2.5. Upon conclusion of the Optional Waiver Review, the JPB Revocation Desk shall:
  - 17.2.5.1. Print a copy of the Summary of Revocation Hearing and Decision form (DJJ 3.275-OWR) from JSTS.
  - 17.2.5.2. Print a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) from JSTS.
  - 17.2.5.3. Stamp (bottom of the first page) each document as "original".
  - 17.2.5.4. Forward all original documents to the Master File unit for inclusion in the parolee's master file.

#### JPB ADA Coordinator

- 17.2.6. Upon conclusion of the Optional Waiver Review, the JPB ADA Coordinator shall print and retain a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) and source documents from JSTS.

## 18.0 LIMITATIONS ON THE USE OF HEARSAY EVIDENCE

- 18.1. The use of hearsay evidence in a Revocation Hearing shall be limited by controlling case law.
- 18.2. If, during the course of a Revocation Hearing, an objection is made to the use of hearsay testimony, the hearing officer shall, on the record:
  - 18.2.1. Acknowledge the objection.
  - 18.2.2. Allow the parolee's attorney to argue the objection and make a record.
  - 18.2.3. Inquire as to what efforts were made to secure the witness's presence at the hearing.
  - 18.2.4. Determine if there is good cause for the witness's non-appearance at the hearing.
  - 18.2.5. If there is no good cause for not requiring the witness to appear and testify, the hearing officer shall:
    - 18.2.5.1. Sustain the objection and not allow the hearsay testimony to be admitted.
  - 18.2.6. If there is good cause for not requiring the witness to appear, the hearing officer shall:
    - 18.2.6.1. Determine the nature and quality of the evidence, and What the evidence is being offered to prove.
  - 18.2.7. Determine the importance of the evidence to the proof of the charges.
    - 18.2.7.1. The more important the evidence to the proof of the charge(s), the greater the parolee's interest in confrontation and cross examination.
  - 18.2.8. Balance the good cause reason for not requiring the witness to appear and testify against the parolee's right to confront and cross-examine the witness.
    - 18.2.8.1. If the parolee's right to confront and cross-examine the non-appearing witness outweighs the good cause reason for not requiring the witness to appear and



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testify, the objectionable hearsay testimony shall not be admitted and shall not be considered in the hearing.

18.2.8.2. If the good cause reason for not requiring the witness to appear and to testify outweighs the parolee's right to confront and cross-examine the non-appearing witness, the testimony shall be admissible and may be considered for all purposes.

18.2.9. Document the use of the balancing test and the ruling on the Summary of Revocation Hearing and Decision form (DJJ 3.275-REV) and/or Summary of RevEx Hearing and Decision form (DJJ 3.277-REV) in JSTS.

## 19.0 WITNESSES

19.1. A parolee's attorney may subpoena witnesses to appear at a parole revocation hearing or revocation extension hearing.

### Confidential Witness

19.2. A confidential witness is a person whose identity is not known to the parolee and whose status as a confidential witness has been established by law enforcement or by an agent of the Division of Juvenile Parole Operations (DJPO). A confidential witness normally should not provide testimony at a hearing. In most cases, a confidential witness is a person who has knowledge relevant to a revocation charge and whose statement is included in a document but who is not identified. Confidential witnesses include:

19.2.1. Confidential informants who have a pre-existing relationship with law enforcement personnel.

19.2.2. Persons who had no previous contact with law enforcement or parole staff, but who hold information relevant to a revocation charge and request confidentiality.

19.3. Criteria for Designation as a Confidential Witness:

19.3.1. In order for a witness to be appropriately deemed confidential, the DJPO or another law enforcement agency must determine that the safety of a person or an institution/facility would be jeopardized if the confidential witness's identity was known to the parolee. That designation shall be recorded by DJPO staff on the Confidential Information Disclosure form (DJJ 3.286). The designation shall normally be made by the Parole Agent in preparing the revocation packet. The hearing officer shall assess all available information and make an independent determination as to whether a witness, previously determined to require confidential status, should remain confidential.

19.4. Review of Designation as a Confidential Witness

19.4.1. If an attorney challenges the confidential status of a witness at the Probable Cause Hearing, the hearing officer shall make an independent determination regarding the designation pursuant to the criteria described above. If no challenge is made regarding witnesses known at the time of the Probable Cause Hearing, the hearing officer shall not entertain a challenge to the confidential status of that witness at a subsequent Revocation Hearing. If a challenge to a confidential witness could not have been raised at the Probable Cause Hearing (i.e. new evidence), the confidential status of that witness may be challenged at the Revocation Hearing.



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#### **Fearful Witness**

- 19.5. A fearful witness is a person whose identity is known to the parolee, but who has indicated that they
- 19.5.1. Do not wish to testify, and
  - 19.5.2. Fear the risk of harm if they testify at a hearing in the presence of the parolee.
- 19.6. Criteria for Designation as a Fearful Witness:
- 19.6.1. The designation of a witness as fearful may be based on:
    - 19.6.1.1. Statements voluntarily offered by the witness.
    - 19.6.1.2. Inquiry of the witness by the hearing officer.
    - 19.6.1.3. Satisfactory evidence presented by the parole agent that the witness has indicated he/she will not appear to testify in the presence of the parolee because of a fear of risk of harm.
  - 19.6.2. In order to designate a witness as fearful, the following criteria must be met:
    - 19.6.2.1. This witness does not want to testify in the presence of the parolee, and
    - 19.6.2.2. If they were to do so, they fear the risk of harm to either themselves or their family.
  - 19.6.3. An attorney may challenge the designation of a fearful witness at the Revocation Hearing by questioning the witness. The hearing officer shall then decide the challenge to the fearful witness designation based on whether the witness meets the criteria as set forth above or not.
- 19.7. Disclosure of Fearful Witness Contact Information
- 19.7.1. The Division of Juvenile Justice (DJJ) shall not withhold from the parolee's attorney the telephone number or address of any witness unless the witness declares himself/herself to be fearful. For any witness who declares him/her to be fearful, the DJJ shall provide the parolee's attorney with a telephone number but not an address at which the witness can be contacted by the parolee's attorney. If the witness does not provide the DJJ with any contact information, the DJJ is not obligated to procure contact information for transmittal to the parolee's attorney.
  - 19.7.2. If a witness declares himself/herself to be fearful, the parolee's attorney shall not disclose the witness's contact information, or cause the contact information to be disclosed, to the parolee. The attorney shall not disclose the fearful witness's contact information to any individual except attorney staff or those persons employed by the DJJ. The parolee's attorney shall not attempt to use the telephone number to discover the witness's home address, place of residence, or other physical location information. The attorney shall not engage in any efforts to make un-consented in-person contact with the fearful witness.
  - 19.7.3. The parolee's attorney shall be bound by a protective order binding him/her to these terms.
- 19.8. Fearful Witness Hearing Procedures
- 19.8.1. If a witness has been designated as fearful or claims to be fearful, prior to having the witness testify, the hearing officer shall:
    - 19.8.1.1. Inform the attorney that the witness has been designated as fearful based on the witness's statement of fearfulness, and the hearing officer's determination based



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on objective factors that face-to-face confrontation would result in significant emotional distress to the witness.

- 19.8.1.2. Give the attorney the opportunity to object to the witness's designation
  - 19.8.1.2.1. If the attorney's objection is sustained, the hearing officer shall:
    - 19.8.1.2.1.1. Explain to the witness, outside of the presence of the parolee, that the witness cannot be designated as fearful.
    - 19.8.1.2.1.2. Resume the hearing and treat the witness as any other witness would be treated.
  - 19.8.1.2.2. If the attorney's objection is overruled, the hearing officer shall:
    - 19.8.1.2.2.1. Prior to the witness entering, have the parolee removed from the hearing room. The parolee will be placed in a location that prohibits visual contact with the witness.
    - 19.8.1.2.2.2. Allow the attorney a reasonable amount of time to consult with the parolee regarding potential questions, prior to the testimony of the fearful witness.
    - 19.8.1.2.2.3. Continue the hearing with the parolee absent for the duration of the fearful witness's testimony.
    - 19.8.1.2.2.4. Allow the parolee's attorney to question the witness in the parolee's absence.
    - 19.8.1.2.2.5. Give the attorney the opportunity to consult with the parolee to discuss the testimony of the fearful witness before the witness is excused. At this time the parolee shall be granted the opportunity to listen to the witness's testimony as recorded and to discuss any concerns or questions about the testimony with his/her attorney. The hearing officer should permit the parolee sufficient time to review the witness's testimony and to consult with his/her attorney.
    - 19.8.1.2.2.6. Following this consultation, the attorney will be allowed to continue with questioning.
    - 19.8.1.2.2.7. Excuse the fearful witness when testimony and questioning is complete.
    - 19.8.1.2.2.8. Request that the parolee be returned to the hearing room after the fearful witness has been excused.
    - 19.8.1.2.2.9. Upon reconvening the hearing, the hearing officer shall ask the attorney if there is any additional information he/she wishes to add in order to enhance the parolee's understanding of the testimony provided by the fearful witness.

## 20.0 THE REVOCATION HEARING

20.1. The Revocation Hearing shall be held:



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- 20.1.1. No later than thirty-five (35) calendar days after the placement of the parole hold, absent good cause, for detained/in-custody cases, or
- 20.1.2. No later than sixty (60) calendar days following service of the Notice of Charges form (DJJ 3.274), absent good cause, for not-in-custody (NIC) cases.
- 20.2. In the case of supplemental charges that cannot be heard together with the original charges, a revocation hearing on the supplemental charges should take place no later than thirty-five (35) calendar days from the date of discovery of the conduct underlying the charges.
- 20.3. A parolee may be granted a continuance of his/her Revocation Hearing for good cause shown. Any such request shall be made in the presence of the hearing officer, except in unusual circumstances which will be made on a case by case basis by the Officer of the Day.
- 20.4. A Juvenile Parole Board hearing officer, Board Coordinating Parole Agent, the parolee represented by his/her attorney, and requested witnesses shall be present.
- 20.5. The Revocation Hearing is a two-phase hearing (evidentiary and disposition) at which it is determined whether the preponderance of the evidence shows that the parolee violated a condition of parole and whether the parolee should be returned to parole supervision, referred to community placement, or remanded to custody.
  - 20.5.1. Evidentiary phase - all evidence relevant to the charges and deemed admissible by the hearing officer will be considered in making a determination as to whether it is believed by a preponderance of the evidence that the parolee committed the alleged violation(s) of parole.
  - 20.5.2. Disposition phase - all evidence relevant to disposition will be considered. This includes, but is not limited to: statements by witnesses, written statements by interested parties, treatment needs, and testimony regarding criminal history, social history and previous adjustment while on parole.
- 20.6. The Revocation Hearing shall be audio recorded and a written record will be made of the proceeding.

## 21.0 PREPARING THE REVOCATION HEARING

### Officer of the Day

- 21.1. Upon receipt of the Request for Witnesses form (DJJ 3.271) from the parolee's attorney, no later than fifteen (15) calendar days prior to the Revocation Hearing, the Officer of the Day shall:
  - 21.1.1. Review the Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268) and Request for Witnesses form (DJJ 3.271).
  - 21.1.2. Render a decision to approve or deny each requested witness.
  - 21.1.3. Document the approval or denial of each witness requested by the parolee and his/her attorney on the Request for Witnesses form (DJJ 3.271).
  - 21.1.4. Record witness information for those witnesses to be called for the Revocation Hearing on the Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268).
  - 21.1.5. Fax the attorney copy of the completed Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268) and the Request for Witnesses form (DJJ 3.271), documenting the approval/denial of requested witnesses to the parolee's attorney.



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- 21.1.6. Forward the completed Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268) to the JPB Revocation Desk for subpoena of witnesses.

#### JPB Revocation Desk

- 21.2. Immediately upon receipt of the Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268), no later than fourteen (14) calendar days prior to the Revocation hearing, the JPB Revocation Desk shall:
- 21.2.1. Enter witness information into JSTS.
  - 21.2.2. Generate a Witness Letter form (DJJ 3.269) (non-peace officer witnesses) and Subpoena form (DJJ 1.300) to all State witnesses in the Juvenile Scheduling and Tracking System (JSTS).
  - 21.2.3. Generate a Subpoena Duces Tecum form (DJJ 3.287) for all documentation ordered to be produced at the Revocation Hearing.
  - 21.2.4. Fax and mail a Subpoena form (DJJ 1.300)/ Subpoena Duces Tecum form (DJJ 3.287) to all peace officer witnesses.
  - 21.2.5. Mail a Witness Letter form (DJJ 3.269) and Subpoena form (DJJ 1.300) or Subpoena Duces Tecum form (DJJ 3.287) to all non-peace officer witnesses.
  - 21.2.6. Transmit a copy of all issued Witness Letters form (DJJ 3.269), Subpoenas form (DJJ 1.300) and Subpoenas Duces Tecum form (DJJ 3.287) to the Board Coordinating Parole Agent.
  - 21.2.7. Submit a copy of the following documents to the Office of Victim and Survivor Rights and Services (OVSRS) if non-peace officer victim witnesses are requested to appear at the Revocation Hearing:
    - 21.2.7.1. Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268)
    - 21.2.7.2. Witness Letters form (DJJ 3.269) and Subpoenas form (DJJ 1.300) issued to non-peace officer victim witnesses

#### JPB ADA Coordinator

- 21.3. No later than ten (10) calendar days prior to the Revocation hearing, the JPB ADA Coordinator shall:
- 21.3.1. Review the Summary of Revocation Hearing and Decision form (DJJ 3.275-PCH), Summary of Revocation Hearing and Decision form (DJJ 3.275-OWR) (if applicable), Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268), and Request for Accommodation and Assistance form (DJJ 3.260) and any supporting documents to confirm any accommodation/effective communication needs to be provided at the hearing, including any accommodation/effective communication needs of the witnesses.
  - 21.3.2. Enter accommodation/effective communication data into an internal tracking database.
  - 21.3.3. Complete Section IV (Revocation) of the Request for Accommodation and Assistance form (DJJ 3.260) in JSTS.
  - 21.3.4. Print and retain a copy of the Request for Accommodation and Assistance form (DJJ 3.260) from JSTS and source documents.
- 21.4. No later than five (5) business days prior to the Revocation Hearing, the JPB ADA Coordinator shall:
- 21.4.1. Arrange for needed accommodation and/or effective communication assistance to be provided at the Revocation Hearing.



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- 21.4.1.1. Two (2) business days prior to the hearing, confirm the interpreter (if applicable) scheduled to attend the hearing.
- 21.4.2. Transmit the interpreter's identification information (if applicable) to the hearing location for gate clearance.
- 21.4.3. Prepare an Interpreter Authorization Memo and transmit to the vendor to confirm services requested and provide verification of services provided.

#### Board Coordinating Parole Agent

- 21.5. Upon receiving confirmation of the date, time and location of the Revocation Hearing from the JPB Scheduler, the Board Coordinating Parole Agent shall:
  - 21.5.1. Review and prepare the revocation packet.
  - 21.5.2. Contact the hearing location to confirm the date and time of the Revocation Hearing.
  - 21.5.3. Verify any security requirements of the hearing facility for the Revocation Hearing.
- 21.6. No less than three (3) days prior to the Revocation Hearing, the Board Coordinating Parole Agent shall:
  - 21.6.1. Contact the JPB Scheduler to confirm the identification of the hearing officer and attorney.
  - 21.6.2. Ensure any supplemental documentation has been transmitted to the parolee's attorney.
  - 21.6.3. Review the Request for Accommodation and Assistance form (DJJ 3.260) and contact the JPB ADA Coordinator to verify the provision of accommodation/effective communication assistance at the Revocation Hearing.
  - 21.6.4. Follow-up contact with all State subpoenaed witnesses to verify the date, time and location of the hearing and verifying their attendance. Document the contact in the comments of JSTS.
  - 21.6.5. Provide the hearing facility with the identification of those scheduled to attend the Revocation Hearing.

## 22.0 CONDUCTING THE REVOCATION HEARING

#### Hearing Officer

- 22.1. The hearing officer shall conduct the following reviews in preparation for the evidentiary phase of the Revocation Hearing:
  - 22.1.1. Jurisdiction Review: Locate the Available Confinement Time (ACT)/jurisdiction expiration dates on the Jurisdiction and Confinement History. If this date appears to have passed, contact the JPB Revocation Desk to confirm the date. If it is confirmed that the parolee has reached the expiration of his/her available confinement time/jurisdiction, the case shall be dismissed. If the parolee is detained/in-custody, the hold shall be lifted and the parolee released as soon as possible, but no later than within three (3) business days from the date of the hearing.
    - 22.1.1.1. If a parolee receives a new prison term as a result of prosecution by a local jurisdiction while he is pending revocation and that prosecution was based on one or more of the charges for which revocation is pending and the earliest possible release date associated with the new term is later than the latest possible release date for the pending revocation charges, disposition of the revocation charges may be resolved by deferring to local jurisdiction in the interest of justice.



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- 22.1.2. Accommodation/Effective Communication Review: Locate and review the Request for Accommodation and Assistance form (DJJ 3.260) and all supporting documents. Ensure all needed accommodations or effective communication assistance will be available prior to beginning the hearing.
- 22.1.3. Due Process Review: Review the Notice of Charges form (DJJ 3.274) and Notice of Parole Revocation Rights and Acknowledgement form (DJJ 3.270).
  - 22.1.3.1. If the parolee is detained/in-custody, determine if the Revocation Hearing is within thirty-five (35) calendar days after the date of the parole hold, and if not, determine whether good cause exists for the delay.
  - 22.1.3.2. If the parolee is not-in-custody, determine if the Revocation Hearing is within sixty (60) calendar days following service of the Notice of Charges form (DJJ 3.274), and if not, determine whether good cause exists for the delay.
- 22.1.4. Witness Review: Review the completed Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268). Identify confidential and/or fearful witnesses.
- 22.1.5. Charge Review: Review the behavior described in the Violation Report form (DJJ 3.264) and any other reports presented. Determine if the behavior meets the elements of the charge(s) listed.
- 22.1.6. Evidentiary Review: Review all other written evidence provided, including but not limited to, police reports, witness statements and toxicology (lab) reports.
  - 22.1.6.1. Evidence or documents not provided to the parolee's counsel at least forty-eight (48) hours prior to the hearing shall not be admitted or considered in the hearing unless the Division of Juvenile Justice (DJJ) can show good cause for the delay.
- 22.2. During the evidentiary phase of the Revocation Hearing, the hearing officer shall:
  - 22.2.1. Ensure that all required documents are present and complete.
  - 22.2.2. Ensure that the JPB has jurisdiction over the parolee.
  - 22.2.3. Ensure that the parolee receives a fair hearing.
  - 22.2.4. Indicate to the parole agent, attorney, Board Coordinating Parole Agent and escort officer that he/she is ready to begin and have the parolee brought into the room.
    - 22.2.4.1. In the event that the parolee refuses to attend the hearing, the parolee's attorney shall be escorted to the housing unit to confer with the parolee regarding the refusal to attend when the hearing is taking place in a DJJ facility. After meeting with the attorney, verify that the parolee has signed a Refusal to Participate in Revocation Proceeding form (DJJ 3.284) in the presence of his/her attorney, or by documentation of the refusal to attend and the reason for the refusal by the facility staff/Board Coordinating Parole Agent. In such instances, the facility staff/Board Coordinating Parole Agent documenting the refusal shall testify under oath as to the facts surrounding the parolee's refusal to attend the hearing.
    - 22.2.4.2. Document whether the parolee is restrained. If so, document the BCPA's basis for that decision.
  - 22.2.5. Ask the attorney if they are prepared to begin.



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- 22.2.6. When all parties to the action are present, ask the Board Coordinating Parole Agent to begin recording.
- 22.2.6.1. It is the Board Coordinating Parole Agent's responsibility to ensure that proper audio recording equipment is available at the hearing.
- 22.2.7. State that the record is open and identify the date, time, location of the hearing, and the parolee's name.
- 22.2.8. Ask all parties to the action to identify themselves. Each person will then identify themselves by stating their first and last name, spelling their last name. The parolee shall state his/her first and last name, spell his/her last name and state his/her YA number.
- 22.2.9. Ask the attorney if there are any preliminary objections and if there is any legal cause not to proceed with the Revocation Hearing.
- 22.2.9.1. If there are preliminary objections, allow the attorney to state the objection and make a decision on each objection, documenting the objection(s), the decision(s) and the reason for the decision(s), which will be placed in the official record.
- 22.2.9.2. The parolee's attorney may challenge the 'confidential' or 'fearful' designation of any witness not known at the time of the Probable Cause Hearing (i.e. new evidence). Upon challenge, the hearing officer shall make a determination regarding the designation based upon the qualifying criteria (see 'Witnesses').
- 22.2.10. Review the Request for Accommodation and Assistance form (DJJ 3.260) and conduct an interactive accommodation/effective communication review with the parolee in order to identify any need for reasonable accommodations/effective communication assistance.
- 22.2.10.1. Verify the accommodation/effective communication needs assessment with the attorney.
- 22.2.10.2. If a physical/mental impairment, or effective communication need that would affect the parolee's ability to effectively participate is identified, but has not been accommodated, make all reasonable efforts to immediately secure the necessary accommodation, including but not limited to granting a brief recess to arrange for the accommodation.
- 22.2.10.3. If it is not possible to secure the accommodation in order to hold the hearing the same day, postpone the proceeding for no more than five (5) business days in order to obtain the accommodations.
- 22.2.10.4. Document any relevant observations or accommodations in Section V of the Request for Accommodation and Assistance form (DJJ 3.260).
- 22.2.11. Explain to the parolee:
- 22.2.11.1. The purpose of the hearing.
- 22.2.11.2. His/Her right to appeal to the Executive Officer of the JPB within twenty (20) business days of the receipt of written parole revocation decision with the assistance of an attorney.
- 22.2.11.2.1. There will be only one level of appeal.
- 22.2.11.2.2. The appeal will be decided by the Executive Officer, or his/her designee, within ten (10) business days of receipt of the appeal.
- 22.2.11.2.3. The appeal decision will be served on the parolee within five (5) business days of the appeal decision.
- 22.2.11.2.4. Advise parolee that he must submit any appeals to JPB headquarters



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- 22.2.11.3. His/Her right to an audible copy of the audio recording within ten (10) days of written request.
- 22.2.11.3.1. Advise parolee that he/she must submit any requests for audio recordings to JPB headquarters.
- 22.2.12. Administer an oath or affirmation to any persons that will be providing testimony. This could include, but is not limited to, the parolee, the parole agent, witnesses, and an interpreter if one is being used.
- 22.2.13. State each charge, one at a time.
- 22.2.14. Ask the attorney to enter a plea to each pending charge, either: 'Admit', 'Deny' or 'No Plea'.
- 22.2.14.1. If the parolee admits to all charge(s), skip to dispositional phase section below.
- 22.2.15. Administer an oath or affirmation to any persons that will be providing testimony in order as determined by the hearing officer. This could include, but is not limited to, the parolee, the parole agent, witnesses, and an interpreter if one is being used.
- 22.2.16. Allow each witness to provide testimony as to each charge, beginning with the State's evidentiary witnesses.
- 22.2.17. Ask the attorney if they are prepared to proceed with the testimony of the parolee's evidentiary witnesses.
- 22.2.18. Elicit the testimony by asking each witness to provide narrative testimony describing what they saw, heard and/or observed. When the witness has completed their statement, the hearing officer may ask clarifying questions regarding their testimony.
- 22.2.19. Allow the parole agent and the parolee's attorney the opportunity to question the witnesses.
- 22.2.19.1. The parolee will not be allowed to question the witness directly unless the parolee has exercised his right to waive an attorney and is acting in pro per.
- 22.2.20. After all witnesses have testified, ask the attorney if the parolee will be making a statement or testifying regarding the charges. If so, the parolee will be allowed to testify. The hearing officer may question the parolee, as may the parole agent.
- 22.2.21. Ask the attorney, upon completion of all testimony, if there is any additional evidence or comments regarding the charges.
- 22.2.22. Allow the attorney to make a closing argument before the evidentiary phase of the Revocation Hearing is concluded.
- 22.2.23. Deliberate and render a decision. This decision must include a finding with regard to each charge, which must be announced separately, and the specific facts upon which the finding was based.
- 22.2.23.1. A recess may be called to determine if, by a preponderance of the evidence, the parolee committed a violation of a condition(s) of parole:
- 22.2.23.1.1. Request that all participants leave the room.
- 22.2.23.1.2. Ensure the audio recorder is turned off during deliberation.
- 22.2.23.1.3. Re-start the audio recorder prior to reconvening the Revocation Hearing.
- 22.2.24. If good cause is not found to establish that the parolee committed at least one violation of parole, the charge(s) shall be dismissed. If the parolee is detained/in-custody, order the hold



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be dropped, and the parolee released as soon as possible but no later than three (3) business days from the date of the Revocation Hearing.

- 22.2.25. If good cause is found, based upon a preponderance of the evidence, that the parolee did commit at least one violation of parole, proceed to the disposition phase of the Revocation Hearing.
  - 22.2.26. Document the findings on the Summary of Revocation Hearing and Decision form (DJJ 3.275-REV) in the Juvenile Scheduling and Tracking System (JSTS).
  - 22.2.27. Ensure that all objections are documented along with the hearing officer's ruling on each objection and the basis for each ruling.
- 22.3. The hearing officer shall conduct the following reviews in preparation for the dispositional phase of the Revocation Hearing:
- 22.3.1. Parole Adjustment Review: Review the Violation Report form (DJJ 3.264). Note the comments of the parole agent for consideration of alternatives to incarceration and/or revocation.
  - 22.3.2. Prior Violation Review: Review the Violation Report form (DJJ 3.264) and the Action Log form (DJJ 1.601F). Note the number and severity of prior violations for consideration of alternatives to incarceration and/or revocation.
  - 22.3.3. Commitment Offense Review: Review the commitment offense history. Note the similarity and pattern in behaviors relative to the violation behavior when arriving at an appropriate disposition.
  - 22.3.4. Recommendation Review: Review the Violation Report form (DJJ 3.264). Note and consider the disposition recommendation and comments of the Parole Agent and a Supervising Parole Agent (SPA).
- 22.4. During the disposition phase of the Revocation Hearing, the hearing officer shall:
- 22.4.1. Allow the Parole Agent to provide the following information:
    - 22.4.1.1. Initial date parolee was released to parole supervision
    - 22.4.1.2. History of commitment offense
    - 22.4.1.3. History of parole violations
    - 22.4.1.4. History of participation in and completion of treatment and training programs
    - 22.4.1.5. Disposition recommendation.
  - 22.4.2. Allow the attorney the opportunity to question the Parole Agent.
  - 22.4.3. Administer an oath or affirmation to each dispositional witness one at a time and in order as determined by the hearing officer.
  - 22.4.4. Allow each witness to testify in narrative form regarding information relevant to the parolee. When the witness has completed their statement, the hearing officer may ask clarifying questions regarding their testimony.
  - 22.4.5. Allow the Parole Agent and the parolee's attorney, the opportunity to question the witness.



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- 22.4.6. After all witnesses have testified, ask the attorney, if the parolee will be making a statement or testifying regarding the disposition. If so, the parolee will be allowed to testify. The hearing officer may question the parolee, as may the Parole Agent.
- 22.4.7. Ask the Parole Agent and attorney, upon completion of all testimony, if there is any additional evidence or comments regarding disposition.
- 22.4.8. Allow the attorney to make a closing argument before the dispositional phase of the Revocation Hearing is concluded.
- 22.4.9. Deliberate and render a decision with regard to the disposition, and the specific facts upon which the decision was based:
  - 22.4.9.1. Consider any factors in aggravation or mitigation, the impact on public safety, and the effect of incarceration on the parolee's ability to successfully reintegrate into the community when making a determination whether an alternative to incarceration should be offered in lieu of a return to custody.
  - 22.4.9.2. If an alternative to incarceration is not offered, document why.
  - 22.4.9.3. A recess may be called to deliberate disposition options.
    - 22.4.9.3.1. Request that all participants leave the room.
    - 22.4.9.3.2. Ensure the audio recorder is turned off during deliberation.
    - 22.4.9.3.3. Re-start the audio recorder prior to reconvening the Revocation Hearing.
- 22.4.10. Ensure that all objections are documented along with the hearing officer's ruling on each objection and the basis for each ruling.
- 22.4.11. Document the disposition on the Summary of Revocation Hearing and Decision form (DJJ 3.275-REV) in JSTS.
  - 22.4.11.1. If the parolee is detained/in-custody and the hearing officer orders the parolee released, the parolee shall be released as soon as possible no later than three (3) business days after the hearing.
- 22.4.12. Inform the parolee and his/her attorney of the right to appeal the decision.
- 22.4.13. Return the revocation packet and all forms and documents generated during the Revocation Hearing to the Board Coordinating Parole Agent for continued processing.

### 23.0 CONCLUDING THE REVOCATION HEARING

#### Board Coordinating Parole Agent:

- 23.1. If applicable, ensure the Parolee - Attorney Decision form (DJJ 3.273) has been completed and contains the signatures of the parolee and his/her attorney.
- 23.2. Provide the parolee and parolee's attorney with copies of the Summary of Revocation Hearing and Decision form (DJJ 3.275-REV)
- 23.3. Return the revocation packet and all original documentation to the JPB Revocation Desk.

#### JPB Revocation Desk

- 23.4. Upon conclusion of the Revocation Hearing, the JPB Revocation Desk shall:
  - 23.4.1. Print a copy of the Summary of Revocation Hearing and Decision form (DJJ 3.275-REV) from JSTS.



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- 23.4.2. Print a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) from JSTS.
- 23.4.3. Stamp (bottom of the first page) each document as "original".
- 23.4.4. Forward all original documents to the Master File unit for inclusion in the parolee's Master File.

#### JPB ADA Coordinator

- 23.5. Upon conclusion of Revocation Hearing, the JPB ADA Coordinator shall print and retain a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) and source documents from JSTS.

### 24.0 THE EXIT INTERVIEW

- 24.1. The purpose of the Exit Interview is to process and prepare the parole violator for release. There is no discretion to deny release at an Exit Interview.
  - 24.1.1. Exit Interviews for parole violators housed in Division of Juvenile Justice (DJJ) facilities shall be initiated by Division of Juvenile Facilities (DJF) staff.
  - 24.1.2. Exit Interviews for parole violators housed in non-DJJ facilities shall be initiated by Division of Juvenile Parole Operations (DJPO) staff.
- 24.2. A parole violator's refusal to sign his/her conditions of parole will result in mandatory referral for Revocation Extension Proceedings.
- 24.3. Exit Interviews shall not be audio or video recorded, but a written record will be made of the proceeding.

### 25.0 PROCESSING THE REVOCATION RELEASE PACKET

#### JPB Revocation Desk

- 25.1. Upon receipt of a revocation release packet, no later than thirty (30) business days prior to the Revocation Release Date (RRD), the JPB Revocation Desk shall:
  - 25.1.1. Log receipt of the revocation release packet.
  - 25.1.2. Review the revocation release packet to ensure completeness of all necessary documents. The revocation release packet received shall include, but is not limited to:
    - 25.1.2.1. The Revocation Release Packet Content Checklist form (DJJ 3.282) with Column 1 completed.
    - 25.1.2.2. The Request for Accommodation and Assistance form (DJJ 3.260) with Sections 1 through 3 completed and the following source documents:
      - 25.1.2.2.1. Disability-Effective Communication Summary Report (DJJ 3.299)
      - 25.1.2.2.2. WDP Board Information Report
      - 25.1.2.2.3. Youth Request for Reasonable Accommodation (DJJ 8.043)
      - 25.1.2.2.4. Prior Request for Accommodation and Assistance forms (DJJ 3.260) or notation that these forms were reviewed in JSTS
    - 25.1.2.3. Revocation Release Report form (DJJ 3.288) or Abbreviated Revocation Release Report form (DJJ 3.288A).



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- 25.1.2.4. Parole Placement Plans form (DJJ 3.289).
  - 25.1.2.5. Any psychological/psychiatric reports or evaluations.
  - 25.1.2.6. A copy of the most recent Notice of Conditions of Parole form (DJJ 3.207) bearing the parole violator's signature.
  - 25.1.2.7. A copy of the Action Log form (DJJ 1.601F).
  - 25.1.2.8. Other relevant documentation.
- 25.1.3. If the revocation release packet is incomplete, the JPB Revocation Desk shall contact the facility/parole unit and request the missing documents be transmitted to the Juvenile Parole Board (JPB) within forty-eight (48) hours.
- 25.1.4. Forward the revocation release packet to the Officer of the Day for review.
- 25.1.4.1. Upon receiving the revocation release packet back from the Officer of the Day, forward the revocation release packet to the JPB ADA Coordinator for review.

#### Officer of the Day

- 25.2. Upon receipt of the revocation release packet from the JPB Revocation Desk, within one (1) business day, the Officer of the Day shall:
- 25.2.1. Review the revocation release packet with regard to conditions of parole and placement.
  - 25.2.2. Communicate any concerns to the releasing facility re-entry parole agent (or field parole agent).
  - 25.2.3. Sign and date the Revocation Release Packet Content Checklist form (DJJ 3.282) acknowledging review.
  - 25.2.4. Forward the revocation release packet to the JPB ADA Coordinator for review.

#### JPB ADA Coordinator

- 25.3. If detained in a Division of Juvenile Justice facility:
- 25.3.1. Upon receipt of the revocation release packet from the Officer of the Day, within one (1) business day, the JPB ADA Coordinator shall:
    - 25.3.1.1. Review a copy of the Request for Accommodation and Assistance form (DJJ 3.260) and any supporting documents to determine if there are any accommodation/effective communication needs to be provided at the Exit Interview.
    - 25.3.1.2. Document planned accommodations/effective communication assistance to be provided by the releasing facility WDP Coordinator in Section IV of the copy of the Request for Accommodation and Assistance form (DJJ 3.260).
    - 25.3.1.3. Enter accommodation/effective communication data into an internal tracking database.
    - 25.3.1.4. Forward the completed Request for Accommodation and Assistance form (DJJ 3.260) and the signed Revocation Release Packet Content Checklist form (DJJ 3.282) to the releasing facility for inclusion in the revocation release packet for the Exit Interview.
    - 25.3.1.5. Retain one copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) and any source documents.



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#### 25.4. If detained in a non-Division of Juvenile Justice Facility:

25.4.1. Upon receipt of the revocation release packet from the Officer of the Day, within one (1) business day, the JPB ADA Coordinator shall:

25.4.1.1. Review a copy of the Request for Accommodation and Assistance form (DJJ 3.260) and any supporting documents to determine if there are any accommodation/effective communication needs to be provided at the Exit Interview.

25.4.1.2. Document planned accommodations/effective communication assistance to be provided by the assigned Board Coordinating Parole Agent (BCPA) in Section IV of the copy of the Request for Accommodation and Assistance form (DJJ 3.260).

25.4.1.3. Enter accommodation/effective communication data into an internal tracking database.

25.4.1.4. Forward the completed Request for Accommodation and Assistance form (DJJ 3.260) and the signed Revocation Release Packet Content Checklist form (DJJ 3.282) to the Board Coordinating Parole Agent for inclusion in the revocation release packet for the Exit Interview.

25.4.1.5. Forward a copy of the Revocation Release Packet Content Checklist form (DJJ 3.282) to the JPB Scheduler to coordinate the hearing with the releasing facility.

25.4.1.6. Retain one copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) and any source documents.

#### 25.5. For all detained cases:

25.5.1. No later than three (3) business days prior to the Exit Interview, the JPB ADA Coordinator shall:

25.5.1.1. Arrange for needed accommodation and/or effective communication assistance to be provided at the Exit Interview.

25.5.1.1.1. Two (2) business days prior to the Exit Interview, confirm the interpreter (if applicable) scheduled to attend the hearing.

25.5.1.2. Transmit the Interpreter's identification information (if applicable) to the hearing location for gate clearance.

25.5.1.3. Prepare an Interpreter Authorization Memo and transmit to the vendor to confirm services requested and provide verification of services provided.

#### JPB Scheduler

25.6. Upon receipt of the revocation release packet from the JPB ADA Coordinator, the JPB Scheduler shall:

25.6.1. Identify the parole violator's detention location and where the Exit Interview will occur.

25.6.2. Identify the Revocation Release Date.

25.6.3. Cross-reference other hearings scheduled.

25.6.4. Determine a date and time for the Exit Interview.

25.6.5. Identify a hearing officer and Board Coordinating Parole Agent for the Exit Interview.

25.6.6. Notify the Board Coordinating Parole Agent, releasing facility, and Supervising Parole Agent for the receiving parole unit of the date, time and location of the Exit Interview via email.



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##### Board Coordinating Parole Agent

- 25.7. Upon receiving notification of the date, time and location of the Exit Interview from the JPB Scheduler, the Board Coordinating Parole Agent shall:
- 25.7.1. Verify any security requirements of the hearing facility for the Exit Interview.
  - 25.7.2. Review the Request for Accommodation and Assistance form (DJJ 3.260) to identify any need for accommodation/effective communication assistance at the Exit Interview.
  - 25.7.3. Contact the JPB Scheduler to obtain the identification of the hearing officer.
  - 25.7.4. Contact the JPB ADA Coordinator to confirm any accommodation/effective communication assistance to be provided.
  - 25.7.5. Provide the hearing facility with the identification of those scheduled to attend the Exit Interview.

## 26.0 CONDUCTING THE EXIT INTERVIEW

##### Hearing Officer

- 26.1. The hearing officer shall conduct the following reviews in preparation for the Exit Interview:
- 26.1.1. Accommodation/Effective Communication Review: Locate and review the Request for Accommodation and Assistance form (DJJ 3.260) and all supporting documents. Ensure all needed accommodations or effective communication assistance will be available for the hearing.
  - 26.1.2. In-Custody Review: Review the Revocation Release Report form (DJJ 3.288) or Abbreviated Revocation Release Report form (DJJ 3.288A).
  - 26.1.3. Placement/Supervision Review: Review the Parole Placement Plans form (DJJ 3.289).
- 26.2. During the Exit Interview, the hearing officer shall:
- 26.2.1. Ensure that all required documents are present and complete.
  - 26.2.2. Indicate to the Parole Agent or escort officer that he/she is ready to begin and have the parole violator brought into the room.
    - 26.2.2.1. In the event that the parole violator refuses to attend the hearing, such refusal may constitute a violation of parole and may be subject to revocation extension proceedings unless there is good cause for the non-appearance.
  - 26.2.3. Ask all parties to identify themselves. Each person will then identify themselves by stating their first and last name, spelling their last name. The parole violator shall state his/her first and last name, spell his/her last name and state his/her YA number.
  - 26.2.4. Review the Request for Accommodation and Assistance form (DJJ 3.260) and conduct an interactive accommodation/effective communication review with the parole violator in order to identify any need for reasonable accommodations/effective communication assistance.
    - 26.2.4.1. Verify the accommodation/effective communication needs assessment with the parole violator.
    - 26.2.4.2. If a physical/mental impairment, or effective communication need that would affect the parole violator's ability to effectively participate is identified, but has not been accommodated, make all reasonable efforts to immediately secure the



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necessary accommodation, including but not limited to granting a brief recess to arrange for the accommodation.

26.2.4.3. If it is not possible to secure the accommodation in order to hold the hearing the same day, postpone the proceeding for no more than five (5) business days in order to obtain the accommodations. Under no circumstances shall the parole violator be held beyond his/her Revocation Release Date (RRD) unless a revocation extension action has been filed.

26.2.5. Explain to the parole violator that the purpose of the Exit Interview is as follows:

26.2.5.1. To explain to the parole violator his/her general and special conditions of parole.

26.2.5.2. The hearing officer does not retain authority to deny release to community parole supervision, absent submission of a revocation extension referral by the detention facility.

26.2.6. Review the revocation release packet with the parole violator, discuss the parole plans and placement, and allow the parole violator to make statements and/or ask questions.

26.2.7. Review and explain the general and special conditions of his/her parole to ensure the parole violator has a clear understanding of expectations and requirements while on parole.

26.2.7.1. Additional special conditions of parole, not requested in the Parole Placement Plans (DJJ 3.289) that do not impact the parolee's placement may be added as appropriate and deemed necessary.

26.2.8. Provide an opportunity for the parole violator to ask questions and/or request clarification.

26.2.9. Document the general and conditions of parole on the Notice of Conditions of Parole form (DJJ 3.207).

26.2.10. Document the Exit Interview proceedings on the Exit Interview Order form (DJJ 3.297) with instructions to release the parole violator from custody on or before the RRD.

26.2.11. Have the parole violator sign and date the Notice of Conditions of Parole form (DJJ 3.207).

26.2.12. Sign and date the Exit Interview Order form (DJJ 3.297).

26.2.13. Ensure the parole violator is provided a copy of the Notice of Conditions of Parole form (DJJ 3.207), and Exit Interview Order form (DJJ 3.297).

26.2.14. Return the revocation release packet and all documentation to the parole agent. If no parole agent is present, the BCPA will be responsible for returning the revocation release packet and all documentation to the JPB for distribution.

## **27.0 REVOCATION EXTENSION PROCEEDINGS**

27.1. A parole violator, who commits an act of serious in-custody misconduct or willful program failure while in revoke status, is subject to revocation extension proceedings. The parole violator may only be charged with one act of serious in-custody misconduct or willful program failure for each revocation extension referral. However, the parole violator may be subject to additional revocation extension actions for future serious in-custody misconduct or willful program failure.

27.2. Serious in-custody misconduct that occurs while a parolee is in custody pending revocation proceedings, shall be treated as a supplemental parole violation.



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- 27.2.1. Revocation extension proceedings for parole violators housed in Division of Juvenile Justice (DJJ) facilities shall be initiated by Division of Juvenile Facilities (DJF) staff.
- 27.2.2. Revocation extension proceedings for parole violators housed in non-DJJ facilities shall be initiated by Division of Juvenile Parole Operations (DJPO) staff.

27.3. The Juvenile Parole Board (JPB) shall review the evidence submitted and make a determination as to whether sufficient evidence exists to warrant revocation extension proceedings. At a Revocation Extension Hearing, the parole violator's period of revocation may be extended up to one (1) year consistent with the Revocation Extension Matrix.

27.4. The DJJ will determine the length of time remaining before the Revocation Release Date (RRD) and this will be noted on the documents submitted to the JPB.

## 28.0 PROCESSING OF REVOCATION EXTENSION PACKETS

### JPB Revocation Desk

28.1. The JPB will receive the revocation extension packet in JSTS as scanned by the DJJ facility (or parole unit). Upon receipt, the JPB Revocation Desk shall immediately:

28.1.1. Print the revocation extension packet from JSTS.

28.1.2. Review the revocation extension packet to ensure completeness of all necessary documents. The revocation extension packet received shall include, but is not limited to:

28.1.2.1. The Revocation Extension Packet Content Checklist form (DJJ 3.283), with Column 1 completed

28.1.2.2. Level 3 Serious Misconduct Behavior Report form (DJJ 8.403B) (or Violation Report form (DJJ 3.264), Sections A, B and C)

28.1.2.3. Screening Referral for Revocation Extension form (DJJ 3.265) (DJJ facilities only)

28.1.2.4. Supplemental Reports (if applicable)

28.1.2.5. Documentary Evidence (investigation/law enforcement reports, lab results, etc.)

28.1.2.6. The Request for Accommodation and Assistance form (DJJ 3.260), with Sections 1 through 3 completed and the following source documents:

28.1.2.6.1. Disability-Effective Communication Summary Report (DJJ 3.299)

28.1.2.6.2. WDP Board Information Report

28.1.2.6.3. Youth Request for Reasonable Accommodation (DJJ 8.043)

28.1.2.6.4. Prior Request for Accommodation and Assistance forms (DJJ 3.260) or notation that these forms were reviewed in JSTS.

28.1.2.7. Notice of Revocation Extension Rights and Acknowledgement form (DJJ 3.263), bearing the parolee's signature

28.1.2.8. Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268)

28.1.2.9. Confidential Information Disclosure form (DJJ 3.286)(if applicable)

28.1.2.10. A copy of the Action Log form (DJJ 1.601F)

28.1.2.11. Jurisdiction and Confinement History

28.1.3. If the packet is incomplete, the JPB Revocation Desk shall contact the DDMS Desk (or parole unit) to request the missing documents be scanned into JSTS within forty-eight (48)



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hours. The JPB will continue to process the packet and forward missing documents to the parole violator's attorney as soon as they become available.

- 28.1.4. Forward the revocation extension packet to the JPB Scheduler to schedule a Revocation Extension Probable Cause Hearing.
- 28.1.5. Upon receiving the revocation extension packet back from the JPB Scheduler, forward the packet to the Officer of the Day for preparation of a Revocation Extension Assessment.
- 28.1.6. Upon receiving the revocation extension packet back from the Officer of the Day, forward a copy of the revocation extension packet to the JPB ADA Coordinator for scheduling of accommodation and/or effective communication assistance.
- 28.1.7. Upon receiving the revocation extension packet back from the JPB ADA Coordinator, place the packet in the Officer of the Day's office pending decision review.

#### JPB Scheduler

- 28.2. No later than the fifth (5<sup>th</sup>) business day from the date of notice to the parole violator, the JPB Scheduler shall:
  - 28.2.1. Identify the parole violator's facility location and where the Revocation Extension Probable Cause Hearing will occur.
  - 28.2.2. Identify the 'no later than date' for the Revocation Extension Probable Cause Hearing
    - 28.2.2.1. Thirteen (13) business days from the date of notice to the parole violator.
  - 28.2.3. Cross-reference other hearings scheduled on this same date.
  - 28.2.4. Determine a date and time for the Revocation Extension Probable Cause Hearing.
  - 28.2.5. Identify a hearing officer and Board Coordinating Parole Agent for the Revocation Extension Probable Cause Hearing.
  - 28.2.6. Enter the date, time and location of the Revocation Extension Probable Cause Hearing in the Juvenile Scheduling and Tracking System (JSTS).
  - 28.2.7. Notify the parole violator's attorney, Board Coordinating Parole Agent and Parole Agent III (or Agent of Record and Supervising Parole Agent) of the date, time and location of the Revocation Extension Probable Cause Hearing via email.
    - 28.2.7.1. If the parole violator's attorney is private counsel or a public defender, notification shall include transmission of the revocation extension packet.

#### JPB ADA Coordinator

- 28.3. Upon receipt of the revocation extension packet from the JPB Revocation Desk, on or before the eighth (8<sup>th</sup>) business day from the date of notice to the parole violator, the JPB ADA Coordinator shall:
  - 28.3.1. Review the Request for Accommodation and Assistance form (DJJ 3.260) and any supporting documents to determine if there are any accommodation/effective communication needs to be provided at the hearing.
  - 28.3.2. Enter accommodation/effective communication data into an internal tracking database.
  - 28.3.3. Complete Section IV (Probable Cause) of the Request for Accommodation and Assistance form (DJJ 3.260) in JSTS.
  - 28.3.4. Return the revocation extension packet to the JPB Revocation Desk.



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- 28.3.5. Print and retain one copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) from JSTS and source documents.
- 28.4. No later than ten (10) business days from the date of notice to the parole violator, the JPB ADA Coordinator shall:
- 28.4.1. Arrange for needed accommodation and/or effective communication assistance to be provided at the Revocation Extension Probable Cause Hearing.
    - 28.4.1.1. Two (2) business days prior to the hearing, confirm the interpreter (if applicable) scheduled to attend the hearing.
  - 28.4.2. Transmit the interpreter's identification information (if applicable) to the hearing location for gate clearance.
  - 28.4.3. Prepare an Interpreter Authorization Memo and transmit to the vendor to confirm services requested and provide verification of services provided.

#### Board Coordinating Parole Agent

- 28.5. Upon receiving notification of the Revocation Extension Probable Cause Hearing from the JPB Scheduler, no later than ten (10) business days from the date of notice to the parole violator, the Board Coordinating Parole Agent shall:
- 28.5.1. Review and prepare the revocation extension packet.
  - 28.5.2. Contact the hearing location to confirm the date and time of the Revocation Extension Probable Cause Hearing.
  - 28.5.3. Verify any security requirements of the hearing facility for the Revocation Extension Probable Cause Hearing.
  - 28.5.4. Contact the JPB Scheduler to confirm the date, time and location of the hearing.
- 28.6. No later than 48 hours prior to the scheduled Revocation Extension Probable Cause Hearing, the Board Coordinating Parole Agent shall:
- 28.6.1. Review the Request for Accommodation and Assistance form (DJJ 3.260) to identify any need for accommodation/effective communication assistance at the Revocation Extension Probable Cause Hearing.
  - 28.6.2. Contact the JPB Scheduler to obtain the identification of the hearing officer and attorney.
  - 28.6.3. Contact the JPB ADA Coordinator to confirm any accommodation/effective communication assistance to be provided.
  - 28.6.4. Provide the hearing facility with the identification of those scheduled to attend the Revocation Extension Probable Cause Hearing.

## 29.0 REVOCATION EXTENSION ASSESSMENT

#### Officer of the Day

- 29.1. On or before the ninth (9<sup>th</sup>) business day from the date of notice to the parole violator, the Officer of the Day shall prepare a Revocation Extension Assessment (REA). The REA shall be communicated to the parole violator's attorney no later than ten (10) business days from the date of notice to the parole violator.



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- 29.2. Upon receipt of the revocation extension packet from the JPB Revocation Desk, the Officer of the Day shall:
- 29.2.1. Ensure that the JPB has jurisdiction over the parole violator.
  - 29.2.2. Ensure the revocation extension packet is complete.
  - 29.2.3. Determine whether or not probable cause exists on the charge.
  - 29.2.4. Review any known factors in aggravation or mitigation.
  - 29.2.5. Determine if an alternative to incarceration is appropriate. The Officer of the Day has the discretion to use all remedies, including, but not limited to a REA, alternatives to incarceration or dismissal.
  - 29.2.6. Make a REA based on the Revocation Extension Assessment Matrix. (see attached)
  - 29.2.7. Document the Revocation Extension Assessment on the Summary of RevEx Decision - Revocation Extension Assessment form (DJJ 3.278-REA) in JSTS.

### 30.0 THE REVOCATION EXTENSION PROBABLE CAUSE HEARING

- 30.1. On or before the thirteenth (13<sup>th</sup>) business day from the date of notice to the parole violator, a Revocation Extension Probable Cause Hearing shall be held. A hearing officer, Board Coordinating Parole Agent, the parole violator, and the parole violator's attorney, shall be present.
- 30.2. The purpose of the Revocation Extension Probable Cause Hearing is: (1) to determine whether there is probable cause to believe that the parole violator has committed willful program failure or serious in-custody misconduct; and (2) to attempt to resolve the case at an early stage in the proceedings.
- 30.3. The State has the burden of proof to establish probable cause.
- 30.4. The Revocation Extension Probable Cause Hearing shall not be audio or video recorded, but a written record will be made of the proceeding.

### 31.0 CONDUCTING THE REVOCATION EXTENSION PROBABLE CAUSE HEARING

#### Hearing Officer

- 31.1. The hearing officer shall conduct the following reviews in preparation for the Revocation Extension Probable Cause Hearing:
  - 31.1.1. Jurisdiction Review: Locate the available confinement time (ACT)/jurisdiction expiration dates on the Jurisdiction and Confinement History. If this date appears to have passed, contact the JPB Revocation Desk to confirm the date. If it is confirmed that the parole violator has reached the expiration of his/her available confinement time/jurisdiction, the case shall be dismissed and the parole violator released as soon as possible but no later than three (3) business days from the date of the hearing.
  - 31.1.2. Accommodation/Effective Communication Review: Locate and review the Request for Accommodation and Assistance form (DJJ 3.260) and all supporting documents. Ensure all needed accommodations or effective communication assistance will be available prior to beginning the hearing.
  - 31.1.3. Due Process Review: Review the Level 3 Serious Misconduct Behavior Report form (DJJ 8.403B), Screening Referral for Revocation Extension form (DJJ 3.265) (or the Notice of



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Charges form (DJJ 3.274) and Notice of Revocation Extension Rights and Acknowledgment form (DJJ 3.263).

- 31.1.3.1. Determine if the Revocation Extension Probable Cause Hearing is within thirteen (13) business days from the date of notice to the parole violator, and if not, determine whether good cause exists for the delay.
- 31.1.4. Charge Review: Review the behavior described in the Level 3 Serious Misconduct Behavior Report form (DJJ 8.403B) and Screening Referral for Revocation Extension form (DJJ 3.265) (or Violation Report form (DJJ 3.264)) and any other reports presented. Determine if the behavior meets the elements of the charge listed.
- 31.1.5. Evidentiary Review: Review all other written evidence provided, including but not limited to, police reports, witness statements and toxicology (lab) reports.
  - 31.1.5.1. Evidence or documents not provided to the parole violator's counsel at least forty-eight (48) hours prior to the hearing shall not be admitted or considered in the hearing unless the Division of Juvenile Justice (DJJ) can show good cause for the delay.
- 31.1.6. Adjustment Review: Review the Level 3 Serious Misconduct Behavior Report form (DJJ 8.403B) and Screening Referral for Revocation Extension form (DJJ 3.265) (or Violation Report form (DJJ 3.264)). Note the comments of facility staff (or the Parole Agent) for consideration of continued detention.
- 31.1.7. Prior Behavior Review: Review the Action Log form (DJJ 1.601F). Note the number and severity of prior behaviors for consideration of continued detention.
- 31.1.8. Recommendation Review: Review the Level 3 Serious Misconduct Behavior Report form (DJJ 8.403B) and Screening Referral for Revocation Extension form (DJJ 3.265) (or Violation Report form (DJJ 3.264)). Note and consider comments of facility staff (or the Parole Agent and a Supervising Parole Agent).
- 31.2. During the Revocation Extension Probable Cause Hearing, the hearing officer shall:
  - 31.2.1. Ensure that the parole violator receives a fair hearing.
  - 31.2.2. Indicate to the attorney, Board Coordinating Parole Agent and escort officer that he/she is ready to begin and have the parole violator brought into the room.
    - 31.2.2.1. In the event that the parole violator refuses to attend the hearing, the parole violator's attorney shall be escorted to the housing unit to confer with the parole violator regarding the refusal to attend when the hearing is taking place in a DJJ facility. After meeting with the attorney, verify that the parole violator has signed a Refusal to Participate in Revocation Proceeding form (DJJ 3.284) in the presence of his/her attorney, or by documentation of the refusal to attend and the reason for the refusal by the facility staff/Board Coordinating Parole Agent. In such instances, the facility staff/Board Coordinating Parole Agent documenting the refusal shall testify under oath as to the facts surrounding the parole violator's refusal to attend the hearing.
    - 31.2.2.2. Document whether the parole violator is restrained. If so, document the BCPA's basis for that decision.



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- 31.2.3. Ask the attorney, when all parties are present, if there are any preliminary objections or any legal cause for not conducting the Revocation Extension Probable Cause Hearing.
  - 31.2.3.1. If there are preliminary objections, make a decision on each objection and document the objection(s), the decision(s), and the reason for the decision(s), which will be placed in the official record.
- 31.2.4. Ask all parties to identify themselves by stating their name, spelling their last name, and in the case of the parole violator stating the YA number.
- 31.2.5. Review the Request for Accommodation and Assistance form (DJJ 3.260) and conduct an interactive accommodation/effective communication review with the parole violator in order to identify any need for reasonable accommodations/effective communication assistance.
  - 31.2.5.1. Verify the accommodation/effective communication needs assessment with the attorney.
  - 31.2.5.2. If a physical/mental impairment, or effective communication need that would affect the parole violator's ability to effectively participate is identified, but has not been accommodated, make all reasonable efforts to immediately secure the necessary accommodation, including but not limited to granting a brief recess to arrange for the accommodation.
  - 31.2.5.3. If it is not possible to secure the accommodation in order to hold the hearing the same day, postpone the proceeding for no more than five (5) business days in order to obtain the accommodations.
  - 31.2.5.4. Document any relevant observations or accommodations in Section V of the Request for Accommodation and Assistance form (DJJ 3.260).
- 31.2.6. Explain to the parole violator the purpose of the Revocation Extension Probable Cause Hearing as follows:
  - 31.2.6.1. The purpose of the hearing
    - 31.2.6.1.1. To determine whether there is probable cause to believe that the parole violator committed serious in-custody misconduct or engaged in conduct that constitutes willful program failure.
    - 31.2.6.1.2. To attempt to resolve the case
  - 31.2.6.2. His/Her right to appeal to the Executive Officer of the Juvenile Parole Board (JPB) within twenty (20) business days of the receipt of written revocation extension decision with the assistance of an attorney.
    - 31.2.6.2.1. There will be only one level of appeal.
    - 31.2.6.2.2. The appeal will be decided by the Executive Officer, or his/her designee, within ten (10) business days of receipt of the appeal.
    - 31.2.6.2.3. The appeal decision will be served on the parole violator within five (5) business days of the appeal decision.
    - 31.2.6.2.4. Advise the parole violator that he/she must submit any appeals to JPB headquarters.
- 31.2.7. State the charge and the basis of the charge.
- 31.2.8. Ask the attorney to enter a plea to the pending charge, either: 'Admit', 'Deny' or 'No Plea'.
  - 31.2.8.1. If the parole violator admits to the charge, thereby waiving his right to the evidentiary phase of the Revocation Extension Hearing, ask the attorney and/or



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the parole violator if they wish to make a statement regarding disposition, and then skip to 31.1.22 below.

- 31.2.9. Allow the attorney and the parole violator to make statements, present oral, physical and/or documentary evidence concerning probable cause, and/or ask questions.
- 31.2.10. Determine if there is probable cause to believe that the parole violator committed serious in-custody misconduct or engaged in conduct that constitutes willful program failure.
- 31.2.11. Render a decision. This decision must include a probable cause determination with regard to the charge and the specific facts upon which the probable cause determination was based.
  - 31.2.11.1. If probable cause to believe that the parole violator did commit serious in-custody misconduct or engage in conduct that constitutes willful program failure is not found, the charge shall be dismissed and the parole violator released as soon as possible but no later than three (3) business days from the date of the Revocation Extension Probable Cause Hearing or upon expiration of the Revocation Release Date (RRD), whichever occurs later.
- 31.2.12. Review the Summary of Rev Ex Decision: Revocation Extension Assessment form (DJJ 3.278-REA) with the parole violator and his/her attorney. Allow the attorney and the parole violator to make statements and present oral, physical, and/or documentary evidence that may affect the disposition.
  - 31.2.12.1. The parole violator and his/her attorney shall have an opportunity to accept the Revocation Extension Assessment (REA) or an alternative offer made by the hearing officer at the hearing.
    - 31.2.12.1.1. If the REA/alternative offer is rejected, the hearing officer shall order that a Revocation Extension Hearing be scheduled no later than the thirty-fifth (35<sup>th</sup>) day from the date of notice to the parole violator. (continue to 31.1.28)
    - 31.2.12.1.2. If the REA/alternative offer is accepted, ensure the parole violator and his/her attorney sign the Parolee-Attorney Decision form (DJJ 3.273). (skip to 31.1.33)
- 31.2.13. Review the Request for Witnesses form (DJJ 3.271) and Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268).
  - 31.2.13.1. If parole violator's attorney is not prepared to provide a list of witnesses, order a short recess and request that the list be developed. When the attorney has had time to prepare the list, the hearing will be reconvened. Should the attorney require additional time to prepare a complete witness list, the hearing will be concluded and the attorney shall submit a final witness list to the Board Coordinating Parole Agent for review by the Officer of the Day.
- 31.2.14. Allow parole violator's attorney to justify the request for witnesses, and either approve or disapprove each witness. The request for witnesses by the State and the parole violator must be reviewed using the same criteria for approval or disapproval.
  - 31.2.14.1. The parole violator's attorney may challenge the 'confidential' or 'fearful' designation of a witness. Upon challenge, the hearing officer shall make a determination regarding the designation based upon the qualifying criteria (see 'Witnesses').



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- 31.2.15. Ensure the contact information and name of each witness to be called is documented on the Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268) by the Board Coordinating Parole Agent. The original list will be placed in the revocation extension packet for processing by the Board Coordinating Parole Agent.
- 31.2.16. Ensure that all objections are documented along with the hearing officer's ruling on each objection and the basis for each ruling.
- 31.2.17. Document the final result of the Revocation Extension Probable Cause Hearing as to the charge and the basis for the decision on the Summary of RevEx Hearing and Decision form (DJJ 3.277-PCH) in the Juvenile Scheduling and Tracking System (JSTS).
  - 31.2.17.1. If the Revocation Extension Assessment is accepted, document any factors in aggravation or mitigation when the disposition agreed upon it outside the Revocation Extension guidelines.
- 31.2.18. Return the revocation extension packet and all forms and documents generated during the Revocation Extension Probable Cause Hearing to the Board Coordinating Parole Agent for continued processing.

## 32.0 CONCLUDING THE REVOCATION EXTENSION PROBABLE CAUSE HEARING

### 32.1. If the case has not been resolved:

#### Board Coordinating Parole Agent

- 32.1.1. At the conclusion of the Revocation Extension Probable Cause Hearing, the Board Coordinating Parole Agent shall:
  - 32.1.1.1. If applicable, ensure the Parolee – Attorney Decision form (DJJ 3.273) has been completed and contains the signatures of the parole violator and his/her attorney.
  - 32.1.1.2. In coordination with the attorney and facility, contact the JPB Scheduler to schedule a date for the Revocation Extension Hearing to occur on or before the thirty-fifth (35<sup>th</sup>) calendar day from the date of notice to the parole violator. (NOTE: A parole violator may be granted a continuance of his/her Revocation Extension Hearing for good cause shown. Any such request by the parole violator and his/her attorney shall be made in the presence of the hearing officer.)
    - 32.1.1.2.1. If the thirty-fifth (35<sup>th</sup>) calendar day falls on a weekend or holiday, the hearing will occur no later than the next business day after the weekend or holiday.
  - 32.1.1.3. Complete the Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268).
  - 32.1.1.4. Provide the parole violator and his/her attorney with copies of the following documents:
    - 32.1.1.4.1. Summary of RevEx Hearing and Decision form (DJJ 3.277-PCH)
    - 32.1.1.4.2. Request for Witnesses form (DJJ 3.271), documenting approval/denial of witnesses
    - 32.1.1.4.3. Sufficient signed blank Subpoena forms (DJJ 1.300) and Subpoena Duces Tecum forms (DJJ 3.287).
  - 32.1.1.5. By the end of the same day, fax the following document to the JPB Revocation Desk and the DDMS desk (or parole unit):



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- 32.1.1.5.1. Parolee-Attorney Decision form (DJJ 3.273) containing the signatures of the parole violator and his/her attorney
- 32.1.1.5.2. Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268) (page 1)

#### JPB Scheduler

- 32.1.2. In consultation with the Board Coordinating Parole Agent, the JPB Scheduler shall:
  - 32.1.2.1. Identify the parole violator's facility location and where the Revocation Extension Hearing will occur.
  - 32.1.2.2. Identify the 'no later than date' for the Revocation Extension Hearing
    - 32.1.2.2.1. Thirty-five (35) calendar days from the date of notice to the parole violator.
  - 32.1.2.3. Identify a hearing officer and Board Coordinating Parole Agent for the Revocation Extension Hearing.
  - 32.1.2.4. Cross-reference other hearings scheduled on this same date.
  - 32.1.2.5. Schedule the date, time and location of the Revocation Extension Hearing.
  - 32.1.2.6. Enter the date, time, location, hearing officer and Board Coordinating Parole Agent into the Juvenile Scheduling and Tracking System (JSTS).
  - 32.1.2.7. Notify the parole violator's attorney, Board Coordinating Parole Agent, facility DDMS Coordinator (if in a DJJ facility) and Parole Agent III (or Agent of Record and Supervising Parole Agent) of the date, time and location of the Revocation Extension Hearing via email.

#### JPB Revocation Desk

- 32.1.3. Upon receipt of the Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268), the JPB Revocation Desk shall proceed with preparing the case for a Revocation Extension Hearing.
- 32.1.4. Upon conclusion of the Revocation Extension Probable Cause Hearing, the JPB Revocation Desk shall:
  - 32.1.4.1. Print a copy of the Summary of RevEx Hearing and Decision form (DJJ 3.277-PCH) from JSTS.
  - 32.1.4.2. Print a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) from JSTS.
  - 32.1.4.3. Print a copy of the Summary of RevEx Decision: Revocation Extension Assessment form (DJJ 3.278) from JSTS.
  - 32.1.4.4. Stamp (bottom of the first page) each document as "original".
  - 32.1.4.5. Forward all original documents to the Master File unit for inclusion in the parole violator's Master File.

#### JPB ADA Coordinator

- 32.1.5. Upon conclusion of the Revocation Extension Probable Cause Hearing, the JPB ADA Coordinator shall print and retain a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) and source documents from JSTS.



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#### 32.2. If the case has been resolved:

##### Board Coordinating Parole Agent

- 32.2.1. Ensure the Parolee – Attorney Decision form (DJJ 3.273) has been completed and contains the signatures of the parole violator and his/her attorney.
- 32.2.2. Ensure the hearing officer has completed Section V (Probable Cause) of the Request for Accommodation and Assistance form (DJJ 3.260) in JSTS.
- 32.2.3. Provide the parole violator and his/her attorney with copies of the Summary of RevEx Hearing and Decision form (DJJ 3.277-PCH).
- 32.2.4. Return the revocation extension packet and all original documentation to JPB Revocation Desk.

##### JPB Revocation Desk

- 32.2.5. Upon conclusion of the Revocation Extension Probable Cause Hearing, the JPB Revocation Desk shall:
  - 32.2.5.1. Print a copy of the Summary of RevEx Hearing and Decision form (DJJ 3.277-PCH) from JSTS.
  - 32.2.5.2. Print a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) from JSTS.
  - 32.2.5.3. Print a copy of the Summary of RevEx Decision: Revocation Extension Assessment form (DJJ 3.278) from JSTS.
  - 32.2.5.4. Stamp (bottom of the first page) each document as “original”.
  - 32.2.5.5. Forward all original documents to the Master File unit for inclusion in the parole violator’s Master File.

##### JPB ADA Coordinator

- 32.2.6. Upon conclusion of the Revocation Extension Probable Cause Hearing, the JPB ADA Coordinator shall print and retain a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) and source documents from JSTS.

### 33.0 PROCESSING THE REQUEST FOR REVOCATION EXTENSION OPTIONAL WAIVER ACTIVATION

##### JPB Revocation Desk

- 33.1. Immediately upon receipt of an Optional Waiver Activation Card form (DJJ 3.280) or written notification requesting a Revocation Extension Hearing, the JPB Revocation Desk shall:
  - 33.1.1. Activate the optional waiver in JSTS.
  - 33.1.2. Forward the revocation extension packet to the JPB Scheduler to schedule a Revocation Extension Optional Waiver Review.
  - 33.1.3. Upon receiving the revocation extension packet back from the JPB Scheduler, forward the packet to the JPB ADA Coordinator for scheduling of accommodation and/or effective communication assistance.
  - 33.1.4. Upon receiving the revocation extension packet back from the JPB ADA Coordinator, place the packet in the Officer of the Day’s office pending decision review.



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##### JPB Scheduler

- 33.2. Upon receiving the request for optional waiver activation from the JPB Revocation Desk, no later than the eighth (8<sup>th</sup>) business day from receipt of the request for optional waiver activation, the JPB Scheduler shall:
- 33.2.1. Identify the parole violator's detention location and where the Revocation Extension Optional Waiver Review will occur.
  - 33.2.2. Identify the 'no later than date' for the Revocation Extension Optional Waiver Review
    - 33.2.2.1. Thirteen (13) business days from receipt of the request for optional waiver activation.
  - 33.2.3. Cross-reference other hearings scheduled on this same date.
  - 33.2.4. In coordination with the parolee's attorney, determine a date and time for the Revocation Extension Optional Waiver Review.
  - 33.2.5. Identify a hearing officer and Board Coordinating Parole Agent for the Revocation Extension Optional Waiver Review.
  - 33.2.6. Enter the date, time and location of the Revocation Extension Optional Waiver Review into the Juvenile Scheduling and Tracking System (JSTS).
  - 33.2.7. Notify the parole violator's attorney, Board Coordinating Parole Agent and Parole Agent III (or Agent of Record and Supervising Parole Agent) of the date, time and location of the Revocation Extension Optional Waiver Review via email.

##### JPB ADA Coordinator

- 33.3. Upon receiving the request for optional waiver activation from the JPB Revocation Desk, no later than nine (9) business days from receipt of the request for optional waiver activation, the JPB ADA Coordinator shall:
- 33.3.1. Review the Summary of RevEx Hearing and Decision form (DJJ 3.277-PCH) and Request for Accommodation and Assistance form (DJJ 3.260) and any supporting documents to confirm any accommodation/effective communication assistance to be provided at the hearing, including any accommodation/effective communication needs of the witnesses.
  - 33.3.2. Enter accommodation/effective communication data into an internal tracking database.
  - 33.3.3. Complete Section IV (Probable Cause) of the Request for Accommodation and Assistance form (DJJ 3.260) in JSTS.
  - 33.3.4. Print and retain a copy of the Request for Accommodation and Assistance form (DJJ 3.260) and source documents
- 33.4. No later than ten (10) business days from receipt of the request for optional waiver activation, the JPB ADA Coordinator shall:
- 33.4.1. Arrange for needed accommodation and/or effective communication assistance to be provided at the Revocation Extension Optional Waiver Review.
    - 33.4.1.1. Two (2) business days prior to the hearing, confirm the interpreter (if applicable) scheduled to attend the hearing.
  - 33.4.2. Transmit the interpreter's identification information (if applicable) to the hearing location for gate clearance.
  - 33.4.3. Prepare an Interpreter Authorization Memo and transmit to the vendor to confirm services requested and provide verification of services provided.



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##### Board Coordinating Parole Agent

- 33.5. Upon receiving notification of the Revocation Extension Optional Waiver Review from the JPB Scheduler, no later than ten (10) business days from the receipt of the request for optional waiver activation, the Board Coordinating Parole Agent shall:
- 33.5.1. Review and prepare the revocation extension packet.
  - 33.5.2. Contact the hearing location to confirm the date and time of the Revocation Extension Optional Waiver Review.
  - 33.5.3. Verify any security requirements of the hearing facility for the Revocation Extension Optional Waiver Review.
  - 33.5.4. Contact the JPB Scheduler to confirm the date, time and location of the hearing.
- 33.6. No later than forty-eight (48) hours prior to the Revocation Extension Optional Waiver Review, the Board Coordinating Parole Agent shall:
- 33.6.1. Review the Request for Accommodation and Assistance form (DJJ 3.260) to identify any need for accommodation/effective communication assistance at the Revocation Extension Optional Waiver Review.
  - 33.6.2. Contact the JPB Scheduler to obtain the identification of the hearing officer and attorney.
  - 33.6.3. Contact the JPB ADA Coordinator to confirm any accommodation/effective communication assistance to be provided.
  - 33.6.4. Provide the hearing facility with the identification of those scheduled to attend the Revocation Extension Optional Waiver Review.

#### **34.0 THE REVOCATION EXTENSION OPTIONAL WAIVER REVIEW**

- 34.1. A Revocation Extension Optional Waiver Review shall be held no later than thirteen (13) business days from the receipt of request for optional waiver activation.
- 34.2. A hearing officer, Board Coordinating Parole Agent, the parole violator, and the parole violator's attorney, shall be present.
- 34.3. The purpose of the Revocation Extension Optional Waiver Review is to re-negotiate disposition of the case based upon the outcome of sentencing or final disposition at the trial court level in the criminal proceedings.
- 34.4. The Revocation Extension Optional Waiver Review shall not be audio or video recorded, but a written record will be made of the proceeding.

#### **35.0 CONDUCTING THE REVOCATION EXTENSION OPTIONAL WAIVER REVIEW**

##### Hearing Officer

- 35.1. The hearing officer shall conduct the following reviews in preparation for the Revocation Extension Optional Waiver Review:
- 35.1.1. Jurisdiction Review: Locate the available confinement time (ACT)/jurisdiction expiration dates on the Jurisdiction and Confinement History. If this date appears to have passed, contact the JPB Revocation Desk to confirm the date. If it is confirmed that the parolee has



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reached the expiration of his/her available confinement time/jurisdiction, the case shall be dismissed. The hold shall be lifted and the parolee released as soon as possible, but no later than three (3) business days from the date of the proceeding.

- 35.1.2. **Accommodation/Effective Communication Review:** Locate and review the Request for Accommodation and Assistance form (DJJ 3.260) and all supporting documents. Ensure all needed accommodations or effective communication assistance will be available prior to beginning the hearing.
  - 35.1.3. **Due Process Review:** Review the Level 3 Serious Misconduct Behavior Report form (DJJ 8.403B), Screening Referral for Revocation Extension form (DJJ 3.265) (or the Notice of Charges form (DJJ 3.274) and Notice of Revocation Extension Rights and Acknowledgment form (DJJ 3.263).
    - 35.1.3.1. Determine if the Revocation Extension Optional Waiver Review is within thirteen (13) business days from the receipt of request for optional waiver activation, and if not, determine whether good cause exists for the delay.
  - 35.1.4. **Charge Review:** Review the behavior described in the Level 3 Serious Misconduct Behavior Report form (DJJ 8.403B) and Screening Referral for Revocation Extension form (DJJ 3.265) (or Violation Report form (DJJ 3.264)) and any other reports presented. Determine if the behavior meets the elements of the charge listed.
  - 35.1.5. **Evidentiary Review:** Review all other written evidence provided, including but not limited to, police reports, witness statements and toxicology (lab) reports.
    - 35.1.5.1. Evidence or documents not provided to the parole violator's counsel at least forty-eight (48) hours prior to the hearing shall not be admitted or considered in the hearing unless the Division of Juvenile Justice (DJJ) can show good cause for the delay.
  - 35.1.6. **Adjustment Review:** Review the Level 3 Serious Misconduct Behavior Report form (DJJ 8.403B) and Screening Referral for Revocation Extension form (DJJ 3.265) (or Violation Report form (DJJ 3.264). Note the comments of facility staff (or the Parole Agent) for consideration of continued detention.
  - 35.1.7. **Prior Behavior Review:** Review the Action Log form (DJJ 1.601F). Note the number and severity of prior behaviors for consideration of continued detention.
  - 35.1.8. **Recommendation Review:** Review the Level 3 Serious Misconduct Behavior Report form (DJJ 8.403B) and Screening Referral for Revocation Extension form (DJJ 3.265) (or Violation Report form (DJJ 3.264). Note and consider comments of facility staff (or the Parole Agent and a Supervising Parole Agent).
- 35.2. During the Revocation Extension Optional Waiver Review, the hearing officer shall:
- 35.2.1. Ensure that the parole violator receives a fair hearing.
  - 35.2.2. Indicate to the attorney, Board Coordinating Parole Agent and escort officer that he/she is ready to begin and have the parole violator brought into the room.
    - 35.2.2.1. In the event that the parole violator refuses to attend the hearing, the parole violator's attorney shall be escorted to the housing unit to confer with the parole violator regarding the refusal to attend when the hearing is taking place in a DJJ facility. After meeting with the attorney, verify that the parole violator has signed



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- a Refusal to Participate in Revocation Proceeding form (DJJ 3.284) in the presence of his/her attorney or by documentation of the refusal to attend and the reason for the refusal by the facility staff/Board Coordinating Parole Agent. In such instances, the facility staff/Board Coordinating Parole Agent documenting the refusal shall testify under oath as to the facts surrounding the parole violator's refusal to attend the hearing.
- 35.2.2.2. Document whether the parole violator is restrained. If so, document the BCPA's basis for that decision.
- 35.2.3. Ask the attorney, when all parties are present, if there are any preliminary objections or any legal cause for not conducting the Revocation Extension Optional Waiver Review.
- 35.2.3.1. If there are preliminary objections, make a decision on each objection and document the objection(s), the decision(s) and the reason for the decision(s), which will be placed in the official record.
- 35.2.4. Ask all parties to identify themselves by stating their name, spelling their last name, and in the case of the parole violator stating the YA number.
- 35.2.5. Review the Request for Accommodation and Assistance form (DJJ 3.260) and conduct an interactive accommodation/effective communication review with the parole violator in order to identify any need for reasonable accommodations/effective communication assistance.
- 35.2.5.1. Verify the accommodation/effective communication needs assessment with the attorney.
- 35.2.5.2. If a physical/mental impairment, or effective communication need that would affect the parole violator's ability to effectively participate is identified, but has not been accommodated, make all reasonable efforts to immediately secure the necessary accommodation, including but not limited to granting a brief recess to arrange for the accommodation.
- 35.2.5.3. If it is not possible to secure the accommodation in order to hold the hearing the same day, postpone the proceeding for no more than five (5) business days in order to obtain the accommodations.
- 35.2.5.4. Document any relevant observations or accommodations in Section V of the Request for Accommodation and Assistance form (DJJ 3.260).
- 35.2.6. Explain to the parole violator the purpose of the Revocation Extension Optional Waiver Review as follows:
- 35.2.6.1. The purpose of the hearing.
- 35.2.6.1.1. To re-negotiate the disposition based upon the outcome of his/her court proceedings
- 35.2.6.2. His/Her right to appeal to the Executive Officer of the Juvenile Parole Board (JPB) within twenty (20) business days of the receipt of written revocation extension decision with the assistance of an attorney.
- 35.2.6.2.1. There will be only one level of appeal.
- 35.2.6.2.2. The appeal will be decided by the Executive Officer, or his/her designee, within ten (10) business days of receipt of the appeal.
- 35.2.6.2.3. The appeal decision will be served on the parole violator within five (5) business days of the appeal decision.
- 35.2.6.2.4. Advise parole violator that he must submit any appeals to JPB headquarters.



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- 35.2.7. State the charge and the basis of the charge.
- 35.2.8. Ask the attorney to enter a plea to the pending charge, either: 'Admit', 'Deny' or 'No Plea'.
- 35.2.8.1. If the parole violator admits to the charge, thereby waiving his right to the evidentiary phase of the Revocation Hearing, ask the attorney and/or the parole violator if they wish to make a statement regarding disposition, and then skip to 35.1.20.
- 35.2.9. Allow the attorney and the parole violator to make statements, present oral, physical and/or documentary evidence concerning probable cause, and/or ask questions.
- 35.2.10. Determine if there is probable cause to believe that the parole violator committed serious in-custody misconduct or engaged in conduct that constitutes willful program failure.
- 35.2.11. Render a decision. This decision must include a probable cause determination with regard to the charge and the specific facts upon which the probable cause determination was based.
- 35.2.11.1. If probable cause to believe that the parole violator did commit serious in-custody misconduct or engage in conduct that constitutes willful program failure is not found, the charge shall be dismissed and the parole violator released as soon as possible but no later than three (3) business days from the date of the Revocation Extension Optional Waiver Review or upon expiration of the Revocation Release Date (RRD), whichever occurs later.
- 35.2.12. Review the Summary of RevEx Decision: Revocation Extension Assessment form (DJJ 3.278-REA) with the parole violator and his/her attorney. Allow the attorney and the parole violator to make statements and present oral, physical, and/or documentary evidence that may affect the disposition.
- 35.2.12.1. The parole violator and his/her attorney shall have an opportunity to accept the REA or an alternative offer made by the hearing officer at the hearing.
- 35.2.12.1.1. If the REA/alternative offer is rejected, the hearing officer shall order that a Revocation Extension Hearing be scheduled no later than the thirty-fifth (35<sup>th</sup>) calendar day from receipt of request for optional waiver activation. (continue to 35.1.23)
- 35.2.12.1.2. If the REA/alternative offer is accepted, ensure the parole violator and his/her attorney sign the Parolee-Attorney Decision form (DJJ 3.273). (skip to 35.1.28)
- 35.2.13. Review the Request for Witnesses form (DJJ 3.271) and Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268).
- 35.2.13.1. If parole violator's attorney is not prepared to provide a list of witnesses, order a short recess and request that the list be developed. When the attorney has had time to prepare the list, the hearing will be reconvened. Should the attorney require additional time to prepare a complete witness list, the hearing will be concluded and the attorney shall submit a final witness list to the Board Coordinating Parole Agent for review by the Officer of the Day.
- 35.2.14. Allow parole violator's attorney to justify the request for witnesses, and either approve or disapprove each witness. The request for witnesses by the State and the parole violator must be reviewed using the same criteria for approval or disapproval.
- 35.2.14.1. The parole violator's attorney may challenge the 'confidential' or 'fearful' designation of a witness. Upon challenge, the hearing officer shall make a



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determination regarding the designation based upon the qualifying criteria (see 'Witnesses').

- 35.2.15. Ensure the contact information and name of each witness to be called is documented on the Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268) by the Board Coordinating Parole Agent. The original list will be placed in the revocation extension packet for processing by the Board Coordinating Parole Agent.
- 35.2.16. Ensure that all objections are documented along with the hearing officer's ruling on each objection and the basis for each ruling.
- 35.2.17. Document the final result of the Revocation Extension Optional Waiver Review as to the charge and the basis for the decision on the Summary of RevEx Hearing and Decision form (DJJ 3.277-OWR) in the Juvenile Scheduling and Tracking System (JSTS).
  - 35.2.17.1. If the offered disposition is accepted, document any factors in aggravation or mitigation when the disposition agreed upon is outside of the Revocation Extension guidelines in JSTS.
- 35.2.18. Return the revocation extension packet and all forms and documents generated during the Revocation Extension Optional Waiver Review to the Board Coordinating Parole Agent for continued processing.

### 36.0 CONCLUDING THE REVOCATION EXTENSION OPTIONAL WAIVER REVIEW

#### 36.1. If the case has not been resolved:

##### Board Coordinating Parole Agent

- 36.1.1. At the conclusion of the Revocation Extension Optional Waiver Review, the Board Coordinating Parole Agent shall:
  - 36.1.1.1. Ensure the Parolee – Attorney Decision form (DJJ 3.273) has been completed and contains the signatures of the parole violator and his/her attorney.
  - 36.1.1.2. Ensure the hearing officer has completed Section V (Probable Cause) of the Request for Accommodation and Assistance form (DJJ 3.260) in JSTS.
  - 36.1.1.3. In coordination with the attorney and facility, contact the JPB Scheduler to schedule a date for the Revocation Extension Hearing to occur on or before the thirty-fifth (35<sup>th</sup>) calendar day from the date of receipt of the revocation extension optional waiver activation request. (NOTE: A parole violator may be granted a continuance of his/her Revocation Extension Hearing for good cause shown. Any such request shall be made in the presence of the hearing officer.)
    - 36.1.1.3.1. If the thirty-fifth (35<sup>th</sup>) calendar day falls on a weekend or holiday, the hearing will occur no later than the next business day after the weekend or holiday.
  - 36.1.1.4. Complete the Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268).
  - 36.1.1.5. Provide the parole violator and his/her attorney with copies of the following documents:
    - 36.1.1.5.1. Summary of RevEx Hearing and Decision form (DJJ 3.277-OWR)



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- 36.1.1.5.2. Request for Witnesses form (DJJ 3.271), documenting approval/denial of witnesses
- 36.1.1.5.3. Sufficient signed blank Subpoena forms (DJJ 1.300) and Subpoena Duces Tecum forms (DJJ 3.287)
- 36.1.1.6. By the end of the same day, fax the following document to the JPB Revocation Desk and the DDMS desk (or parole unit):
  - 36.1.1.6.1. Parolee – Attorney Decision form (DJJ 3.273) containing the signatures of the parole violator and his/her attorney
  - 36.1.1.6.2. Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268) (page 1)

#### JPB Scheduler

- 36.1.2. In consultation with the Board Coordinating Parole Agent, the JPB Scheduler shall:
  - 36.1.2.1. Identify the parole violator's facility location and where the Revocation Extension Hearing will occur.
  - 36.1.2.2. Identify the 'no later than date' for the Revocation Extension Hearing
    - 36.1.2.2.1. Thirty-five (35) calendar days from receipt of request for revocation extension optional waiver activation.
  - 36.1.2.3. Identify a hearing officer and Board Coordinating Parole Agent for the Revocation Extension Hearing.
  - 36.1.2.4. Cross-reference other hearings scheduled on this same dates.
  - 36.1.2.5. Schedule the date, time and location of the Revocation Extension Hearing.
  - 36.1.2.6. Enter the date, time, location, hearing officer and Board Coordinating Parole Agent into the Juvenile Scheduling and Tracking System (JSTS).
  - 36.1.2.7. Notify the parole violator's attorney, Board Coordinating Parole Agent, facility DDMS Coordinator (if in a DJJ facility) and Parole Agent III (or Agent of Record and Supervising Parole Agent) of the date, time and location of the Revocation Extension Hearing via email.

#### JPB Revocation Desk

- 36.1.3. Upon receipt of the Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268), the JPB Revocation Desk shall proceed with preparing the case for a Revocation Extension Hearing.
- 36.1.4. Upon conclusion of the Revocation Extension Optional Waiver Review, the JPB Revocation Desk shall:
  - 36.1.4.1. Print a copy of the Summary of RevEx Hearing and Decision form (DJJ 3.277-OWR) from JSTS.
  - 36.1.4.2. Print a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) from JSTS.
  - 36.1.4.3. Stamp (bottom of the first page) each document as "original".
  - 36.1.4.4. Forward all original documents to the Master File unit for inclusion in the parole violator's Master File.



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##### JPB ADA Coordinator

36.1.5. Upon conclusion of the Revocation Extension Optional Waiver Review, the JPB ADA Coordinator shall print and retain a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) and source documents from JSTS.

##### 36.2. **If the case has been resolved:**

##### Board Coordinating Parole Agent:

36.2.1. Ensure the Parolee – Attorney Decision form (DJJ 3.273) has been completed and contains the signatures of the parole violator and his/her attorney.

36.2.2. Ensure the hearing officer has completed Section V (Probable Cause) of the Request for Accommodation and Assistance form (DJJ 3.260) in JSTS.

36.2.3. Provide the parole violator and his/her attorney with copies of the Summary of RevEx Hearing and Decision form (DJJ 3.277-OWR)

36.2.4. Return the revocation extension packet and all original documentation to the JPB Revocation Desk.

##### JPB Revocation Desk

36.2.5. Upon conclusion of the Revocation Extension Optional Waiver Review, the JPB Revocation Desk shall:

36.2.5.1. Print a copy of the Summary of RevEx Hearing and Decision form (DJJ 3.277-OWR) from JSTS.

36.2.5.2. Print a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) from JSTS.

36.2.5.3. Stamp (bottom of the first page) each document as “original”.

36.2.5.4. Forward all original documents to the Master File unit for inclusion in the parole violator’s Master File.

##### JPB ADA Coordinator

36.2.6. Upon conclusion of the Revocation Extension Optional Waiver Review, the JPB ADA Coordinator shall print and retain a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) and source documents from JSTS.

### **37.0 THE REVOCATION EXTENSION HEARING**

37.1. The Revocation Extension Hearing shall be held on or before the thirty-fifth (35<sup>th</sup>) calendar day from the date of notice to the parole violator, absent good cause for the delay. A hearing officer, Board Coordinating Parole Agent, the parole violator represented by his/her attorney, and requested witnesses shall be present.

37.2. The Revocation Extension Hearing is a two-phase hearing (evidentiary and disposition) at which it is determined whether the preponderance of the evidence shows that the parole violator committed serious in-custody misconduct or engaged in conduct that constitutes willful program failure and whether the parole violator should remain in custody beyond the Revocation Release Date (RRD).



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- 37.2.1. Evidentiary phase - all evidence relevant to the charge and deemed admissible by the hearing officer will be considered in making a determination as to whether it is believed by a preponderance of the evidence that the parole violator committed serious in-custody misconduct or engaged in conduct that constitutes willful program failure.
  - 37.2.2. Disposition phase - all evidence relevant to disposition will be considered. This includes, but is not limited to: statements by witnesses, written statements by interested parties, treatment needs, and testimony regarding criminal history, social history and previous adjustment while in custody.
- 37.3. The Revocation Extension Hearing shall be audio recorded and a written record will be made of the proceeding.

### 38.0 PREPARING THE REVOCATION EXTENSION HEARING

#### JPB Revocation Desk

- 38.1. Immediately upon receipt of the Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268), but no later than fourteen (14) calendar days prior to the Revocation Extension Hearing, the JPB Revocation Desk shall:
  - 38.1.1. Enter witness information into JSTS.
  - 38.1.2. Generate a Witness Letter form (DJJ 3.269) (non-peace officer witnesses) and Subpoena form (DJJ 1.300) to all State witnesses in the Juvenile Scheduling and Tracking System (JSTS).
  - 38.1.3. Generate a Subpoena Duces Tecum form (DJJ 3.287) for all documentation ordered to be produced at the Revocation Extension Hearing.
  - 38.1.4. Fax and mail a Subpoena form (DJJ 1.300)/ Subpoena Duces Tecum form (DJJ 3.287) to all peace officer witnesses.
  - 38.1.5. Mail a Witness Letter form (DJJ 3.269) and Subpoena form (DJJ 1.300) or Subpoena Duces Tecum form (DJJ 3.287) to all non-peace officer witnesses.
  - 38.1.6. Transmit a copy of all issued Witness Letters form (DJJ 3.269), Subpoenas form (DJJ 1.300) and Subpoena Duces Tecum form (DJJ 3.287) to the Board Coordinating Parole Agent.
  - 38.1.7. Submit a copy of the following documents to the Office of Victim and Survivor Rights and Services (OVSRS) if non-peace officer victim witnesses are requested to appear at the Revocation Extension Hearing:
    - 38.1.7.1. Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268)
    - 38.1.7.2. Witness Letters form (DJJ 3.269) and Subpoenas form (DJJ 1.300) issued to non-peace officer victim witnesses

#### JPB ADA Coordinator

- 38.2. No later than ten (10) calendar days prior to the Revocation Extension Hearing, the JPB ADA Coordinator shall:
  - 38.2.1. Review the Summary of RevEx Hearing and Decision form (DJJ 3.277-PCH), Summary of RevEx Hearing and Decision form (DJJ 3.277-OWR) (if applicable), Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268), and Request for Accommodation and Assistance form (DJJ 3.260) and any supporting documents to confirm



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- any accommodation/effective communication assistance to be provided at the hearing, including any accommodation/effective communication needs of the witnesses.
- 38.2.2. Enter accommodation/effective communication data into an internal tracking database.
  - 38.2.3. Complete Section IV (Revocation) of the Request for Accommodation and Assistance form (DJJ 3.260).
  - 38.2.4. Print and retain a copy of the Request for Accommodation and Assistance form (DJJ 3.260) and source documents.
- 38.3. No later than five (5) business days prior to the Revocation Extension Hearing, the JPB ADA Coordinator shall:
- 38.3.1. Arrange for needed accommodation and/or effective communication assistance to be provided at the Revocation Extension Hearing.
    - 38.3.1.1. Two (2) business days prior to the hearing, confirm the interpreter (if applicable) scheduled to attend the hearing.
  - 38.3.2. Transmit the interpreter's identification information (if applicable) to the hearing location for gate clearance.
  - 38.3.3. Prepare an Interpreter Authorization Memo and transmit to the vendor to confirm services requested and provide verification of services provided.

#### Board Coordinating Parole Agent

- 38.4. Upon receiving confirmation of the date, time and location of the Revocation Extension Hearing from the JPB Scheduler, the Board Coordinating Parole Agent shall:
- 38.4.1. Review the revocation extension packet for completeness.
  - 38.4.2. Contact the hearing facility to confirm the date and time of the Revocation Extension Hearing, confirming hearing room availability.
  - 38.4.3. Verify any security requirements of the hearing facility for the Revocation Extension Hearing.
- 38.5. No less than three (3) days prior to the Revocation Extension Hearing, the Board Coordinating Parole Agent shall:
- 38.5.1. Ensure any supplemental documentation has been transmitted to the parolee's attorney.
  - 38.5.2. Contact the JPB Scheduler to confirm the identification of the hearing officer and attorney.
  - 38.5.3. Review the Request for Accommodation and Assistance form (DJJ 3.260) and contact the JPB ADA Coordinator to verify the provision of accommodation/effective communication assistance at the Revocation Extension Hearing.
  - 38.5.4. Follow-up contact with all State subpoenaed witnesses to verify the date, time and location of the hearing and verifying their attendance. Document the contact in comments on JSTS.
  - 38.5.5. Provide the hearing facility with the identification of those scheduled to attend the Revocation Extension Hearing.

### **39.0 CONDUCTING THE REVOCATION EXTENSION HEARING**

#### Hearing Officer

- 39.1. The hearing officer shall conduct the following reviews in preparation for the evidentiary phase of the Revocation Extension Hearing:



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- 39.1.1. **Jurisdiction Review:** Locate the available confinement time (ACT)/jurisdiction expiration dates on the Jurisdiction and Confinement History. If this date appears to have passed, contact the JPB Revocation Desk to confirm the date. If it is confirmed that the parole violator has reached the expiration of his/her available confinement time/jurisdiction, the case shall be dismissed and the parole violator released as soon as possible but no later than three (3) business days from the date of the hearing.
- 39.1.2. **Accommodation/Effective Communication Review:** Locate and review the Request for Accommodation and Assistance form (DJJ 3.260) and all supporting documents. Ensure all needed accommodations or effective communication assistance will be available prior to beginning the hearing.
- 39.1.3. **Due Process Review:** Review the Level 3 Serious Misconduct Behavior Report form (DJJ 8.403B), Screening Referral for Revocation Extension form (DJJ 3.265) (or the Notice of Charges form (DJJ 3.274) and Notice of Revocation Extension Rights and Acknowledgment form (DJJ 3.263).
  - 39.1.3.1. Determine if the Revocation Extension Hearing is within thirty-five (35) calendar days from the date of notice to the parole violator, and if not, determine whether good cause exists for the delay.
- 39.1.4. **Witness Review:** Review the completed Parole Revocation Hearing Notice and Witness Determination form (DJJ 3.268). Identify confidential and/or fearful witnesses.
- 39.1.5. **Charge Review:** Review the behavior described in the Level 3 Serious Misconduct Behavior Report form (DJJ 8.403B) and Screening Referral for Revocation Extension form (DJJ 3.265) (or Violation Report form DJJ 3.264) and any other reports presented relevant to the charged conduct. Determine if the behavior meets the elements of the charge listed.
- 39.1.6. **Evidentiary Review:** Review all other written evidence provided, including but not limited to, police reports, witness statements and toxicology (lab) reports.
  - 39.1.6.1. Evidence or documents not provided to the parole violator's counsel at least forty-eight (48) hours prior to the hearing shall not be admitted or considered in the hearing unless the Division of Juvenile Justice (DJJ) can show good cause for the delay.
- 39.2. **During the evidentiary phase of the Revocation Extension Hearing, the hearing officer shall:**
  - 39.2.1. Ensure that all required documents are present and complete.
  - 39.2.2. Ensure that the JPB has jurisdiction over the parole violator.
  - 39.2.3. Ensure that the parole violator receives a fair hearing.
  - 39.2.4. Indicate to the DDMS Coordinator (or parole agent), attorney, Board Coordinating Parole Agent and escort officer that he/she is ready to begin and have the parole violator brought into the room.
    - 39.2.4.1. In the event that the parolee refuses to attend the hearing, the parolee's attorney shall be escorted to the housing unit to confer with the parolee regarding the refusal to attend when the hearing is taking place in a DJJ facility. After meeting with the attorney, verify that the parole violator has signed a Refusal to Participate in Revocation Proceeding form (DJJ 3.284) in the presence of his/her attorney, or by documentation of the refusal to attend and the reason for the refusal by the



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facility staff/Board Coordinating Parole Agent. In such instances, the facility staff/Board Coordinating Parole Agent documenting the refusal shall testify under oath as to the facts surrounding the parole violator's refusal to attend the hearing.

- 39.2.5. Ask the attorney if they are prepared to begin.
- 39.2.6. When all parties to the action are present, ask the Board Coordinating Parole Agent to begin recording.
  - 39.2.6.1. It is the Board Coordinating Parole Agent's responsibility to ensure that proper audio recording equipment is available at the hearing.
- 39.2.7. State that the record is open and identify the date, time, location of the hearing, and the parole violator's name.
- 39.2.8. Ask all parties to the action to identify themselves. Each person will then identify themselves by stating their first and last name, spelling their last name. The parole violator shall state his/her first and last name, spell his/her last name and state his/her YA number.
- 39.2.9. Ask the attorney if there are any preliminary objections and if there is any legal cause not to proceed with the Revocation Extension Hearing.
  - 39.2.9.1. If there are preliminary objections, allow the attorney to state the objection and make a decision on each objection, documenting the objection(s), the decision(s), and the reason for the decision(s), which will be placed in the official record.
  - 39.2.9.2. The parole violator's attorney may challenge the 'confidential' or 'fearful' designation of any witness not known at the time of the Revocation Extension Probable Cause Hearing (i.e. new evidence). Upon challenge, the hearing officer shall make a determination regarding the designation based upon the qualifying criteria (see 'Witnesses').
- 39.2.10. Review the Request for Accommodation and Assistance form (DJJ 3.260) and conduct an interactive accommodation/effective communication review with the parole violator in order to identify any need for reasonable accommodations/effective communication assistance.
  - 39.2.10.1. Verify the accommodation/effective communication needs assessment with the attorney.
  - 39.2.10.2. If a physical/mental impairment, or effective communication need that would affect the parole violator's ability to effectively participate is identified, but has not been accommodated, make all reasonable efforts to immediately secure the necessary accommodation, including but not limited to granting a brief recess to arrange for the accommodation.
  - 39.2.10.3. If it is not possible to secure the accommodation in order to hold the hearing the same day, postpone the proceeding for no more than five (5) business days in order to obtain the accommodations.
  - 39.2.10.4. Document any relevant observations or accommodations in Section V of the Request for Accommodation and Assistance form (DJJ 3.260).
- 39.2.11. Explain the proceedings to the parole violator as follows:
  - 39.2.11.1. The purpose of the hearing.
  - 39.2.11.2. His/Her right to appeal to the Executive Officer of the JPB within twenty (20) business days of the receipt of written revocation extension decision with the assistance of an attorney.
    - 39.2.11.2.1. There will be only one level of appeal.



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- 39.2.11.2.2. The appeal will be decided by the Executive Officer, or his/her designee, within ten (10) business days of receipt of the appeal.
- 39.2.11.2.3. The appeal decision will be served on the parole violator within five (5) business days of the appeal decision.
- 39.2.11.2.4. Advise parole violator that he must submit any appeals to JPB headquarters.
- 39.2.11.3. His/Her right to an audible copy of the audio recording within ten (10) days of written request.
  - 39.2.11.3.1. Advise the parole violator that he/she must submit any requests for audio recordings to JPB headquarters.
- 39.2.12. State the charge.
- 39.2.13. Ask the attorney to enter a plea to the pending charge, either: 'Admit', 'Deny' or 'No Plea'.
  - 39.2.13.1. If the parole violator admits to the charge, skip to dispositional phase section below.
- 39.2.14. Administer an oath or affirmation to any persons that will be providing testimony in order as determined by the hearing officer. This could include, but is not limited to, the parole violator, the DDMS Coordinator (or parole agent), witnesses, and an interpreter if one is being used.
- 39.2.15. Allow each witness to provide testimony as to each charge, beginning with the State's evidentiary witnesses.
- 39.2.16. Ask the attorney if they are prepared to proceed with the testimony of the parole violator's evidentiary witnesses.
- 39.2.17. Elicit the testimony by asking each witness to provide narrative testimony describing what they saw, heard and/or observed. When the witness has completed their statement, the hearing officer may ask clarifying questions regarding their testimony.
- 39.2.18. Allow the DDMS Coordinator (or parole agent) and the parole violator's attorney the opportunity to question the witnesses.
  - 39.2.18.1. The parole violator will not be allowed to question the witness directly unless the parole violator has exercised his right to waive an attorney and is acting in proper.
- 39.2.19. After all witnesses have testified, ask the attorney if the parole violator will be making a statement or testifying regarding the charges. If so, the parole violator will be allowed to testify. The hearing officer may question the parole violator, as may the DDMS Coordinator (or parole agent).
- 39.2.20. Ask the attorney, upon completion of all testimony, if there is any additional evidence or comments regarding the charge.
- 39.2.21. Allow the attorney to make a closing argument before the evidentiary phase of the Revocation Extension Hearing is concluded.
- 39.2.22. Deliberate and render a decision. This decision must include a finding with regard to the charge and the specific facts upon which the finding was based.



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- 39.2.22.1. A recess may be called to determine if, by a preponderance of the evidence, the parole violator committed serious in-custody misconduct or engaged in conduct that constitutes willful program failure:
- 39.2.22.1.1. Request that all participants leave the room.
  - 39.2.22.1.2. Ensure the audio recorder is turned off during deliberation.
  - 39.2.22.1.3. Re-start the audio recorder prior to reconvening the Revocation Extension Hearing.
- 39.2.23. If good cause is not found to establish that the parole violator committed an act of serious in-custody misconduct or engaged in conduct that constitutes willful program failure, the charge shall be dismissed and the parole violator released as soon as possible but no later than three (3) business days from the date of the Revocation Extension Hearing or upon expiration of the Revocation Release Date (RRD), whichever occurs later.
- 39.2.24. If good cause is found, based upon a preponderance of the evidence, that the parole violator did commit an act of serious in-custody misconduct or the parole violator engaged in conduct that constitutes willful program failure, proceed to the disposition phase of the Revocation Extension Hearing.
- 39.2.25. Document the findings on the Summary of RevEx Hearing and Decision form (DJJ 3.277-REV) in the Juvenile Scheduling and Tracking System (JSTS).
- 39.3. The hearing officer shall conduct the following reviews in preparation for the dispositional phase of the Revocation Extension Hearing:
- 39.3.1. Adjustment Review: Review the Level 3 Serious Misconduct Behavior Report form (DJJ 8.403B) and Screening Referral for Revocation Extension form (DJJ 3.265) (or Violation Report form (DJJ 3.264)). Note the comments of the facility staff (or parole agent) for consideration of continued detention.
  - 39.3.2. Prior Behavior Review: Review the Action Log form (DJJ 1.601F). Note the number and severity of prior behaviors for consideration of extension of the RRD.
  - 39.3.3. Recommendation Review: Review the Level 3 Serious Misconduct Behavior Report form (DJJ 8.403B) and Screening Referral for Revocation Extension form (DJJ 3.265) (or Violation Report form (DJJ 3.264)). Note and consider comments of facility staff (or the parole agent and a Supervising Parole Agent).
- 39.4. During the disposition phase of the Revocation Extension Hearing, the hearing officer shall:
- 39.4.1. Allow the DDMS Coordinator (or parole agent) to provide the following information:
    - 39.4.1.1. Initial date parole violator was returned to custody.
    - 39.4.1.2. The evaluation of the parole violator's adjustment.
    - 39.4.1.3. Disposition recommendation.
  - 39.4.2. Allow the attorney the opportunity to question the DDMS Coordinator (or parole agent).
  - 39.4.3. Administer an oath or affirmation to each dispositional witness one at a time and in order as determined by the hearing officer.



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- 39.4.4. Allow each witness to testify in narrative form regarding information relevant to the parole violator. When the witness has completed their statement, the hearing officer may ask clarifying questions regarding their testimony.
- 39.4.5. Allow the DDMS Coordinator (or parole agent) and the parole violator's attorney, the opportunity to question the witness.
- 39.4.6. After all witnesses have testified, ask the attorney, if the parole violator will be making a statement or testifying regarding the disposition. If so, the parole violator will be allowed to testify. The hearing officer may question the parole violator, as may the DDMS Coordinator (or parole agent).
- 39.4.7. Ask the DDMS Coordinator (or parole agent) and attorney, upon completion of all testimony, if there is any additional evidence or comments regarding disposition.
- 39.4.8. Allow the attorney to make a closing argument before the dispositional phase of the Revocation Extension Hearing is concluded.
- 39.4.9. Deliberate and render a decision with regard to the disposition, and the specific facts upon which the decision was based:
  - 39.4.9.1. A recess may be called to deliberate disposition options.
    - 39.4.9.1.1. Request that all participants leave the room.
    - 39.4.9.1.2. Ensure the audio recorder is turned off during deliberation.
    - 39.4.9.1.3. Re-start the audio recorder prior to reconvening the Revocation Extension Hearing.
- 39.4.10. Document the disposition on the Summary of RevEx Hearing and Decision form (DJJ 3.277-REV) in JSTS. A copy shall be provided to the attorney and the parolee.
  - 39.4.10.1. If the hearing officer dismisses the charges or does not impose an extension of the parole violator's RRD, the parole violator shall be released as soon as possible but no later than three (3) business days from the date of the Revocation Extension Hearing or upon expiration of the RRD, whichever occurs later.
- 39.4.11. Inform the parole violator and his/her attorney of the right to appeal the decision.
- 39.4.12. Return the revocation extension packet and all forms and documents generated during the Revocation Extension Hearing to the Board Coordinating Parole Agent for continued processing.

#### **40.0 CONCLUDING THE REVOCATION EXTENSION HEARING**

##### Board Coordinating Parole Agent

- 40.1. Ensure the hearing officer has completed Section V (Revocation) of the Request for Accommodation and Assistance form (DJJ 3.260) in JSTS.
- 40.2. Provide the parole violator and parole violator's attorney with copies of the Summary of RevEx Hearing and Decision form (DJJ 3.277-REV)
- 40.3. Return the revocation extension packet and all original documentation to the JPB Revocation Desk.

##### JPB Revocation Desk

- 40.4. Upon conclusion of the Revocation Extension Hearing, the JPB Revocation Desk shall:



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- 40.4.1. Print a copy of the Summary of RevEx Hearing and Decision form (DJJ 3.277-REV) from JSTS.
- 40.4.2. Print a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) from JSTS.
- 40.4.3. Stamp (bottom of the first page) each document as "original".
- 40.4.4. Forward all original documents to the Master File unit for inclusion in the parole violator's Master File.

#### JPB ADA Coordinator

- 40.5. Upon conclusion of RevEx Hearing, the JPB ADA Coordinator shall print and retain a copy of the completed Request for Accommodation and Assistance form (DJJ 3.260) and source documents from JSTS.

### 41.0 DECISION REVIEW

- 41.1. All revocation proceedings are subject to decision review within ten (10) business days of the hearing. The purpose of the review is to provide a first-level check on whether decisions are lawful, factually accurate, and consistent with current policy. The Executive Officer or his/her designee, may approve, modify or reverse a proposed decision if the Executive Officer or his/her designee, finds that:
  - 41.1.1. The hearing officer rendered a decision on the basis of an error of fact, law or policy and
  - 41.1.2. There is a substantial likelihood that a different decision would have been rendered but for the mistake of fact, law, or policy.
- 41.2. The Executive Officer or his/her designee shall not substitute his/her own judgment or discretion for that of the original hearing officer.
- 41.3. In most instances, a case will be brought forward for decision review in one of three ways:
  - 41.3.1. The Officer of the Day, while conducting a JSTS post-hearing review, will discover that the documentation is either inadequate to support the hearing officer's decision, is inconsistent with the hearing officer's findings, or is contrary to fact, law or policy.
  - 41.3.2. The Division of Juvenile Parole Operations will forward its concerns to the JPB LH Coordinator, who will flag the case for review by the Officer of the Day.
  - 41.3.3. The central office of CalPAP will forward concerns to the JPB LH Coordinator, who will flag the case for review by the Officer of the Day. Non-CalPAP attorneys representing parolees may also contact the Juvenile Parole Board with concerns requiring immediate action where waiting to file an appeal would result in significant harm to the parolee.
- 41.4. Any action taken during Decision Review which benefits the parolee does not require a new hearing but shall be communicated to the parolee and his/her counsel. However, any action taken during Decision Review which is adverse to the parolee requires notice to the parolee and his/her counsel, and a new hearing be scheduled.

#### JPB Scheduler

- 41.5. Upon conclusion of a business week, the JPB Scheduler shall:
  - 41.5.1. Provide the week's hearing agendas to the Officer of the Day for post-hearing review.



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##### LH Coordinator

- 41.6. Upon receiving concerns regarding a specific case, the LH Coordinator shall:
- 41.6.1. Print a JSTS Case Status Report for the identified case.
  - 41.6.2. Print a copy of the JSTS hearing order associated with the concerns presented.
  - 41.6.3. Staff the concerns presented with the Officer of the Day.

##### JPB Officer of the Day

- 41.7. Upon receipt of hearing agendas from the JPB Scheduler, or upon receiving case concerns from the LH Coordinator, the Officer of the Day shall:
- 41.7.1. Locate the JPB hard copy or access the JSTS copy of the revocation/revocation extension packet.
  - 41.7.2. Access the relevant hearing order in JSTS.
  - 41.7.3. Review the JSTS hearing order to determine:
    - 41.7.3.1. Do the charges identified in the 'Reason for Decision' screen match those charges listed on the 'Summary of Findings' screen?
    - 41.7.3.2. Probable/Good Cause Finding – Did the hearing officer identify the elements of the offense where applicable, make findings of probable/good cause accordingly, and document his/her findings along with the relevant facts supporting his/her conclusion?
    - 41.7.3.3. Detention Criteria Finding –For probable cause hearings, did the hearing officer find probable cause to detain or not and sufficiently document the basis of that finding using specific facts relied upon for his/her conclusion.
    - 41.7.3.4. Disposition – Did the hearing officer adequately document the disposition and the basis for the disposition (Revoke, COP, Dismiss, CTS)?
    - 41.7.3.5. Disposition – Did the hearing officer provide adequate justification for any upward or downward deviation from the Matrix in setting the RRD? Is that upward or downward deviation consistent with current DJJ policy?
    - 41.7.3.6. Objections – Did the hearing officer provide an adequately documented explanation for their ruling on any objections?
    - 41.7.3.7. Are there any clear errors of fact, law, or policy? (If yes, staff the case with the Executive Officer, or his/her designee.)
    - 41.7.3.8. Are the appropriate disposition boxes checked, consistent with the decision documented on the 'Reason for Decision' screen?
    - 41.7.3.9. If the parolee took an Optional Waiver, does the amount of time assessed match the RTCA?
    - 41.7.3.10. If the disposition was COP, Dismiss, or NIC or the parolee rejected the offer, is the RRD field blank?
    - 41.7.3.11. If the disposition was revoke (accepted or optional waiver), is the RRD field complete?
    - 41.7.3.12. Is the RRD correct, consistent with the time assessed from the date of the hold/arrest, not to exceed the parolee's ACT/Jurisdiction?
    - 41.7.3.13. If the RRD is limited by ACT/Jurisdiction, is this documented on the 'Reason for Decision' screen?



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- 41.7.3.14. If the disposition was revoke (accepted or optional waiver), was a new Annual Review set for one year from the date of the hearing?
- 41.7.3.15. If the parolee was released with additional special conditions of parole, are the additional conditions documented on the 'Summary of Disposition' screen?
- 41.7.4. If any of the answers to items '41.7.3.1' thru '41.7.3.6' above are "no" or if the answer to item '41.7.3.8' above is "yes", staff the case with the Executive Officer, or his/her designee, to determine what type of decision review action is required.
  - 41.7.4.1. If the decision review action taken is a benefit to the parolee, document the action/correction of record on the JSTS hearing order following JPB Board Order Correction procedures.
  - 41.7.4.2. If the decision review action taken is adverse to the parolee, proceed to "Rehearing" procedures below.
- 41.7.5. If any of the answers to items '41.7.3.8' thru '41.7.3.15' above are "no", make correction to the JSTS hearing order as necessary following JPB Board Order Correction procedures.
- 41.7.6. Document the post-hearing review on the OD Decision Review Checklist.
- 41.7.7. Forward the hearing agendas and completed OD Decision Review Checklists to the JPB LH/JSTS Coordinator for final processing.

#### 41.8. **Post-Review**

##### JPB LH/JSTS Coordinator

- 41.8.1. Upon receipt of hearing agendas and completed OD Decision Review Checklists from the Officer of the Day, the JPB LH/JSTS Coordinator shall:
  - 41.8.1.1. Review the hearing agendas and completed OD Decision Review Checklists to ensure a complete and thorough review was documented on each hearing.
  - 41.8.1.2. Identify and document any cases in which a decision review resulted in the need for a rehearing.
  - 41.8.1.3. Process hearing documentation for dissemination.

#### 41.9. **Rehearing**

##### Officer of the Day

- 41.9.1. If it is determined that there was an error of fact, law or policy and a review by the Executive Officer, or his/her designee, determines that a rehearing is required as a remedy, the Officer of the Day shall immediately:
  - 41.9.1.1. Overturn the proposed decision.
    - 41.9.1.1.1. Unsign the relevant JSTS hearing order.
    - 41.9.1.1.2. Check the '*Postponed*' hearing button on the '*Hearing/Objections*' section of the JSTS hearing order.
    - 41.9.1.1.3. Check the '*Other*' button on the '*Hearing/Objections*' section of the JSTS hearing order and document "*Decision Review*" as the reason for postponement.



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- 41.9.1.1.4. Resign the JSTS hearing order.
- 41.9.1.2. Document the basis for the Decision Review.
  - 41.9.1.2.1. Enter a new hearing order in JSTS.
  - 41.9.1.2.2. Proceed through the hearing order, documenting the nature of the hearing order as appropriate.
  - 41.9.1.2.3. Document whether the decision review is based on an error of fact, an error of law, or an error of policy, or a combination of the above, specifying which errors were committed. This documentation should be in the '*Reason for Decision - Basis for Disposition*' section of the JSTS hearing order.
  - 41.9.1.2.4. Document the specifics regarding the finding of an error of fact, law or policy and the facts relied upon that support the decision to reconsider and/or overturn the hearing officer's proposed decision on the '*Reason for Decision - Basis for Conclusion*' section of the JSTS hearing order.
  - 41.9.1.2.5. Document how the error of fact, law or policy could have resulted in a materially different outcome (i.e. but for that error, there could potentially have been a different decision regarding probable/good cause on any of the charges or a different disposition with regard to the number of months in custody.)
  - 41.9.1.2.6. Document the action to be taken and justification for the action on the '*Reason for Decision - Basis for Disposition*' section of the JSTS hearing order.
- 41.9.1.3. Present the drafted decision review hearing order in JSTS to the Executive Officer, or his/her designee, for review and approval.
- 41.9.1.4. Request the JPB Scheduler place the case back on calendar for a rehearing.

#### Executive Officer (or his/her designee)

- 41.9.2. Upon receipt, from the Officer of the Day, of a recommendation for decision review, the Executive Officer, or his/her designee, shall:
  - 41.9.2.1. Review the proposed decision as prepared by the hearing officer.
  - 41.9.2.2. Discuss with the Officer of the Day any issues identified or raised with respect to the case being reviewed.
  - 41.9.2.3. Render a decision regarding the action to be taken.
    - 41.9.2.3.1. For parolees who have been released into the community, this includes a decision regarding whether or not the rehearing will be held in or out of custody.
    - 41.9.2.3.2. For cases in which the error identified is a failure to document, the Executive Officer, or his/her designee, shall review the record, including any hearing recording if appropriate, to determine whether there is a sufficient basis in the existing record to support the findings and to determine whether the board order may simply be amended, or a rehearing is required. In this case, the Executive Officer, or his/her designee shall also confer with the Hearing Officer who wrote the order to confirm and/or clarify the



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contemplated amendments. Any amended board order will be provided to the parolee's attorney within one (1) business day of the decision.

#### JPB Scheduler

- 41.9.3. Schedule the decision review rehearing to occur as soon as practical based upon available staffing, the need for subpoenas (if applicable) and attorney availability. For Probable Cause hearings, a rehearing will be scheduled no later than five (5) business days after the date of the decision review order. For Revocation or Revocation Extension hearings, a rehearing will be scheduled no later than ten (10) business days after the date of the decision review order. The type of decision review rehearing will be the same as the type of hearing that was reviewed.
- 41.9.4. Within one (1) business day of the decision review order, contact CalPAP headquarters, or if a parolee is represented by a non-CalPAP attorney, contact the parolee's representing counsel, advising him/her of the overturned decision, the scheduled hearing date for the rehearing, and the availability of the decision review hearing order in JSTS. For non-CalPAP attorneys, the JPB scheduler will provide a copy of the decision review board order by fax or email.

#### **42.0 AUDIO RECORDINGS OF HEARING PROCEEDINGS**

- 42.1. At every Revocation and Revocation Extension Hearing, the parolee/parole violator shall be informed of the right to receive an audible copy of the audio recording of the hearing. The JPB shall take necessary steps to ensure that such proceedings are appropriately recorded, and shall maintain and replace recording equipment as necessary. Probable Cause Hearings, Optional Waiver Reviews and Exit Interviews may not be recorded.
- 42.2. Within ten (10) business days of the receipt of a Request for Audio Recording form (DJJ 3.293), which can be made at the hearing, the parolee/parole violator shall be provided an audible copy of the recording of the Revocation/Revocation Extension Hearing. If the parolee/parole violator is appealing the result of the Revocation/Revocation Extension Hearing and the audio recording is inaudible, he/she shall be entitled to a new hearing. This hearing shall take place as soon as practically possible.
- 42.3. The JPB shall ensure that each Board Coordinating Parole Agent and Division of Juvenile Justice (DJJ) facility is equipped with operational audio recording equipment to provide audible audio recordings of Revocation/Revocation Extension Hearings.

#### Board Coordinating Parole Agent

- 42.4. The Board Coordinating Parole Agent shall:
  - 42.4.1. Prior to the commencement of the Revocation/Revocation Extension Hearing, ensure that proper audio recording equipment is available.
  - 42.4.2. Operate audio recording equipment during the Revocation/Revocation Extension Hearing.
  - 42.4.3. Transmit the audio recording to the JPB Revocation Desk for retention.



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##### JPB Revocation Desk

- 42.5. Upon receipt of the audio recording, from the Board Coordinating Parole Agent, the JPB Revocation Desk shall:
- 42.5.1. Review the audio file to verify date of the hearing, as well as the parolee's/parole violator's name and YA number.
  - 42.5.2. Label each audio recording with the parolee's/parole violator's name, YA number and date of the hearing.
  - 42.5.3. Copy each audio recording to a CD for backup retention.
- 42.6. Upon receipt of a Request for Audio Recording form (DJJ 3.293), the JPB Revocation Desk shall:
- 42.6.1. Verify the requestor's right to the parolee's/parole violator's information.
  - 42.6.2. Locate the specified audio recording.
  - 42.6.3. Copy the specified audio recording to a CD and label it with the parolee's/parole violator's name, YA number and date of the hearing.
  - 42.6.4. Transmit the requested audio recording to the requestor within ten (10) business days of receipt of the Request for Audio Recording form (DJJ 3.293).

#### **43.0 ADMINISTRATIVE APPEALS**

- 43.1. Following a parole revocation and/or revocation extension decision by the JPB, a parolee/parole violator may, with or without the assistance of an attorney, file an administrative appeal. Parolees/Parole violators have the right to assistance by counsel in preparing an administrative appeal and at any new hearing granted pursuant to an appeal. Parolees/Parole violators with effective communication needs and/or disabilities have the right to reasonable accommodations throughout every step of the administrative appeals process. Notice of the right to file an administrative appeal regarding parole revocation and revocation extension decisions is provided to the parolee/parole violator:
- 43.1.1. In writing on the Notice of Parole Revocation Rights and Acknowledgement form (DJJ 3.270),
  - 43.1.2. In writing on the Notice of Revocation Extension Rights and Acknowledgement form (DJJ 3.263),
  - 43.1.3. Verbally by the hearing officer during the hearing, and
  - 43.1.4. In writing on the Appeal of Juvenile Parole Board Decision form (DJJ 3.290) form provided to the parolee/parole violator by the Board Coordinating Parole Agent prior to the end of the hearing.
- 43.2. The JPB administrative appeal process consists of only one level of appeal. The parolee/parole violator, with or without the assistance of an attorney, must file his/her administrative appeal in writing. Administrative appeals must be sent or postmarked by the parolee/parole violator within twenty (20) business days of the parolee's/parole violator's receipt of the written hearing decision. The administrative appeal should be sent to the Executive Officer at the JPB headquarters office:
- 43.2.1. By the parolee/parole violator through the facility outgoing mail, which shall be mailed by the facility to the JPB no later than the close of business the following business day, or
  - 43.2.2. By the parolee's/parole violator's attorney.



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- 43.3. All appeals will be treated as legal mail. The appeal will be decided by the Executive Officer, or his/her designee, within ten (10) business days of receipt of the appeal. An appeal may be based on the following grounds. An appeal may not be denied because a parolee/parole violator incorrectly categorized the basis for his/her appeal.
- 43.3.1. The decision of the Juvenile Parole Board was based on a mistake of law.
  - 43.3.2. The decision of the Juvenile Parole Board was based on a mistake of fact.
  - 43.3.3. The parolee was unable to understand the proceedings and/or provided ineffective assistance to counsel due to mental illness or other physical disability that was not adequately accommodated.
  - 43.3.4. The Juvenile Parole Board failed to provide an impartial hearing officer.
  - 43.3.5. The decision of the Juvenile Parole Board was contrary to a Juvenile Parole Board policy and the outcome of the hearing would have been substantially different had the Juvenile Parole Board policy been followed.
  - 43.3.6. The audio recording of the hearing is inaudible.
  - 43.3.7. There are extraordinary circumstances involved in the case which require Juvenile Parole Board action in order to further the interest of justice.

#### JPB Staff

- 43.4. Upon receipt of an administrative appeal from either a parolee/parole violator or his/her attorney, JPB staff shall:
- 43.4.1. Stamp the appeal as "Received" with the day of arrival at the JPB headquarters.
  - 43.4.2. Log receipt of the appeal
  - 43.4.3. Forward the appeal to the Officer of the Day.
  - 43.4.4. Upon receipt of an approved written appeal decision from the Executive Officer, or his/her designee, place the written appeal decision in first class mail to the parolee/parole violator and his/her attorney within one (1) business day of the appeal decision. Upon request, Division of Juvenile Justice (DJJ) staff shall provide any necessary accommodations to parolees/parole violators to ensure effective communication of the appeal response.

#### Officer of the Day

- 43.5. Upon receipt of an administrative appeal from mail processing staff, the Officer of the Day shall:
- 43.5.1. Review each issue or claim raised by the parolee/parole violator in his/her appeal.
  - 43.5.2. Research each issue or claim raised by the parolee/parole violator in his/her appeal through a review of the master file, hearing documentation and/or the audio recording of the hearing.
  - 43.5.3. Draft a recommended decision on the appeal, addressing and responding to each issue or claim raised by the parolee/parole violator in his/her appeal.
  - 43.5.4. Submit the recommended appeal decision to the Executive Officer, or his/her designee, for review and approval within eight (8) business days of receipt of the appeal.

#### Executive Officer

- 43.6. Upon receipt from the Officer of the Day of a recommended response to an administrative appeal, the Executive Officer, or his/her designee, shall:
- 43.6.1. Review each issue or claim raised by the parolee/parole violator in his/her appeal.
  - 43.6.2. Review the recommended appeal decision as drafted by the Officer of the Day.



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- 43.6.3. Render a written decision within ten (10) business days of receipt of the appeal:
- 43.6.3.1. The Executive Officer, or his/her designee, has discretion to immediately reverse a decision and grant appropriate relief, including release, discharge, or continuation on parole.
  - 43.6.3.2. If the Executive Officer, or his/her designee, decides to grant a new hearing, that hearing shall be held within ten (10) business days after the issuance of the appeal decision.
  - 43.6.3.3. New hearings shall be scheduled according to the policies and procedures in scheduling all other Revocation/Revocation Extension Hearings and shall be conducted by a hearing officer other than the hearing officer at the original hearing where appropriate.
  - 43.6.3.4. Absent a new hearing, appeal decisions shall not order a term longer than the parolee received at his/her initial hearing.
  - 43.6.3.5. If the audio recording is inaudible and is the sole basis for granting a new hearing, the JPB shall not order a term longer than the parolee/parole violator received at his/her initial hearing.
- 43.6.4. If edits and/or recommendations are necessary, note the edits/recommendations on the recommended appeal decision and return the recommended appeal decision to the Officer of the Day.
- 43.6.5. If no edits or changes in the recommended appeal decision are necessary, sign the written appeal decision and return the approved written appeal decision to the JPB staff.
- 43.6.6. JPB staff shall ensure that all appeals are tracked for timeliness and a record is kept of the basis of the appeal and the outcome.

#### FORMS

1. Abbreviated Revocation Release Report, DJJ 3.288A
2. Action Log, DJJ 1.601F
3. Appeal of Juvenile Parole Board Decision, DJJ 3.290
4. Confidential Information Disclosure, DJJ 3.286
5. Disability-Effective Communication Summary Report (DJJ 3.299)
6. Exit Interview Order, DJJ 3.297
7. Intention of Counsel, DJJ 3.294
8. Level 3 Serious Misconduct Behavior Report, DJJ 8.403B
9. L.H. Protective Order Notice and Acknowledgment, DJJ 3.298
10. Notice of Conditions of Parole, DJJ 3.207
11. Notice of Charges, DJJ 3.274
12. Notice of Parole Revocation Rights and Acknowledgement, DJJ 3.270
13. Notice of Revocation Extension Rights and Acknowledgment, DJJ 3.263
14. Optional Waiver Activation Card, DJJ 3.280



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15. Parolee-Attorney Decision, DJJ 3.273
16. Parole Hold Notification, DJJ 3.267
17. Parole Placement Plans, DJJ 3.289
18. Parole Revocation Hearing Notice and Witness Determination, DJJ 3.268
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