



# Virginia Department of Corrections

## Supervision and Management in the Community

### Operating Procedure 920.6

### *Violation of Supervision Conditions*

#### **Authority:**

Directive 920, *Probationer/Parolee Supervision*

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#### **Content**

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1/22/2024

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### **REVIEW**

The Content Owner will review this operating procedure annually and re-write it no later than three years after the effective date.

### **COMPLIANCE**

This operating procedure applies to all units operated by the Virginia Department of Corrections (DOC). Practices and procedures must comply with applicable State and Federal laws and regulations, American Correctional Association (ACA) standards, Prison Rape Elimination Act (PREA) standards, and DOC directives and operating procedures.

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## DEFINITIONS

**Absconder** - A probationer/parolee, under DOC supervision in the community, including Community Corrections Alternative Programs, whose whereabouts are no longer known to the Supervising Officer after reasonable efforts to locate.

**Absconder Coordinator** - A staff member designated by the Unit Head to coordinate the unit's absconder management activities.

**Capias** - An arrest authorization issued by a Court with appropriate jurisdiction; it is also known as a Bench Warrant.

**Conditional Pardon** - An act by the Governor to modify or end a sentence imposed by the Court; it is available only to people who are currently incarcerated. The Governor only grants a conditional pardon when there is substantial evidence of extraordinary circumstances to warrant it; such a pardon is not regarded as a substitute judgment for that of the convicting Court. COV §53.1-139 empowers the Virginia Parole Board to exercise supervision of these cases through P&P Officers.

**Curfew** - A sanction or tool of supervision in which the probationer/parolee is required to remain at home during specific hours determined by the P&P Officer.

**EPICS (Effective Practices in Correctional Settings)** - The purpose of EPICS is for officers to utilize skilled techniques with probationers/parolees to develop positive and collaborative working relationships, build and foster rapport, skill build, and use targeted interventions to promote long-lasting internal change and self-efficacy while ensuring public safety. Use of EPICS skills is applicable once staff have received initial EPICS training through Basic Core Correctional Practices (BCCP).

**Major Violation Report** - A document completed by a P&P Officer outlining the alleged violations of supervision conditions.

**Out-of-State Interstate Case** - A case whose supervision obligation originates in another state and is transferred to Virginia via the Interstate Compact for Adult Offender Supervision.

**P&P Warrant** - A Capias or Bench Warrant is used for a probation case and a Board Warrant (PB 14) is used for parole and post release supervision cases.

**Parole Board Warrant** - A warrant issued by the Parole Board for the arrest and detention of a delinquent parolee.

**Post Release Supervision** - A judicial action, which allows a period of supervision in the community, subject to certain conditions, for felony offenses, committed after January 1, 1995, and for which individuals are ineligible for parole. Those sentenced to post release supervision prior to July 1, 2000, will be supervised and reviewed in the same manner as a probation case. Individuals sentenced to post release supervision after July 1, 2000, will be supervised and reviewed in the same manner as a parole case.

**Post Release Unit** - A section within the Virginia Parole Board that processes parole and post release supervision violations and discharges.

**Preliminary Parole Violation Hearing** - A due process hearing conducted by a Department of Corrections hearing officer to determine probable cause of violation of one or more of the conditions of parole.

**Probation** - A judicial action in lieu of incarceration that allows a probationer to be supervised in the community subject to Court imposed conditions.

**Probation Officer's Arrest Authority (PB 15)** - A document issued by a P&P Officer for the arrest and detention of a delinquent parolee, and in some cases, a delinquent probationer.

**Probationer/Parolee** - A person who is on community supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of Courts, paroling authorities, the Virginia Department of Corrections, or other release authority; this includes post release supervision and Community Corrections Alternative Programs.

**Revocation Hearing** - The probationer/parolee appearance before the Court on a charge of violation of conditions of probation/post release supervision, or before the Parole Board on the charge of violation of parole.

**Sanction** - A response to violation prior to or in lieu of revocation.

**Show Cause** - An order from a Court to a probationer/parolee indicating they are charged with violating an order of the Court and requiring the probationer/parolee to appear in Court to show cause why action should not be taken against them.

**Violation** - An action or inaction by a probationer/parolee which is contrary to the conditions of supervision; a violation is considered technical when it does not involve the commission of a new offense.

## PURPOSE

This operating procedure provides a systematic approach to responding to all violations of probation, parole, conditional pardon, and post release community supervision within the Department of Corrections (DOC).

## PROCEDURE

- I. Violation of Supervision Conditions
  - A. Charged with the responsibility of affording an array of supervision services to the probationer/parolee in the community, Community Corrections staff monitor the probationer's/parolee's compliance with the conditions of supervision. A probationer/parolee who does not comply with the conditions is in violation of the sentencing/paroling authority requirements and subject to sanctions.
  - B. All alleged violations of the supervision conditions are investigated and the results are documented in VACORIS in the probationer's/parolee's *Case Notes* section. Substantiated violations are reviewed by the supervisor. (4-APPFS-2B-02)
  - C. All actions taken regarding a violation of probation, parole, a conditional pardon, and/or post release supervision will be documented in VACORIS.
  - D. Community Corrections staff will respond to all violations of probation or parole (P&P) in a manner that takes into account the severity of the violation, risk to public safety, and Court or Virginia Parole Board (VPB) expectations. This will include implementing a continuum of sanctions to include Effective Practices in Correctional Settings (EPICS) skills when applicable or the appropriate violation procedures; see Attachment 1, *Graduated Sanctions*. (4-APPFS-2B-03, 4-APPFS-2E-01)
    1. Low Level of Intervention - Verbal and written reprimands, substance abuse screens, imposition of special conditions, increased probationer/parolee contacts, etc.
    2. Moderate Level of Intervention - Impositions of curfew, community service work, treatment assessment, placement in program groups, such as cognitive restructuring or relapse prevention, outpatient treatment, etc.
    3. High Level of Intervention - Placement into a residential treatment program, intensive supervision, electronic monitoring, request to the Court for a Show Cause Hearing for violation of probation.
    4. Severe Level of Intervention - Issuance of a P&P Officer's Arrest Authority (PB 15), request for a Court Capias/Bench Warrant or Board Warrant (PB 14), placement in a Community Corrections Alternative Program (CCAP).
  - E. Throughout this operating procedure, probationers/parolees sentenced to post release supervision prior to July 1, 2000, will be supervised and reviewed in the same manner as a probation case. Probationers/Parolees sentenced to post release supervision after July 1, 2000, will be supervised and reviewed in the same manner as a parole case. Post release supervision cases will be reviewed the same as parole cases, except for early termination of post release cases. Authority for early termination of post release cases lies with the sentencing Court.
  - F. Violations of the supervision conditions by a sexually violent predator on Conditional Release Supervision will be managed in accordance with Operating Procedure 735.3, *Supervision of Sex Offenders in Community Corrections*.
  - G. The physical arrest of probationers/parolees should be undertaken by authorized Officers who have the specialized training and proper restraints, equipment, and vehicles needed to secure and transport arrestees.
  - H. Law enforcement Officers will be provided with properly completed PB 15, all pertinent information about the probationer/parolee, their location, and potential for resistance when summoned to make an arrest.

## II. Arrest Authority and Warrants

A. Warrants for the arrest and detention of probationers/parolees are only requested upon adequate evidence of: **(4-APPFS-2B-04)**

1. Serious and/or repetitive violation of the conditions; or
2. Commission of a new offense, or
3. Risk to public safety posed by the probationer's/parolee's continued presence in the community.

### B. Preparation and use of PB 15

1. The PB 15 will be used only for the arrest of those probationers, parolees, conditionally pardoned, Interstate Compact, and post release supervision cases who, in the judgment of an authorized P&P Officer, have violated one or more of their lawfully imposed supervision conditions. The PB 15 must be used with discretion. While staff should act judiciously in exercising the statutory power of arrest, they should not hesitate to act whenever the safety of the individual or the community is imperiled.
2. When a P&P Officer believes that a PB 15 is appropriate, they must promptly consult with a supervisor or the originating P&P Office if the case has been transferred in VACORIS and recommend that the PB 15 be issued.
  - a. If the Supervisor concurs, a PB 15 should be prepared in VACORIS and the Supervisor's approval documented in the *Case Notes*.
  - b. The original, signed document is for the Jailor and one copy is to be served on the probationer/parolee.
  - c. The functions of arrest will be delegated to properly trained and equipped law enforcement staff.
3. The Supervisor is responsible for controlling the issuance, execution, and retrieval of the PB 15.
4. Some Courts prefer that a *Writ of Capias* or *Bench Warrant* be issued for a probation case instead of a PB 15. The sentencing Court's preference will be a part of any P&P Office practice and the P&P Officer will make certain that they strictly adhere to P&P Office practice when issuing the PB 15.
5. In probation cases, once a probationer has been arrested on a PB 15 the supervising P&P Officer should:
  - a. Submit a *Major Violation Report* to the supervising Court within 24 hours but no later than three business days to ensure the PB 15 is replaced with a *Writ of Capias* or *Bench Warrant* in a timely manner.
  - b. If the Court of jurisdiction has not replaced the PB 15 with a *Writ of Capias* or *Bench Warrant* within 10 days of the requirement, the P&P Officer will advise the courts that the PB 15 has not been replaced.
6. In some instances, when a probationer is incarcerated, the P&P Officer may be required to personally serve or execute a PB 15 as a detainer. When this occurs, the P&P Officer should complete the *Arresting Officer's Return* section on the back of the warrant.
7. In Virginia parole/pardon cases, the PB 15 can affect the minimum expiration date (MED) of supervision. A parolee can be held on a PB 15 after their MED until a Parole Board Warrant (PB 14) has been issued in the case.
8. For Interstate Compact cases supervised in Virginia, refer to Operating Procedure 920.4, *Interstate Transfer of Supervision* for additional guidance.
9. Whenever a PB 15 is withdrawn, the Jailor should fill out and sign the *Certificate of Jailor* section on the arrest authority. After being withdrawn, the PB 15 will be maintained in the probationer's/parolee's case file.

### C. Court issued warrants

1. When a probationer/parolee is believed to have violated Court ordered *Conditions of Supervision*, the

sentencing Court may issue a *Writ of Capias (Capias)* or *Bench Warrant*

2. When a *Bench Warrant* or *Capias* has been issued, the P&P Officer will withdraw any PB 15.
3. The sentencing Court may also issue a *Show Cause Order*, which generally does not require that the probationer/parolee be incarcerated pending the Show Cause Hearing.

#### D. Parole Board Warrants (PB 14)

1. PB 14's are authorized by the VPB in response to *Major Violation Reports*; see COV §53.1-161, *Arrest and return of parolee or felon serving a period of postrelease supervision; warrant; release pending adjudication of violation*.
2. Field staff must never make a photocopy of a PB 14 unless directed by the Post Release Unit.
3. When a PB 14 is issued, it automatically suspends the MED of supervision and places the parolee in a status equivalent to that of an escaped prisoner; see COV §53.1-163, *Parolee considered as escapee after issuance of warrant*.
4. Once a PB 14 is executed, the parolee is not entitled to release on bail. The VPB, upon the request of the parolee or their attorney, may authorize the temporary removal of the PB 14 in those cases where there is a new criminal charge pending; see COV §53.1-161, *Arrest and return of parolee or felon serving a period of postrelease supervision; warrant; release pending adjudication of violation*.
5. In some instances, when a parolee is incarcerated, the P&P Officer may be required to personally serve or execute a PB 14 as a detainer. When this occurs, the P&P Officer will complete the *Arresting Officer's Return* section on the back of the PB14.
6. Whenever a PB 14 is withdrawn, the Jailor should fill out and sign the *Certificate of Jailor* section on the PB14. After being withdrawn, the PB 14 will be returned to the Post Release Unit.
7. Allowable Jail Credit - Parole and Pardon Cases
  - a. The *Allowable Jail Credit 920\_F6* is used by the P&P Officer to report information pertaining to any periods of time the parolee was held on a PB 15 or PB 14 during the entire period of supervision.
  - b. The *Arresting Officer's Return* section on the reverse side of the PB 15 or PB 14 will indicate when a warrant was executed.
  - c. The first option on the *Allowable Jail Credit* should be checked if the parolee was never held on a PB 15 or PB 14.
  - d. The second option on the *Allowable Jail Credit* deals with the current period of incarceration.
    - i. The beginning date is the date the PB 15, PB 14, or Teletype message representing either of these warrants was executed.
    - ii. The ending date is determined after final action occurs to restore the parolee to active parole supervision, discharge the parolee from parole supervision, or revoke the parolee's parole/pardon and have them serve their sentence.
  - e. The third option on the *Allowable Jail Credit* should reflect the dates a PB 15 or PB 14 was executed, and later withdrawn or canceled when the case was continued under supervision.

### III. Sanctions

- A. Appropriate graduated sanctions to include EPICS skills should be imposed based on severity of the violation, the degree of risk, and the preference of the Court/VPB; see Attachment 1, *Graduated Sanctions*. Appropriate sanctions should be exhausted before violation action is initiated.
- B. Unless otherwise directed by the sentencing/paroling authority, sanctions must be considered in all cases, including Interstate Compact cases, in violation status prior to or in lieu of revocation and incarceration. (4-APPFS-2B-11) The administration of sanctions ranges from intervention by the P&P Officer to intervention by the sentencing/paroling authority. Sanctions to be utilized include, but are not restricted to the following:
  1. Informal (verbal) reprimand by the P&P Officer

2. Increased contact requirements
  3. EPICS skills; see Attachment 3, *EPICS Resource Guide*
  4. Specific instructions regarding identified areas of need (i.e., no alcohol consumption, report job search efforts, etc.)
  5. Initiate/increase substance testing
  6. Formal (verbal or written) reprimand
  7. Required evaluation for specific problems
  8. Required participation in outpatient treatment program
  9. Restricted travel/driving privileges (i.e., employment, school, treatment, training only)
  10. Increase the level of supervision
  11. Curfew requirements
  12. Home Electronic Monitoring
  13. Referral to a CCAP - *Exception: Interstate Compact cases since a CCAP referral is part of a revocation proceeding*
  14. Referral to a Community Residential Program - *Exception: Interstate Compact cases*
  15. Referral to residential substance use or mental health treatment program
- C. Sanction process in probation cases will be managed in accordance with local P&P Office practice as guided by the Courts.
- D. Sanction process in parole, pardon, and Interstate Compact cases
1. Sanctions for violations prior to a warrant being issued should be imposed by the P&P Officer subject to a Supervisor's approval if needed.
  2. Withdrawal of warrant prior to the warrant being executed with sanctions:
    - a. If a PB 15 has been issued but not executed, with a Supervisor's approval, sanctions may be imposed and the PB 15 withdrawn.
    - b. If a PB 14 has been issued but not executed, with a Supervisor's approval, the P&P Officer may contact the Post Release Unit to recommend that sanctions be imposed and the warrant withdrawn. The VPB then decides if the warrant should be withdrawn. After the P&P Officer receives notice that the PB 14 has been withdrawn, the P&P Officer will return all copies of the warrant to the Post Release Unit. The P&P Officer will also email the Post Release Unit to alert them that the warrants are being returned.
    - c. For Out-of-State Interstate Compact cases, sanctions can be imposed prior to the issuance of a warrant by the sending state or upon notice from the sending state that they are withdrawing their warrant to continue the probationer/parolee on supervision.
  3. Withdrawal of warrant by the Hearing Officer with sanctions; see *Conducting the Preliminary Hearing* section of this operating procedure.
    - a. At the time of a Preliminary Hearing, after determining probable cause to believe that a probationer/parolee is in violation of a condition of supervision, the Hearing Officer may direct that the warrant be withdrawn, and the probationer/parolee restored to active supervision with sanctions. NOTE: This provision does not apply to Out-of-State Interstate Compact cases when the preliminary/probable cause hearing is conducted at the request of the sending state after they issued a warrant. In this situation, the Hearing Officer can suggest the warrant be withdrawn and the probationer/parolee restored to active supervision with sanctions but the decision to do so rests with the sending state who issued the warrant.
    - b. In some instances, the case may be taken under advisement by the Hearing Officer to allow the P&P Officer an opportunity to develop a sanction in lieu of additional incarceration. When a



sanction has been developed, the Hearing Officer may direct that the warrant be withdrawn, and the probationer/parolee restored to active supervision with sanctions.

4. After a Preliminary or Final Parole/Post Release Supervision Violation Hearing, the Parole Board may continue community supervision with sanctions (special conditions).

#### IV. Violation Guidelines in Virginia Probation Cases

- A. Violations of probation will be documented in the probationer's case file and processed per P&P Office practice. Actions involving any new law violation must be approved by a Supervisor and documented in the VACORIS *Case Notes*. (4-APPFS-2B-02)
- B. When a Revocation Hearing is recommended, the P&P Officer must submit to the sentencing Court:
  1. *Major Violation Report*; see sample, Attachment 2
    - a. Describe adjustment to supervision
    - b. List each condition violated and the violation details
    - c. Supervisor's review and approval must be documented in VACORIS
  2. *Sentencing Revocation Report*
  3. Updated *Probation Violation Guidelines*
- C. In probation cases once a probationer has been arrested on a PB 15, the PB 15 should be replaced with a *Bench Warrant* or *Capias* as soon as possible.
  1. Submit a *Major Violation Report* to the Court of jurisdiction within 24 hours but no later than three business days to ensure the PB 15 is replaced with a *Writ of Capias* or *Bench Warrant* in a timely manner.
  2. If the Court of jurisdiction has not replaced the PB 15 with a *Writ of Capias* or *Bench Warrant* within 10 days of the requirement for a Preliminary Parole Violation Hearing the P&P Officer will advise the courts that the PB 15 has not been replaced.
  3. When the PB 15 is withdrawn, the Jailor should fill out and sign the *Certificate of Jailor* section on the warrant and the PB 15 is to be placed in the probationer's case file.
  4. For probationers where the Court does not act within 14 days of the arrest or lodging the PB 15 as a detainer, the P&P Officer will advise the Court, Commonwealth's Attorney or using whatever practice the P&P Office mandates, that the PB 15 has not been replaced; documentation of such advisement should be noted in the probationer's *Case Notes*.
- D. Violation Procedure for Virginia Probation Case Transferred to another P&P Office
  1. At the time of transfer, the originating unit should have notified the receiving unit of any uncommon requirements of the sentencing authority.
  2. Criminal arrests, serious traffic charges, significant non-compliance, and absconding from supervision must be reported to the originating unit by the most expedient means available.
    - a. In response, the originating unit must provide specific case handling instructions, including issuance of a PB 15.
    - b. When a Revocation Hearing is recommended, the supervising unit must follow-up promptly by preparing a *Major Violation Report* in VACORIS with status of "submitted" and the originating unit will forward the *Major Violation Report* to the Court upon receipt, but no later than five business days.
    - c. The supervising P&P Officer will be responsible for preparing the *Sentencing Revocation Report* and *Probation Violation Guidelines* for the Court as needed and according to the Sentencing Guidelines Commission procedure no sooner than 30 days prior to the hearing. If the case has been transferred back to the originating P&P Office, the originating P&P Office will prepare and submit revisions or addendums as needed according to the Sentencing Guidelines Commission procedure

no sooner than 30 days prior to the hearing. The Supervising P&P Office should enter a “Major Violation” investigation in VACORIS. P&P Offices should work together to ensure timeliness, efficiency, and accuracy in the preparation of the Sentencing Guidelines.

- d. When in violation status, action in a case will be based on agreement of both units.
  - i. Probationers will remain in the supervising P&P Office pending a Show Cause Hearing
  - ii. When a warrant is issued, the supervising P&P Officer should transfer the case back to the originating P&P Office if the warrant has not been executed after 90 days.
  - iii. If the case is transferred back to the originating P&P Office, they will prepare and submit revisions to the Addendums, *Sentencing Revocation Report*, and *Probation Violation Guidelines* as required.

#### V. Violation Procedures in Parole and Conditional Pardon Cases

- A. Violations are either new law violations or technical violations. With the exception of new felony convictions, all other violations may be dealt with as minor violations provided the parolee:
  1. Has not absconded
  2. Has not been incarcerated on a PB 15 or PB 14
  3. Has not been required to serve an active sentence of 60 days or more in jail
- B. Misdemeanor convictions involving driving a motor vehicle, etc., while intoxicated, and public drunkenness, may be dealt with as either violations of the law or as technical violations.
- C. When submitting a *Major Violation Report* to the Post Release Unit regarding a violation in a pardon case, the *Report* should contain the words “CONDITIONAL PARDON CASE” in the *Plan of Supervision* section.

#### VI. New Law Violations in Parole and Conditional Pardon Cases

- A. When a probationer/parolee is charged with a new law violation, the P&P Officer will determine the circumstances of the alleged violation and document the information in the probationer’s/parolee’s case file. The Supervisor will review the violation and ensure that the P&P Officer notifies the Post Release Unit promptly in writing if a probationer/parolee is arrested for a new felony and/or if a PB 15 has been executed against them. (4-APPFS-2B-02)
- B. If the new alleged offense is any serious felony committed in the community that would be considered “newsworthy”, immediate telephone notification must be provided to the DOC Operations and Logistics Unit Operations Center; see Operating Procedure 435.1, *Special Operations Unit* and the P&P Officer must notify the Post Release Unit by noon of the next working day. An *Incident Report* must be completed and submitted in accordance with Operating Procedure 038.1, *Reporting Serious or Unusual Incidents*.
- C. A PB 15, or a *Major Violation Report* may not be submitted prior to a Court’s finding of guilty, Grand Jury indictment, or certification to a Court of Record unless the probationer/parolee is in custody because the probationer’s/parolee’s presence in the community would present an unreasonable risk to public safety or individual safety. Technical violations will be pursued according to the *Technical Violations in Parole, Pardon, and Out-Of-State Interstate Case* Section of this operating procedure and the Preliminary Parole Violation Hearing must have been conducted prior to submission of the *Major Violation Report*.
- D. Minor Law Violations
  1. When a probationer/parolee is convicted of a misdemeanor law violation (including traffic citations) and a PB 15 or PB 14 has not been executed, a P&P Officer may recommend to a Supervisor that the conviction be considered as a Minor Law Violation.
    - a. A *Case Conference* with a supervisor, documented in the *Case Notes*, may be adequate.
    - b. The Supervisor will direct the P&P Officer to complete a written summary, providing documentation of the offense and a recommendation.

- c. If approval is granted to treat the infraction as a Minor Law Violation, the Supervisor will document review and approval in the *Case Notes*.
  2. If the infraction is to be treated as a Minor Law Violation, a Supervisor has the authority to institute intermediate sanction(s) to include EPICS skills in response to the violation; see Attachment 1 *Graduated Sanctions*.
    - a. If a sanction(s) is imposed, the probationer/parolee will be provided a copy of the requirement(s) in writing.
    - b. If the probationer/parolee fails to comply with the sanction(s), they could be charged with failing to follow the P&P Officer's instructions.
- E. Major Law Violations
  1. If the probationer/parolee has been convicted of a violation of the law, the violation may be treated as a Major Law Violation.
    - a. When revocation is to be recommended, if a PB 14 has not been issued or received, with a Supervisor's approval, the P&P Officer should issue a PB 15.
    - b. The warrant will be filed as a detainer against the probationer/parolee or executed on the probationer/parolee as soon as possible.
    - c. A PB 14 will be requested to replace the PB 15.
  2. When a PB 15 or PB 14 has been executed, if the probationer/parolee is also being charged with a technical violation, a Preliminary Parole Violation Hearing must be conducted unless the probationer/parolee waives the hearing per this operating procedure. When a new criminal charge is the only alleged violation, a Preliminary Parole Violation Hearing is not necessary.
  3. Within three working days after the P&P Officer receives notification that a PB 15, PB 14, or Teletype has been executed, the P&P Officer must verify that the person being detained is in fact the person to be charged with the violation(s). When a Preliminary Parole Violation Hearing is not required, the P&P Officer will interview the probationer/parolee and advise them why the PB 15 or PB 14 was issued.
  4. A *Major Violation Report*, documenting violation of Condition#1 and if the probationer/parolee has absconded violation of Conditions #10 and/or #11, is to be submitted to report a law violation and to request a PB 14. The *Major Violation Report* is to be reviewed by a Supervisor and submitted no later than 10 working days after disposition of the charge(s). If a *Major Violation Report* has been previously submitted, notification of final disposition of the law violation will be provided to the Post Release Unit within two working days.
  5. Under normal circumstances, a certified copy of any criminal conviction is not necessary in parole cases.
  6. If a criminal charge is the only alleged violation and is dismissed in Court, when a PB 15 has been issued or executed, the PB 15 should be immediately withdrawn. If a PB 14 has been issued, the Post Release Unit should be consulted for guidance from the VPB. When a PB 15 or PB 14 is withdrawn, notice is to be submitted to the Post Release Unit with the PB 14 attached, when applicable.
  7. When a PB 15 or PB 14 has been executed, once the probationer/parolee has been convicted of a law violation, the warrant cannot be withdrawn without the authority of the VPB or sending state. If circumstances change after the warrant is executed, a report noting these changes and the P&P Officer's recommendation will be submitted promptly to the Post Release Unit or to the sending state via Interstate Compact Offender Tracking System (ICOTS).
  8. Whenever a PB 15 or PB 14 is withdrawn, the Jailer is to fill out and sign the *Certificate of Jailer* section on the warrant. After being withdrawn, the PB 15 must be maintained in the probationer's/parolee's case file while the PB 14 will be returned to the Post Release Unit and an email sent to the Post Release Unit to indicate the warrant is being returned.

## VII. Technical Violations in Parole, Pardon, and Out-Of-State Interstate Cases

- A. When a probationer/parolee has committed a technical violation and the alleged violation has not already been dealt with, the case must be reviewed to determine if intermediate sanctions may be imposed. When sanctions at the P&P Office level are not appropriate, the P&P Officer must:
1. Obtain a Supervisor's approval to issue a PB 15 and document in the *Case Notes*.
  2. Provide the PB 15 to appropriate law enforcement staff to initiate the probationer's/parolee's arrest per P&P Office practice.
  3. If a thorough investigation reveals a probationer/parolee has absconded, submit a *Major Violation Report*, or *Interstate Offender Violation Report*, if applicable, documenting violation of Conditions #10 and/or #11, in VACORIS or ICOTS requesting that a PB 14 be issued. The *Major Violation Report* will document all attempts to locate the probationer/parolee and appointments missed.
  4. After the probationer/parolee is apprehended on the PB 15, warrant, or Teletype; schedule a Preliminary Parole Violation Hearing in or near the community where the offense is alleged to have occurred, or at the location where the probationer/parolee has been taken into custody. (4-APPFS-2B-06). Out-of-State Interstate cases require a Probable Cause/Preliminary Hearing only when requested by the sending state or if detained on a PB 15.
    - a. The Preliminary Hearing must be scheduled within 14 calendar days of the probationer's/parolee's detention on a PB 15, PB 14, or Teletype. The probable cause hearing is not required if there has been a conviction of finding of probable cause by a court on the new charge. (4-APPFS-2B-05)
    - b. When a parolee or post release supervision case is detained on a PB 15, if there are no criminal charges in the case and public safety is not deemed to be in jeopardy, they may be considered for a voluntary release opportunity with instructions.
      - i. The supervising P&P Officer will discuss the case with a supervisor and document the discussion, including the supervisor's approval/disapproval, in the probationer's/parolee's *Case Notes*.
      - ii. If approved, the P&P Officer must prepare a Voluntary Opportunity for Release Agreement 920\_F7, noting all alleged violations and supervision instructions.
      - iii. The P&P Officer will have the *Agreement* approved by a supervisor and serve the *Agreement* on the probationer/parolee within ten calendar days of the probationer's/parolee's detention on the PB 15.
      - iv. If the probationer/parolee accepts the release opportunity, they will be immediately released, and the Preliminary Hearing will be cancelled.
      - v. If the probationer/parolee rejects the release opportunity, a *Notice of Preliminary Parole Violation Hearing* will be served.
      - vi. Voluntary Opportunity for Release does not apply to Out-of-State Interstate Compact cases since they are not under the VPB jurisdiction.
    - c. At least three calendar days must pass between the serving of the *Notice of Preliminary Parole Violation Hearing* and the hearing.
  5. Complete a *Notice of Preliminary Parole Violation Hearing*, making sure that all violations listed on the *Major Violation Report* and/or PB 14 are documented on the *Notice*. In pardon cases, the *Notice of Preliminary Pardon Violation Hearing* will be used.
  6. The *Notice* must be reviewed and approved by a Supervisor.
    - a. The possibility of imposing sanctions will be discussed with a supervisor to determine the suitability for continued supervision with sanctions.
    - b. If appropriate, list the sanction(s) in written form for presentation to the Hearing Officer and the probationer's/parolee's signature.
- B. If a probationer/parolee is arrested on a PB 15 or PB 14 in another P&P District in Virginia, the supervising P&P Officer must prepare the *Notice*. The *Notice* will be forwarded to the P&P Office where

the probationer/parolee is in custody along with the following documentation when available:

1. Copy of the probationer's/parolee's signed *Conditions*
  2. Copy of any *Major Violation Report* that may have been prepared
  3. Specific recommendation regarding sanctions
- C. The P&P Office where the probationer/parolee is in custody will serve the *Notice* on the probationer/parolee after a hearing date has been established.
- D. Serving the *Notice of Preliminary Parole Violation Hearing*
1. The Preliminary Hearing must be scheduled to be heard within 14 calendar days of the probationer's/parolee's detention on a PB 15, PB 14, or Teletype. At least three calendar days must pass between serving the *Notice of Preliminary Parole Violation Hearing* and the hearing. (4-APPFS-2B-08)
  2. A copy of the *Notice* must be provided to the probationer/parolee to include the time and place of the hearing, and the probationer's/parolee's right to: (4-APPFS-2B-08)
    - a. Disclosure of evidence
    - b. Present evidence and favorable witnesses
    - c. Confront adverse witnesses
    - d. Effective assistance of counsel, appointed if indigent
    - e. Request postponement of the hearing
  3. When the probationer/parolee requests a witness, the person serving the *Notice* will question the reason for the witness.
    - a. If the witness' testimony is deemed irrelevant to the alleged violation(s), the Hearing Officer may deny the request.
    - b. The probationer/parolee will be told that they will be given the opportunity to make another request for a witness at the Preliminary Hearing.
    - c. If the witness is relevant to the hearing, the P&P Officer should make every effort to notify the witness of the hearing and have them present.
    - d. If the witness cannot be present, the P&P Officer should attempt to obtain specific information from the witness to present at the hearing.
  4. The probationer/parolee has the absolute right to have an attorney retained for themselves at the Preliminary Hearing.
    - a. If the probationer/parolee indicates that they will be represented by a retained attorney, the P&P Officer will attempt to contact the attorney to notify the attorney of the status of the case and answer any relevant questions regarding the alleged violation(s).
    - b. The probationer/parolee may have a right to have an attorney appointed for them, at no expense to them, upon the determination of the Hearing Officer.
    - c. The Hearing Officer will determine, on a case-by-case basis, whether due process requires the indigent probationer/parolee be represented by counsel (COV §53.1-165, *Revocation of parole or postrelease supervision; hearing; procedure for parolee or felon serving period of postrelease supervision in another state; appointment of attorney*).
  5. If the probationer/parolee refuses to meet with the person serving the *Notice* or refuses to sign the *Notice*, the P&P Officer must document it on the *Notice*. If possible, the P&P Officer will have someone at the jail sign the form as a witness.
- E. Waiver of Preliminary Hearing
1. Parolees, pardoned individuals, and those out of state Interstate Compact cases charged with technical violations may waive their Preliminary Hearing if they are fully informed of their due process rights,

the potential consequences of the waiver and agree to the waiver without duress or inducement under the following conditions: (4-APPFS-2B-07)

- a. Have certified felony charge(s) or have been indicted by a Grand Jury, or
  - b. Have reached or passed the MED of supervision
2. If a probationer/parolee agrees to waive the hearing, the P&P Officer must make certain that Section A of the *Notice* is completed and signed by the probationer/parolee.
- a. The hearing is to be canceled.
  - b. If not previously submitted, a *Major Violation Report* is to be completed and submitted to the Post Release Unit within five workdays.
  - c. Both documents should clearly state that the “Preliminary Hearing was waived and a Violation Hearing should be scheduled”.
  - d. When a *Major Violation Report* has been submitted, the P&P Officer is to submit a copy of the *Notice* with the probationer’s/parolee’s signature of the waiver to the Post Release Unit within five workdays.

#### F. Conducting the Preliminary Hearing

1. The hearing must be held within 14 calendar days of the probationer’s/parolee’s detention on a PB 15, PB 14, or Teletype. At least three calendar days must pass between the serving of the *Notice* and the hearing. The Hearing Officer, for just cause, may grant deviations from the time frame or continuances. (4-APPFS-2B-07)
2. A designated Hearing Officer who has not been involved with the case will conduct the Preliminary Hearing. (4-APPFS-2B-09)
  - a. It is the responsibility of the Hearing Officer to determine whether probable cause exists to believe the probationer/parolee has committed the alleged violation(s) and should remain detained for a final review of the case by the paroling/sentencing authority.
  - b. Any finding by the Hearing Officer should be based solely upon the information obtained through evidence and sworn testimony at the hearing.
  - c. The Hearing Officer will not have access to the probationer’s/parolee’s case file material prior to the hearing.
3. When the probationer/parolee is being detained in a facility located outside the originating P&P District’s area, the P&P Officer from the P&P Office where the probationer/parolee is in custody may present the evidence at the hearing. The P&P Officer from the originating P&P Office may be present due to the proximity of the probationer’s/parolee’s location to the originating P&P Office. Following the hearing, the originating P&P Office and the Post Release Unit will be notified of the results.
4. If the probationer/parolee refuses to participate in the hearing, it will be conducted in their absence.
5. A copy of the *Notice* will be provided to the Hearing Officer at the time of the hearing.
  - a. The Hearing Officer will review a copy of the probationer’s/parolee’s Conditions of Supervision along with any pertinent special condition(s) or intermediate sanction(s) which may have been imposed.
  - b. The Hearing Officer will request specific information as to whether the probationer/parolee is being held on a PB 15, PB 14, or Teletype.
  - c. The P&P Officer will be prepared to provide information regarding when the warrant was executed and when the P&P Officer became aware that the warrant had been executed.
6. The Hearing Officer must inform the probationer/parolee of their right to have retained or appointed counsel.
  - a. The decision to appoint an attorney will be made on a case-by-case basis.
  - b. The probationer/parolee is entitled to have an attorney appointed if they are indigent, if they deny the allegations, and if a defense will be difficult for them to develop or present.

- c. If the Hearing Officer determines that an appointed attorney is not necessary, the Hearing Officer will note the reason for the denial in specific detail.
  - d. If the request for counsel is granted, the hearing will be continued.
7. If the Hearing Officer determines it is necessary to appoint an attorney, the Hearing Officer will ask the Commonwealth's Attorney in the jurisdiction where the hearing will be held to request the Circuit Court to appoint an attorney; see COV §53.1-165, *Revocation of parole or postrelease supervision; hearing; procedure for parolee or felon serving period of postrelease supervision in another state; appointment of attorney*. Any attorney that is appointed is to be paid as directed by the Court.
8. Under COV §53.1-165, *Revocation of parole or postrelease supervision; hearing; procedure for parolee or felon serving period of postrelease supervision in another state; appointment of attorney*, the Hearing Officer may:
  - a. Issue subpoenas requiring the attendance of witnesses and the production of records and other papers; see *Subpoena for Witness* 920\_F10.
  - b. Administer oaths
9. The Hearing Officer must swear all witnesses, including the probationer/parolee. Within reason, continuances may be granted.
10. The probationer/parolee must be given the opportunity to appear and may speak in their own behalf.
  - a. The probationer/parolee may bring letters, documents, or individuals who can provide relevant information to the Hearing Officer.
  - b. The probationer/parolee can have adverse witnesses present for questioning. If the Hearing Officer determines that any adverse witness would be subject to risk or harm if their identity were disclosed, the witness need not be subjected to face-to-face questioning. In those instances, the Hearing Officer will hear the witness in private and notify the probationer/parolee of the substance of the testimony consistent with security.
11. The Hearing Officer may only determine whether there is probable cause to believe that the probationer/parolee has violated one or more of the technical requirements of supervision. Violations of the law will be determined by District Court certification, indictment by a Grand Jury, or conviction by a Court of competent jurisdiction.
  - a. The Hearing Officer must address each alleged violation separately.
  - b. When two or more of the violations are closely related, they may be merged.
12. After hearing the evidence, the Hearing Officer will make a declaration as to whether probable cause was found regarding each alleged violation.
  - a. If the Hearing Officer were to find no probable cause regarding the alleged technical violation(s) and there is no probable cause regarding a new law violation, the Hearing Officer will direct that the warrant be withdrawn.
  - b. A PB 14 is to be returned to the Post Release Unit while a PB 15 is to be marked "Retrieved" and retained in the probationer's/parolee's case file.
13. If probable cause is determined regarding any alleged violation, the Hearing Officer will determine if the probationer/parolee can be safely restored to supervision with the imposition of a sanction.
  - a. A case should only be referred to the paroling/sentencing authority when there are no appropriate sanctions available or the clear interest of the public requires incarceration. (4-APPFS-2B-03)
  - b. The P&P Officer will be prepared to discuss the case and to provide a recommendation as to whether the probationer/parolee should be restored to supervision or referred to the paroling/sentencing authority.
  - c. When applicable, the P&P Officer may offer a recommendation regarding possible sanctions.
14. If the Hearing Officer determines that a sanction is appropriate, the sanction will be discussed with the probationer/parolee.

- a. If the probationer/parolee agrees to comply with the sanction, final arrangements will be made for their release.
  - b. If the sanction can be invoked immediately, the Hearing Officer will direct the P&P Officer to withdraw the warrant.
  - c. The PB 14 is returned to the Post Release Unit, while the PB 15 is to be marked “Retrieved” and retained in the probationer’s/parolee’s case file.
  - d. The probationer/parolee must sign a written statement acknowledging receipt of the sanction.
15. If a sanction is deemed appropriate by the Hearing Officer but has not been fully developed or cannot be invoked immediately, the Hearing Officer will take the case under advisement to allow the P&P Officer an opportunity to investigate/develop a sanction.
16. Cases should not remain under advisement for more than 60 days.
- a. While a case is under advisement, at any time, the Hearing Officer may accept or impose a sanction(s) and direct that the probationer/parolee be restored to active supervision.
  - b. The P&P Officer must submit a status report to the Hearing Officer and Post Release Unit after 30 days.
  - c. When a sanction has not been imposed, a final report must be submitted within 60 days. At that time, the Hearing Officer will issue a disposition.
17. After the hearing, the Hearing Officer will complete the *Results of Preliminary Parole Violation Hearing* in VACORIS including a complete digest of the evidence presented at the hearing, statements made by the alleged violator, findings of the Hearing Officer, and information regarding the sanction imposed/attempted. (4-APPFS-2B-10)
- a. The findings will be specific, based upon the evidence, and will not include editorial statements about the decision, the P&P Officer’s handling of the case, or the personal opinions of the Hearing Officer.
  - b. In pardon cases, the *Results of Preliminary Pardon Violation Hearing* will be used.
18. The *Results* must be submitted to the Post Release Unit within five workdays after the hearing.
- a. A signed and dated paper copy of the *Results* will be provided to the P&P Officer handling the case in time for distribution to the probationer/parolee within 21 days of the hearing.
  - b. *Results* for Interstate Compact cases being supervised in Virginia must be provided to the P&P Officer handling the case in time for submission in ICOTS as an attachment to an *Addendum* to the existing *Violation Report* within 10 working days of the hearing.
19. In Virginia parole cases, if no sanction can be invoked, the Hearing Officer must refer the case to the VPB. At that time, if a *Major Violation Report* has not already been submitted, the report, and a *Notice of Preliminary Parole Violation Hearing* are attached to the *Parole Casework Review and Recommendation* and submitted to the Post Release Unit within five working days.
20. In a parole or conditional pardon case, if circumstances change after the case has been referred to the paroling/sentencing authority, the P&P Officer may submit a written recommendation that the probationer/parolee be restored to active supervision in the community. The changes that have occurred in the case and the reasons for making the recommendation will be included in the report.

#### G. Waiver of Final Parole Violation Hearing

1. When a Virginia parolee has been convicted of felony law violation while on parole and has been sentenced to one year or more or a combination of misdemeanor convictions equaling 12 months or more, they have a right to waive the Final Revocation Hearing. Such a violation constitutes sufficient evidence and reason to revoke parole, even if other charges are pending.
2. After learning that a parolee has been convicted and sentenced as outlined above, P&P Office staff, representative of the VPB, or Chief Jailer may offer the parolee the opportunity to sign the *Waiver of Final Parole Violation Hearing* 920\_F18. Parolees may also initiate the waiver process verbally or in



writing.

3. The person executing the *Waiver* must ensure that:
    - a. The parolee's rights have been explained.
    - b. The information about the offense and sentence is documented fully and clearly on the *Waiver*.
    - c. The parolee understands what they are pleading guilty to and that the *Waiver* is signed based on informed consent.
  4. No person will coerce or attempt to coerce any parolee to sign a *Waiver of Final Parole Violation Hearing* 920\_F18.
  5. When the *Waiver* has been completed, a copy will be provided to the parolee. The original document must be forwarded to the Post Release Unit.
- H. *Serving the Notice of Parole Violation Hearing*
1. The Post Release Unit is responsible for preparing the *Notice of Parole Violation Hearing* and the *Statement of Alleged Parole Violations*.
  2. When the forms arrive at a P&P Office, assigned staff are to make an additional copy of the forms and review them with the parolee as soon as possible (within five working days), completing the information where appropriate. Copies of the forms are to be presented to the parolee.
  3. If the parolee refuses to sign the *Notice*, that fact must be stated and witnessed on the form. The completed *Notice* is to be returned promptly to the Post Release Unit attached to an email or by fax (804-674-3523).
- I. *Voluntary Return without Violations* - If a Virginia parolee or pardon case asks to return to a correctional facility to serve the remainder of the sentence, the P&P Officer will:
1. Prepare and execute a *Request to be Removed from Parole for Reimprisonment* 920\_F9; having the probationer/parolee sign the form in the presence of a witness.
  2. Prepare a PB 15, eliminating the phrase "in my judgment violated one or more conditions under which they were released" and inserting "requested to be removed from parole and be imprisoned."
  3. Provide a copy of the *Request to be Removed from Parole for Reimprisonment* and PB 15 to the local jail upon the probationer's/parolee's commitment.
  4. Promptly submit the original of the *Request to be Removed from Parole for Reimprisonment* and a status report noting the probationer's/parolee's location to the Post Release Unit.

#### VIII. Absconders from Supervision (4-APPFS-3B-10)

- A. When a reasonable effort has been made to locate a probationer/parolee and their whereabouts are unknown, they will be considered as an absconder from supervision.
1. Reasonable effort includes follow-up inquiry at the approved residence and employment, as well as, local jails and hospitals, and the questioning of family members and close friends.
  2. The P&P Officer will promptly follow-up on any suspected absconder but reserve formal action pending results of the efforts to locate the probationer/parolee and an assessment of the circumstances.
  3. All efforts expended to locate any suspected absconder must be documented in the probationer's/parolee's *Case Notes*.
  4. The P&P Officer must notify the Operations and Logistics Unit; see Operating Procedure 038.1, *Reporting Serious or Unusual Incidents*, who in turn will notify the Extradition and Fugitive Unit; see Operating Procedure, 435.4 *Extradition and Fugitive Services Unit*, immediately upon the issuance of a PB 15, PB 14, or Court warrant for any absconder who is under supervision for one or more:
    - a. Violent offenses including murder, voluntary manslaughter, kidnapping, mob related felonies, criminal sexual assault, arson, or conspiracy or attempts to commit any of the above.

- b. Sexual offenses which require registration
  - c. Other high-profile cases as determined by a P&P Supervisor after a *Case Conference*
  - d. Removes/disables a global positioning system (GPS) device or absconds from GPS supervision
5. Once a *capias* or Board Warrant is verified, enter fugitive tracking information in VACORIS.
  6. The probationer/parolee should be left in the level of supervision as it was prior to absconding unless they were assigned to Interstate Out. If they were assigned to Interstate Out, the level of supervision must be changed back to the original level of supervision prior to being changed to Interstate Out.
  7. If a probationer absconds after a *Major Violation Report* was submitted for other violations, an addendum must be submitted charging the probationer/parolee with Condition #11 once reasonable efforts have been made to locate the probationer/parolee.
- B. At the discretion of the applicable Court or VPB, absconders who have committed no new crimes and who do not pose an undue public safety risk may be continued under supervision in the community. (4-APPFS-2B-12)
- C. For an absconder from a CCAP who is not recovered quickly, the case will be transferred to the sentencing P&P District.
- D. Absconders in Probation Cases
1. After reasonable efforts have been made to locate the probationer and the whereabouts are unknown, the sentencing Court should be notified per P&P Office practice with a warrant being recommended for their arrest.
    - a. The P&P Officer will only change the *physical location* to absconded on the transfer screen in VACORIS if the probationer has been charged with absconding Condition #11.
    - b. Once a warrant has been approved by the Court, local law enforcement staff are responsible for listing probation absconders with the National Criminal Information Center (NCIC) and/or the Virginia Criminal Information Network (VCIN).
    - c. The warrant will be listed as *Full Extradition*, where that determination has been made by the Commonwealth Attorney and if an Interstate Compact case, as required by Compact rules.
    - d. Probationers who have been charged with absconding should not be closed administratively regardless of the MED. No time limits or MEDs are applicable in this situation, because the statute of limitations and timeframes do not apply to those fleeing from justice as the timeframes are stayed if there is an active warrant.
  2. A Supervisor should administratively transfer the case to the Absconder Monitoring Unit (AMU) 60 days after the following has been completed:
    - a. Verification has occurred that the sentencing Court has received a *Major Violation Report*.
    - b. Verification that a *capias* has been issued by the sentencing Court and the *capias* has been entered into VCIN/NCIC.
    - c. Verification that case notes and *Major Violation Report* include information regarding all reasonable efforts to locate the probationer prior to declaring the probationer an absconder.
  3. If any P&P District receives a tip regarding the whereabouts of a probationer while assigned to the AMU, the Officer should create an investigation in VACORIS and assign it to the AMU. The investigation type should be “Absconder/Fugitive Status Review.”
  4. The AMU will:
    - a. Conduct required record checks.
    - b. Transfer out of DOC any case where the warrant specific to the active obligation is no longer active and no other authority remains to keep the case open.
    - c. Close the case administratively if they become aware of the probationer’s death. The P&P District will also be notified to allow the Court to be notified accordingly.

- d. Transfer the case administratively back to the sentencing P&P District within two business days once the AMU is aware of the probationer's arrest.
5. When information is received that an absconder has been apprehended, the P&P Officer will verify that the sentencing Court has been made aware of the arrest.
  - a. The extradition of probationers is processed by the sentencing jurisdiction's Commonwealth's Attorney's Office.
  - b. If the probationer cannot be extradited because the entry in NCIC/VCIN is listed as *Limited* or *No Extradition*, the Chief P&P Officer or designee will contact the local Commonwealth Attorney requesting that the extradition listing be reentered to include the state where the probationer is currently located.
  - c. Once the probationer is apprehended/arrested, an *Addendum* to the *Incident Report* must be completed by the supervising P&P District to notify the Extradition and Fugitive Services Unit to cease efforts for apprehension.
- E. Absconders in Parole, Pardon, Post Release, and Out-of-State Interstate Compact Cases
  1. After reasonable efforts have been made to locate the probationer/parolee and the whereabouts are unknown, a PB 15 should be issued; see *Arrest Authority and Warrants* Section of this operating procedure. A *Major Violation Report*, or *Interstate Offender Violation Report* if applicable, minimally citing violation of Conditions #10 and/or #11 must be promptly submitted to the Post Release Unit, or ICOTS if applicable, requesting that a warrant be issued.
  2. For Virginia probation cases transferred to other states, the *Major Violation Report* cover letter to the Virginia Court must request a *capias* with full extradition. The warrant must be issued within 15 business days of VA Interstate Compact Unit receiving a *Violation Report* indicating the probationer/parolee is available for retake. The Court has no discretion about whether to issue one or the extradition limits. The cover letter must highlight the deadline and that the *capias* must be issued and issued with full extradition. A PB 15 is not valid outside of the Commonwealth of Virginia and cannot be entered in NCIC. These cases may be transferred to the AMU once the warrant is verified.
  3. For any case originating out-of-state, an ICOTS *Violation Report* must be submitted to the Sending State within 30 calendar days of the awareness of the probationer/parolee absconding. The ICOTS obligation will be closed after a complete *Violation Report* and Case Closure Notices are submitted to the Sending State, and the case will be transferred out of DOC.
  4. The P&P Officer will only change the *physical location* to absconded on the transfer screen in VACORIS if the probationer/parolee has been charged with Condition #11 and reasonable efforts have been made to locate the probationer/parolee.
  5. Interstate Compact cases transferred out of Virginia must have a full extradition warrant entered in NCIC with no exceptions.
  6. If a PB 15 was issued, once notice is received that a PB 14 or sending state warrant has been issued, the PB 15 is to be withdrawn and destroyed with a notation being made in *Case Notes*.
  7. When information is received and confirmed that the absconder has been apprehended, the Post Release Unit or Interstate Compact Unit as applicable is to be notified immediately and arrangements made for a Preliminary Parole Violation Hearing; see *Technical Violations in Parole, Pardon, and Out-Of-State Cases* Section of this operating procedure.
  8. Absconders in parole cases remaining in Virginia may not be transferred to the AMU due to the requirement to respond to hit notifications. When a person who is on parole or post-release absconds from supervision, the case will remain with the supervising P&P District until such time a Parole Board warrant has been issued and is confirmed. Once confirmed, the case will be transferred to the Extradition and Fugitive Unit.
  9. When the Extradition and Fugitive Services Unit has confirmed a warrant for a case under its control has been executed or lodged as a detainer, the case will be transferred to the sentencing P&P District

- having transferred the case to the Extradition and Fugitive Services Unit for violation proceedings.
- a. It will be the responsibility of the receiving P&P District to proceed with the violation hearing process or request assistance from a P&P District covering the detention facility where the probationer/parolee is held.
  - b. If the P&P District confirms the location of a person on parole or post release who is assigned to the Extradition and Fugitive Services Unit, it will immediately notify the Extradition and Fugitive Services Unit and the Post Release Unit.
  - c. It will be the responsibility of the receiving P&P Office to proceed with the violation hearing process or request assistance from a P&P Office covering the detention facility where the probationer/parolee is held.
- F. The Extradition and Fugitive Unit maintains a “*Most Wanted Fugitive List*.” This includes biographical data on the probationer/parolee and the most recent photograph that can be obtained of the probationer/parolee.
1. Probationers/Parolees shown as “Most Wanted” must meet one or more of the following criteria for placement on the “Most Wanted Fugitive List”:
    - a. Violent/assaultive offense(s)
    - b. Firearms and or other weapons related offenses
    - c. Robbery
    - d. Kidnapping and/or abduction
    - e. Sex crimes/sexual predator
    - f. Sentence of ten or more years
    - g. Extensive criminal history
    - h. Drug distributors
    - i. Other factors if applicable
  2. This may include probationers/parolees listed on local “Top Ten Fugitive Lists”.
  3. Per P&P Office practice, each P&P Office may create a “Top Ten Wanted Fugitive List” in VACORIS, which they may disseminate within their respective area of responsibility.
  4. The creation and maintenance of any “Top Ten Most Wanted” list created in a P&P Office is the sole responsibility of the Unit Head or designee.
    - a. From the time that a P&P Officer has determined that arrest is an appropriate action for a probationer/parolee the P&P Officer will gather all available file information that may shed light on the probationer’s/parolee’s whereabouts. This includes material that may contain residence data, employment information, family members, etc. The P&P Officer will also strive to obtain a recent photograph of the probationer/parolee.
    - b. All absconders will be managed in accordance with Operating Procedure 920.1, *Community Case Opening, Supervision, and Transfer*.
    - c. The P&P Officer will notify the Absconder Coordinator that the probationer/parolee has absconded.
- G. Failure to report for supervision
1. A probationer/parolee may be considered in violation of the terms of their supervision if they fail to initially report for supervision as directed by the sentencing/paroling authority.
  2. Failure to report for supervision in probation and post release supervision cases will be managed in accordance with local P&P Office and Court practice.
  3. Failure to report for supervision in parole and pardon cases
    - a. Normally, when a probationer/parolee does not report as instructed on the conditions of their release they should be charged with a violation of Condition #4.

- b. However, if the probationer/parolee was released on conditions prepared before October 1995, and never reported for supervision, Condition #4 would not be applicable. In that instance, when the probationer/parolee is apprehended, they should be charged with “*Technical, Failure to Follow Reporting Instructions*”.

## **REFERENCES**

COV §53.1-139, *Powers and duties of Chairman.*

COV §53.1-161, *Arrest and return of parolee or felon serving a period of postrelease supervision; warrant; release pending adjudication of violation.*

COV §53.1-163, *Parolee considered as escapee after issuance of warrant.*

COV §53.1-165, *Revocation of parole or postrelease supervision; hearing; procedure for parolee or felon serving period of postrelease supervision in another state; appointment of attorney.*

Operating Procedure 038.1, *Reporting Serious or Unusual Incidents*

Operating Procedure 435.1, *Special Operations Unit*

Operating Procedure 435.4, *Extradition and Fugitive Services Unit*

Operating Procedure 735.3, *Supervision of Sex Offenders in Community Corrections*

Operating Procedure 920.1, *Community Case Opening, Supervision, and Transfer*

Operating Procedure 920.4, *Interstate Transfer of Supervision*

Extradition and Fugitive Unit, *Most Wanted Fugitive List*

## **ATTACHMENTS**

Attachment 1, *Graduated Sanctions*

Attachment 2, *Major Violation Report (Sample)*

Attachment 3, *EPICS Resource Guide*

## **FORM CITATIONS**

*Allowable Jail Credit 920\_F6*

*Voluntary Opportunity for Release Agreement 920\_F7*

*Request to be Removed from Parole for Reimprisonment 920\_F9*

*Subpoena for Witness 920\_F10*

*Waiver of Final Parole Violation Hearing 920\_F18*