



Department of Corrections

INTERNAL MANAGEMENT POLICY & PROCEDURE

Applicability: ADULT Operation Only JUVENILE Operations Only DEPARTMENT-WIDE

IMPP #: 14-142A

PAGE #: 1 of 9

PAROLE SERVICES: Condition Violation Preliminary Hearings

Original Date Issued: 07-10-18 Replaces IMPP Issued: 07-10-18 **CURRENT EFFECTIVE DATE: 08-14-19**

Approved By: , Acting Secretary Next Scheduled Review: August 2020

POLICY

As part of the revocation process, offenders must be advised of the charges against them and offered a preliminary and final revocation hearing. Those who meet criteria established in policy may waive their hearing(s).

The preliminary hearing must be an informal fact-finding proceeding and must not be considered an adversarial procedure. An impartial Hearing Officer must listen to testimony of approved witnesses, review all documents presented and determine if there is probable cause to believe the offender has violated the conditions of his/her release. The preliminary on-site hearing for interstate compact offenders must be conducted in accordance with this policy and the procedures contained herein.

DEFINITIONS

Case Conference: A meeting between the parole officer and supervisory staff for the purpose of making case management decisions.

Compact Offender: Any offender transferred into the state of Kansas via Interstate Compact of Adult Offender Supervision.

Confidential Witness: A witness who could be subjected to risk of harm if his/her identity were to become known to the offender. Determination of confidential witness status is made by the Hearing Officer or designee.

Hearing Officer: A trained staff member or officer who is impartial regarding the violations being addressed and has not been involved in the recent supervision of the offender or authorization for the offender's detention.

Preliminary Hearing: Administrative inquiry (Morrissey Hearing) conducted at or reasonably near the place of the alleged violation or arrest. The purpose of the hearing is to determine whether there is probable cause or reasonable grounds to believe that the offender has committed acts that constitute a violation of the release conditions.

Probable Cause (for purposes of this IMPP): A reasonable ground of suspicion, supported by circumstances sufficiently strong in themselves, to cause a person of ordinary prudence and caution to conscientiously entertain a reasonable belief that it appears a violation of a condition of post-release supervision (parole) has been committed.

Waiver: An intentional relinquishment of some right or interest. The relinquishment must be free of any force or coercion and must be in the form of a written statement.

PROCEDURES

I. Related Policies

1. The preparation of the Transportation Memo for a Kansas offender must be in accordance with IMPP 14-134A PAROLE SERVICES: Transportation Memo.

2. The procedures set out in IMPP 14-137A PAROLE SERVICES: Encouraging Pro-Social Behavior and Responding to Violations must be followed when a revocation staffing form is being submitted and used to document the case conference and decision-making process; and when community based hearings are held for offenders being process for revocation but are not being returned to a KDOC facility.
3. The procedures set out in IMPP 14-141A PAROLE SERVICES: Revocation Packet must be followed for the preparation of revocation packets for community-based hearings and when the Institutional Parole Officer (PIO) sends all signed documentation related to the revocation to the Prisoner Review Board (PRB) staff for inclusion in the revocation packet.
4. The opportunity for an offender to waive a final revocation hearing must be in accordance with IMPP 14-144A PAROLE SERVICES: Waiver of Final Revocation Hearing.

II. Case Conference

- A. When the assigned parole officer believes revocation is appropriate, the officer must request a case conference with the parole supervisor regarding the violations allegedly committed by the offender.
 1. A revocation staffing form must be submitted and used to document the case conference and decision-making process per IMPP 14-137A.
- B. If the parole supervisor agrees revocation is appropriate, the Regional Parole Director or designee must be contacted and presented with the circumstances of the case.
- C. If the Regional Parole Director or designee concurs with the revocation recommendation then the offender must be presented with a Statement of Charges/Notice of Hearing Form (Attachment A) and an Explanation of Revocation Process Form (Attachment B).
 1. If the Parole Director does not concur, then alternative interventions must be initiated.

III. Preliminary Hearing Eligibility/Preparing the Statement of Charges/Notice of Hearing

- A. All offenders for whom the decision to proceed with revocation has been determined, who are in custody in the State of Kansas and have a Department Condition Violation warrant or an Order to Arrest and Detain lodged, must be served with a Statement of Charges/Notice of Hearing and an Explanation of Revocation Process form.
 1. Offenders for whom a community-based hearing with the PRB is planned may be served with a Statement of Charges/Notice of Hearing form without being in custody.
- B. The Statement of Charges/Notice of Hearing must list the alleged violations in a brief and specific manner. Each alleged violation must be correlated with one (1) of the standard conditions of release, conditions imposed by a sending state, or additional conditions imposed by the Prisoner Review Board, parole officer, releasing authority in a sending state, or, with a special condition or diversion agreement.
- C. The Statement of Charges/Notice of Hearing must be written according to specific circumstances as listed below and must be presented to the offender in each instance:
 1. Release/PRB Imposed Conditions Only.
 - a. If there are only violations of release conditions involved, those violations must be listed in the Statement of Charges/Notice of Hearing and the offender must be afforded the opportunity to have a preliminary hearing on those violations within 14 calendar days of the parole officer being made aware of the arrest or of the lodging of an Order to Arrest and Detain or issuance of a Condition Violation Warrant, unless either a continuance is granted for good cause or that right is waived by the offender.

- b. A violation of condition #2, Laws, may be cited in the absence of criminal charges, if the parole officer has evidence to show that the offender's violation actions meet the statutory requirements of the law violation being cited.
2. Release/PRB Imposed Conditions and Laws.
 - a. If the offender is charged with new criminal acts and release condition violations, the offender must be served with a Statement of Charges/Notice of Hearing citing condition violations and a condition #2, laws violation pertaining to the new criminal charge. Because the offender may not wish to waive his/her Morrissey Hearing on the condition #2, Laws, charge, a separate Statement of Charges may be used to cite the laws violation.
 - (1) The offender must be afforded a Morrissey hearing on the condition violations within 14 calendar days as cited in Section III.C.1.a. above if requested. The hearing for charges relating to a new offense may be continued as indicated in Section II.D.
3. Pending Criminal Charges Only.
 - a. The offender must be served with a Statement of Charges/Notice of Hearing citing violation of the law (Condition #2) if he/she is charged with a new criminal offense and revocation is being pursued.
- D. At the request of the parole officer and with the concurrence of the parole supervisor, condition #2, Laws, violations which are based on a new criminal charge may be addressed at a Morrissey Hearing prior to the resolution of the charges in court. Otherwise, laws violations must be continued to coincide with the judicial process.
 1. When a new criminal charge is pending, the supervising officer must continuously monitor developments in the court. Continuance of the Morrissey Hearing, dismissal of cited violation or other necessary action must be taken promptly in response to actions taken by the court.
- E. When alleged condition violations are cited (excluding violation of condition #2, Laws, pertaining to a new criminal charge), and the offender requests a Morrissey Hearing, the hearing must be held within 14 calendar days of the parole officer being made aware of the arrest or of the lodging of an Order to Arrest and Detain or issuance of a Condition Violation Warrant, unless a continuance is granted for good cause or the offender waives the right to a hearing.
 1. Hearings for offenders who are arrested out of state must be held within 14 days of their return to a KDOC facility.

IV. Scheduling a Preliminary Hearing

- A. Hearings may be scheduled according to local practice and parole officer discretion, using one of the following methods:
 1. Prior to presentation of the Statement of Charges/Notice of Hearing, the parole officer may contact the Hearing Officer and tentatively schedule the hearing in the event that the offender requests that one be held.
 2. The date and time of a hearing may be established after presentation of the Statement of Charges/Notice of Hearing, when the need for a hearing has been determined.
 3. The offender must be notified of the date and time of the hearing so that he/she has at least three (3) calendar days from presentation of the Statement of Charges/Notice of Hearing, to prepare for the hearing unless the offender elects to waive the preparation period as cited on the Statement of Charges/Notice of Hearing.

V. Presentation of the Statement of Charges/Notice of Hearing

- A. At the time that an offender is served with a Statement of Charges/Notice of Hearing, a copy of the Statement of Charges/Notice of Hearing, and the violation report(s) must be given to the offender.
1. Copies of additional documents which will be used as adverse evidence must also be provided to the offender at that time.
 2. When adverse evidence cannot be provided to the offender, such as audio or video recording or photos/documents that the offender would not be allowed to possess in a correctional facility, the offender must be advised of the evidence that will be used and be provided with a written summary that describes the evidence to be used.
 3. Documents provided to KDOC by law enforcement agencies, whose use is restricted from dissemination to the public, must not be provided to offenders as part of the hearing process.
- B. The offender must be notified of his/her rights in writing by presentation of the Explanation of Revocation Process form. The form and the following rights must be read and explained to the offender:
1. Present evidence and favorable witness(es) who can give relevant information;
 2. Have access to adverse information on which violation charges are based;
 3. Confront and question adverse witness(es) unless the Hearing Officer determines such witness(es) would be subject to risk if his/her identity were revealed;
 4. Appointed legal counsel, as determined by the Hearing Officer (or to be represented by Legal Services for Prisoners, Inc., a law school intern program, or other legal aid agency when available) or to retain legal counsel at the offender's own expense; and,
 5. Request postponement of hearing for good cause.
- C. The offender's signature on the Statement of Charges/Notice of Hearing form must acknowledge that the offender has been presented with a copy of the Explanation of Revocation Process form, that it has been explained and he/she understands it.
- D. The offender must then make a decision on whether he/she elects to have a preliminary hearing.
1. Preliminary Hearing is waived.
 - a. If the offender checks the waiver box on the Statement of Charges/Notice of Hearing form, the hearing may be considered to be waived.
 - (1) Checking the waiver box by the offender must constitute an acknowledgement that probable cause exists for the violations charged.
 - b. The parole officer must then notify the supervisor of the waiver decision.
 - c. The parole officer must determine if the offender is available for transport to a Department facility, or if a compact case, for return to the sending state.
 - (1) If the offender is a Kansas offender and is available, the Transportation Memo must be prepared in accordance with IMPP 14-134A.
 - (2) If the offender is a compact offender, all violation reports, and related documents must be forwarded to the sending state via the ICOTS system, with notification made to the Kansas Interstate Compact office.

2. Offender Requests a Preliminary Hearing.
 - a. A preliminary hearing (Morrissey Hearing) pertaining to condition violations excluding Condition #2, Laws, is required whenever the offender being served with a Statement of Charges requests one.
 - b. The parole officer must notify the supervisor and Hearing Officer of the offender's decision regarding the preliminary hearing.
 - c. The parole officer must ask the offender to identify any witnesses that they wish to be present at the hearing and must attempt to provide reasonable assistance in contacting those witnesses. Any request for witnesses along with the actions taken to contact them must be recorded in the TOADS contact notes.
 - (1) Although police reports may be utilized to substantiate probable cause, the presence of the reporting police officer at the Morrissey Hearing is recommended.
 - (2) Despite hearsay evidence being admissible in a Morrissey Hearing, having the actual witness present is preferable.
 - d. The parole officer must advise the offender that the only evidence which must be heard is that which relates to the violations, and, that character witnesses must not be heard.
 - e. If needed, the preliminary hearing may be held by telephone or video conference between the designated holding facility and the local parole office or designated location.
 - (1) The telephone or video conference must be held in a manner that the offender and offender's counsel are able to hear the testimony of all witnesses and so that cross-examination can be conducted (see K.A.R. 44-9-105).
 - f. The preliminary hearing must be held within 14 calendar days of the parole officer being made aware of the arrest or of the lodging of an Order to Arrest and Detain or issuance of a Condition Violation Warrant, unless a continuance is granted for good cause.
 - g. Legal counsel may be present under the following circumstances:
 - (1) If requested by the offender, at the offender's expense;
 - (2) Appointment or provided by KDOC, at Hearing Officer's discretion, if it appears likely that:
 - (a) The alleged violations of the conditions of supervision are sufficiently complex or the defense is otherwise difficult to develop or present, so that counsel representation is warranted; or,
 - (b) Due to the offender's inability to communicate or understand the charges or process, appointment of counsel is warranted.
 - (3) If the parole officer believes that legal counsel may be necessary based on the criteria in Section IV.E.2.g.(2), the officer must notify the Hearing Officer in advance of the hearing and assist in efforts to locate legal counsel for the offender.
 - (a) The hearing officer must be notified of the efforts made and results regarding the provision of legal counsel for the offender.

- h. The Hearing Officer must inform the offender of the recommendation and status regarding the provision of legal counsel.
 - (1) If KDOC staff is unable to locate legal counsel for the offender, the hearing may be held as scheduled.
 - (2) The Hearing Officer must document the status and rationale for any related decisions in the Summary of Preliminary Hearing.
 - i. In order for legal counsel to represent the offender, counsel must be licensed to practice law in Kansas or be a law student under the supervision of an attorney licensed to practice law in Kansas.
- E. After checking the appropriate box at the bottom of the Statement of Charges/Notice of Hearing, the offender must sign and date the form.
- F. If the parole officer serving the Statement of Charges/Notice of Hearing is other than the supervising parole officer, he/she must witness the offender's signature and sign in the space provided.
- 1. The name of the person witnessing the document must be printed underneath the signature.
- G. If the offender refuses to sign the Statement of Charges/Notice of Hearing, the parole officer must note that fact on the form, then date and sign it. An offender's refusal to sign the form must indicate the offender has not waived his/her preliminary hearing and that one must be held.
- H. Although an offender may elect to waive a preliminary hearing, one must be held at the request of the sending State in interstate compact cases.
- 1. If an interstate compact offender elects to waive the preliminary hearing, the offender must also check the box admitting guilt to all charges. If the offender elects not to admit to all charges, a hearing must be held.
- I. If the offender refuses to accept his/her copies of the Statement of Charges/Notice of Hearing or other documentation these documents must be left with jail staff and the officer must request that these documents be placed with the offender's property or given to the offender. This action must be recorded in the chronological record.
- J. If evidence of any new violation of conditions of supervision is discovered after presentation of the original Statement of Charges/Notice of Hearing, but prior to the hearing, and a determination is made that the offender must be so charged, an amended Statement of Charges/Notice of Hearing must be presented to the offender in the same manner as the original Statement of Charges.
- 1. The hearing must be continued for an appropriate interval if the offender receives notice of any additional charge of violation less than three (3) days prior to the original hearing date, unless the offender waives advance service of the amended charges.

VI. Delay/Postponement

- A. The parole officer, the offender, the offender's legal counsel, or the parole supervisor may request delay or postponement for good cause from the Regional Parole Director or designee prior to the hearing.
- 1. The basis for the delay and approval by the director or designee must be documented in the chronological record.
 - 2. Determination of a subsequent hearing date must be accomplished by coordination between the Regional Parole Director or designee and the Hearing Officer.
- B. The Hearing Officer or designee may postpone or continue the preliminary hearing for good cause after the hearing has commenced.

VII. Conducting the Hearing

- A. Prior to the preliminary hearing the Hearing Officer must:
1. If requested to do so by the parole officer and/or the witness(es), make a determination as to whether the circumstances of the witness(es) are such that the identity of the witness(es) could not reasonably be known by the offender and whether the witness(es) would be subjected to risk of harm if the identity of the witness(es) were known to the offender.
 2. If the Hearing Officer or designee determine that the witnesses' identity could not reasonably be known by the offender and that the witnesses would be subjected to risk if their identity were made known to the offender, the Hearing Officer or designee must set forth the reason in writing in a supplemental report to the hearing summary.
 - a. This supplemental report must not be made available to the offender. Witnesses who meet the criteria above must be considered "confidential witnesses".
- B. During the hearing, the Hearing Officer or designee must adhere to the following sequence in conducting a preliminary hearing:
1. Review with the alleged violator the purpose and limitations of the preliminary hearing;
 2. Advise the offender that the Prisoner Review Board or controlling authority in interstate compact cases, has sole authority to revoke;
 3. The Hearing Officer or designee must inform the offender of his/her rights and assure the parole officer's compliance with procedures by obtaining, recording, and evaluating the offender's answers to the questions encapsulated within the text of Attachment D, Preliminary Hearing Checklist.
- C. If evidence of any new violation of conditions of supervision not yet charged, is produced or placed on the record during the Morrissey Hearing, other than a new violation based solely upon a voluntary admission by the offender during the hearing, and it is determined by the hearing officer, or parole officer, that the new charge must be added to the Statement of Charges for consideration, a recess must be declared by the Hearing Officer and an additional Statement of Charges, or an amended Statement of Charges must be served to the offender in the same manner as the original Statement of Charges.
1. The offender must be afforded the opportunity to object to any amendment of the Statement of Charges.
 - a. If any such objection is made, the offender must be allowed to fully explain the grounds for such objection. No amendment must be allowed if actual legal prejudice will result to the offender in the event that the amendment is allowed.
 2. The recess must be for a period of no less than three (3) calendar days, to permit the offender to prepare a defense, unless the offender waives the three (3) day period.
 3. Pending resumption of the hearing, the offender must remain incarcerated.
- D. During a preliminary hearing, if the offender states that he/she no longer wishes to have the hearing and admits guilt to the violations charged, the hearing officer may make a probable cause finding based on the offender's admission and cancel any additional hearing procedures.
1. A Hearing Summary must be prepared to document the hearing procedures that occurred and the offender's statement and admission of guilt.

VIII. Hearing Decision

- A. If probable cause is found, offenders not in custody must be detained or placed in custody (except in the case of a community hearing) and the parole supervisor notified of the findings by the parole officer
 - 1. In interstate compact cases, notice must be forwarded to the sending state via the Interstate Compact Offender Tracking System (ICOTS) or with the assistance of the KS Interstate Compact Office. The sending state must be advised of the availability of the offender.
- B. If probable cause is not found, and there are no local charges pending, the Hearing Officer or designee may authorize the immediate release of the offender and inform the supervisor of the need to withdraw the parole violation warrant.
 - 1. In interstate compact cases, notice must be forwarded to the sending state via the Interstate Compact Offender Tracking System (ICOTS) or with the assistance of the KS Interstate Compact Office.

IX. Summary of Preliminary Hearing

- A. The Hearing Officer or designee must maintain a summary record of the hearing and complete a Summary of the Preliminary Hearing in TOADS (Attachment E) which must contain the following:
 - 1. A summary of the testimony given on each violation by the parole officer(s), by adverse witnesses, by the offender, and any additional witnesses on the offender's behalf.
 - 2. Additional violation(s) established during the course of the hearing.
 - 3. A statement of the finding of probable cause or no probable cause for each charge and summary of evidence considered in reaching the determination.
 - 4. Any recommendations of the Hearing Officer or designee that may be considered by the Prisoner Review Board or controlling authority for interstate compact cases.
- B. The Summary of Preliminary Hearing must be distributed within five (5) working days of the hearing.

X. Community Based Hearings

- A. Community based hearings must be held for offenders who are being processed for revocation but are not being returned to a KDOC facility, as discussed in IMPP 14-137A.
- B. The serving of the Statement of Charges/Notice of Hearing and preliminary hearing processes must occur as indicated in this policy, with the location of the processes and hearing held at a local parole office or other designated location.
- C. When a final revocation hearing is needed in the community, the parole officer assigned to the case must contact the PRB Administrator to determine a date, time and location of the hearing.
 - 1. The hearings may be held in person, by phone or through video conferencing.
- D. Revocation Packets for community-based hearings must be prepared in accordance with IMPP 14-141A.
- E. The results of community-based revocation hearings must be communicated from the PRB to the parole officer and the offender via the Violation Hearing Action Notice.

XI. Offenders Returned from Out-of-State

- A. Upon completion of the Transportation Memo for the return of an offender who is out of state and in custody, Interstate Compact Unit staff must complete a Violation Report and Statement of Charges/Notice of Hearing citing the alleged violations.
- B. If the offender has not yet been offered a preliminary hearing, the violation Report and Statement of Charges/Notice of Hearing must be sent, along with any relevant evidence, to the Institutional Parole Officer of the facility where the offender is to be transported.
 - 1. The Institutional Parole Officer (IPO) must review the documents with the offender within three (3) working days and determine if a preliminary hearing is requested.
 - 2. If the offender requests a Morrissey Hearing, the Institutional Parole Officer must ensure that appropriate arrangements are made, and a hearing is held.
 - 3. After the hearing or if no hearing is requested, the IPO must send all signed documentation related to the revocation to Prisoner Review Board staff for inclusion in the revocation packet per IMPP 14-141A.
 - 4. If the offender is eligible to waive the Final Revocation Hearing, the Institutional Parole Officer must provide the offender the opportunity to waive the hearing in accordance with IMPP 14-144A.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS

None.

REFERENCES

KSA 75-5217
KAR 44-9-105
IMPP 14-134A, 14-137A, 14-138A, 14-141A, 14-144A

HISTORY

07-10-18 Original

ATTACHMENTS

Attachments	Title of Attachments	Page Total
A	Statement of Charges/Notice of Hearing	1 page
B	Explanation of Revocation Process	1 page
C	Preliminary Hearing Checklist	1 page
D	Summary of Preliminary Hearing	1 page

**KANSAS DEPARTMENT OF CORRECTIONS
Division of Community and Field Services**

STATEMENT OF CHARGES/NOTICE OF PRELIMINARY HEARING

DATE:

TO:

You are charged with violating the conditions of your release in the following manner:

Parole Officer/Parole Office

ACKNOWLEDGMENT (AND WAIVER DECISION)

I have read or had read to me the Explanation of Revocation Process Form and understand my rights and the charges placed against me. Receipt of one copy of this Statement of Charges/Notice of Preliminary Hearing Form and receipt of one copy of the Explanation of Revocation Process Form is hereby acknowledged. I understand that I am eligible for a preliminary hearing on condition violations cited, with the exception of those citing violation of condition #2, Laws. The preliminary hearing addressing violations of the law will be continued to coincide with the judicial process unless determined otherwise by the parole officer and parole supervisor.

- I do NOT wish a preliminary hearing. I understand, however, by waiving this hearing, probable cause that I committed the violations charged is established. I understand that I will be given a hearing before the Kansas Parole Board, if I am returned to a KDOC Facility.
- I wish to have a preliminary hearing.
- I agree to waive the three (3) calendar day requirement for my preliminary hearing.

Hearing Date/Time _____ Hearing Location: _____

(For Interstate Compact Cases Only)

I understand that I am being offered a preliminary hearing in the state of Kansas. I understand that if I admit guilt to any of the above listed charges/violations the state of _____ has the option to return me to that state and revoke my parole/probation status.

- Yes, I hereby admit guilt to the above violations and waive the preliminary hearing.
- No, I do not admit guilt and do not waive the preliminary hearing.

Date

Signature of Parolee

Date

Witness

Distribution: 1-PO 1-Parolee 1-Hearing Officer 1-Revocation Packet 2-Compact (if applicable)

KANSAS DEPARTMENT OF CORRECTIONS
Division of Community and Field Services

EXPLANATION OF REVOCATION PROCESS FORM

STATEMENT OF CHARGES:

You are entitled to a preliminary hearing to determine whether there is probable cause or reasonable grounds to believe that the alleged violation outlined in the Statement of Charges/ Notice of Preliminary Hearing Form occurred. You are entitled to disclosure of evidence on which violation charges are based.

NOTICE OF PRELIMINARY HEARING:

As outlined above, the purpose of a preliminary hearing is to determine whether or not there is probable cause to believe that you violated a condition of your release. The alleged violations are listed in the Statement of Charges/Notice of Preliminary Hearing Form, which was read, explained, and delivered to you.

This is to further notify you that at your preliminary hearing, you may appear and speak in your own behalf; you may bring letters, documents, or individuals who can give relevant information to the hearing officer. Upon your request, persons who have given adverse information on which your revocation may be based will be called for questioning in your presence, unless the hearing officer determines that the witness would be subjected to risk or harm if his/her identity were disclosed. This is not an adversary proceeding; it is a fact-finding hearing. You may retain counsel at your own expense, or request appointed legal counsel, as determined by the Hearing Officer, due to the complexity of the charges or your inability to understand the process or charges.

At the conclusion of the preliminary hearing, the hearing officer will orally advise you of his/her decision.

If you desire to have witnesses appear at the preliminary hearing, it is your responsibility to advise your parole officer when you are served with your Statement of Charges/Notice of Preliminary Hearing Form and provide him/her with information regarding what pertinent information said witness(es) will provide at the hearing. Character witnesses, who do not offer information pertinent to your violations, will not be heard. Your parole officer may provide assistance to you in contacting the witness(es). If you wish to be provided with assistance in contacting potential witnesses, you need to provide the names, phone numbers and/or addresses of said witnesses at the time you are presented with your Statement of Charges/Notice of Preliminary Hearing Form so that arrangements may be made for their admission to the hearing.

If you wish to postpone your hearing, it is your responsibility to state the reason for the request in order that a determination to grant or deny your request may be made.

If you have a criminal charge pending, your preliminary revocation hearing will normally only address condition violations. If probable cause, pertaining to the law violations, is found in court, then probable cause has also been established for your alleged parole violation charge(s) citing violation of the law, and you will not be given a preliminary hearing. This will only apply for new criminal charges. An exception may be made to hear the condition #2, Law violations at the request of the parole officer with the concurrence of the supervisor.

Kansas Department of Corrections
Preliminary Hearing Checklist

Offender Name and Number: _____

The preliminary revocation hearing (also known as a Morrissey Hearing) is an informal, fact finding proceeding. The purpose of the hearing is to determine whether or not there is probable cause that a violation of release conditions exists. Alleged violators have the right to be aware of the charges in advance of the hearing, to have access to the evidence and to question adverse witnesses. Kansas Department of Corrections policy allows at least 3 days for alleged violators to prepare a defense, and parole staff are to provide assistance, if needed, in contacting witnesses. The following questions are designed to help ensure that these rights have been provided. The hearing officer will ask the listed questions and record the answers. If questioning indicates that a due process procedure has not been provided, the hearing officer must review the situation and determine if the hearing needs to be continued. This document must be retained as part of the Hearing Summary.

- | | | |
|---|-----|----|
| 1. Have you been presented with a Statement of Charges? | Yes | No |
| 2. Have the charges been explained to you? | Yes | No |
| 3. Were you provided with a copy of the Violation Report and any other evidence that will be presented against you? | Yes | No |
| 4. Were you notified of the date and time of this hearing? | Yes | No |
| 5. Has the purpose of the preliminary hearing been explained to you? | Yes | No |
| 6. Have you been given at least 3 calendar days to prepare a defense? | Yes | No |
| 7. Are you aware that you may retain legal counsel at your own expense to represent you at the hearing? | Yes | No |
| 8. Have you requested witnesses to appear on your behalf?
If yes, who? | Yes | No |

Name _____

Name _____

Name _____

Name _____

- | | | |
|--|-----|----|
| 9. Have these witnesses been contacted and made aware of the time, place and reason they were requested at the hearing? | Yes | No |
| 10. Do you have any documents or other evidence to present in the hearing, related to the violations with which you are charged? | Yes | No |

Offender Signature

Hearing Officer Signature

Date

KANSAS DEPARTMENT OF CORRECTIONS
Division of Community and Field Services

SUMMARY OF PRELIMINARY HEARING

Offender Name and No.:
Date of Hearing:
Place of Hearing:

Date Typed:

Date Sent to Offender:

Persons present at hearing:

<u>NAME</u>	<u>ADDRESS</u>	<u>OCCUPATION / RELATIONSHIP</u>
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Offender Requested Legal Counsel:
Offender Provided Legal Counsel by KDOC:
Legal Counsel Present:

If legal counsel was requested by the offender or was provided by the Department and is not present, the Hearing Officer must provide a brief rationale for determining that the offender can proceed without benefit of legal counsel.

ALLEGED VIOLATION

PROBABLE CAUSE

Documents introduced as evidence

Comments:

Summarize testimony of witnesses, PO, offender, and give reasons for your findings:

Eligible for Final Revocation Hearing Waiver:
Presented with Waiver:
Waived Final Revocation Hearing:
Date Waived:

(Hearing Officer)

Dist: 1-Parolee, 1-PO, 1-Hearing Officer, 1-Rev.Pkt., 2-Compact (if app.)