
 Department of Corrections and Community Supervision DIRECTIVE	TITLE		NO. 9049
	Community Supervision Recognizance Hearing Process		DATE 5/16/2025
SUPERSEDES	DISTRIBUTION A B	PAGES PAGE 1 OF 7	DATE LAST REVISED
REFERENCES (Include but are not limited to)	APPROVING AUTHORITY 		

- I. **PURPOSE:** To instruct Community Supervision staff on the steps involved in the recognizance hearing process upon the issuance and execution of a Department of Corrections and Community Supervision (DOCCS) warrant. Consistent with the requirements of the violation of release process, DOCCS staff will submit the required documentation and appear before the designated criminal, city, or county court to assess the alleged violator’s likelihood to appear at a future preliminary or final hearing.
- II. **POLICY:** It is the policy of DOCCS to hold responsible those releasees who have demonstrated an unwillingness or inability to abide by the conditions of their supervision in an important respect. DOCCS will ensure that a releasee, who has been served a notice of violation where a warrant has been enforced, is afforded a recognizance hearing in front of a criminal, city, or county court judge within 24 hours of warrant execution or on the next available court date. At the recognizance hearing, if the judge determines that the alleged violator presents a substantial risk of willfully failing to appear at a preliminary or final hearing, the judge may order the alleged violator held in a correctional setting. If the judge determines that the alleged violator is likely to appear at future hearings, the judge may direct DOCCS to lift the warrant and return the alleged violator to the community to participate in an out of custody hearing process relative to the violation of release allegations.
- III. **DEFINITIONS AND PROCESS REQUIREMENTS**
 - A. Abscond: Intentionally avoiding supervision by failing to maintain contact or communication with the releasee’s assigned Community Supervision Officer or Area Office and to notify their assigned Community Supervision Officer or Area Office of a change in residence, and reasonable efforts by the assigned Community Supervision Officer to re-engage the releasee have proven unsuccessful.
 - B. Court Liaison Officer (CLO): A Parole Officer (PO) whose primary duties include representing DOCCS before a criminal court judge to present rationale and evidence specific to an alleged violator’s likelihood of appearing at future hearings specific to the Parole Violation Process. A CLO serves as Community Supervision’s main liaison between the Office of Court Administration (OCA), courts/judges, District Attorneys, and Area Offices.
 - C. Notice of Violation: Written notice of the date, time, location, and purpose of a preliminary hearing. The Notice of Violation also lists the rights of the individual.
NOTE: There may be more than one Notice of Violation for an individual releasee.

- D. Non-Technical Violation: A violation incurred by either:
1. The commission of behavior that would constitute a new felony or misdemeanor offense (an actual arrest for the behavior does not have to have occurred).
 2. Conduct by a releasee who is serving a sentence for an instant offense defined in Penal Law Article 130 (sex offenses), or Article 255 Section 255.26 (Incest 2nd) or Section 255.27 (Incest 1st), and such alleged conduct violated a condition of release reasonably related to such offense and efforts to protect the public from the commission of a new offense have been exhausted or do not provide a reasonable element of public safety.

Releasees accused of having committed a non-technical violation are required to appear before a criminal court judge for a recognizance hearing within 24 hours of warrant execution or upon the first availability of the court.

- E. Technical Violation: Including absconding, any behavior that violates a condition of community supervision in an important respect other than the commission of a new felony or misdemeanor.
- F. Electronic Document Delivery System (EDDS): A system of secure document transmission by court users to judges, clerks of the court, and the Unified Court System utilized by DOCCS staff to submit violation of release reports and warrants to the courts for the purpose of scheduling a recognizance hearing.
- NOTE: In some jurisdictions EDDS is not utilized by certain courts in which case the process identified by the specific court should be utilized.
- G. Order to Produce: A document from the court, judge, or DOCCS to the securing facility indicating the date, time, and location that the alleged violator is required to appear for a hearing.
- H. Securing Order: A document from the court judge indicating that either:
1. The alleged violator has been found to have a substantial likelihood of willfully failing to appear at preliminary and/or final revocation hearings and no non-monetary condition or combination of community-based conditions will reasonably assure their appearance; therefore, they are to be remanded to a holding facility.
 2. The alleged violator does not present a substantial risk of failing to appear at future hearings and is released to the community. The judge may order that the alleged violator comply with additional non-monetary conditions of release.
- I. Recognizance Hearing: A hearing held in a county, city, or district court by a judge for the purpose of determining whether a releasee presents a substantial risk of willfully failing to appear at a preliminary or final hearing. A recognizance hearing is held within 24 hours of warrant execution or upon the first availability of the court.
- J. Warrant Execution: A DOCCS parole warrant is deemed executed at the moment a releasee's liberty is restricted once taken into custody by staff, or, if already incarcerated, at the moment the warrant is lodged against an individual.

IV. PROCEDURE

A. Recognizance Hearing

1. Once a DOCCS warrant has been approved for issuance and has been executed, the CLO or designee must submit the Violation of Release Report and any supporting documents to the designated court via the EDDS at the following weblink: www.nycourts.gov or that court's specific method of submission as required by that jurisdiction. Violation of Release documents for absconders should also be scanned to the Community Supervision Operation Center (CSOC). The Violation of Release documents will include:
 - a. Copy of certified warrant or original
 - b. Form #CS9011, "Notice of Violation"
 - c. Form #CS4003, "Violation of Release Report"
 - d. Form #CS4003CS, "Case Summary"
 - e. Form #CS3010, "Certificate of Release to Community Supervision"
 - f. Supplemental Conditions of Release to Parole Supervision
 - g. Evidentiary documents as applicable and available
 - h. Absconder violation packets sent to CSOC should include a photograph of releasee

NOTE: The Bureau Analysis should not be included in the packet to CSOC.

2. The sending Officer will receive an email from the court clerk acknowledging receipt of the documents and confirming the date and time of the recognizance hearing.
3. In jurisdictions requiring DOCCS staff to request that the releasee be brought to the hearing, DOCCS staff will send the Order to Produce to the jail records administrator where the releasee is detained to advise of the recognizance hearing information and the need for the releasee to be transported to the court.
4. The alleged violator must be served with the Notice of Violation, Violation of Release Report (VORR) and supporting documents upon execution of the warrant. If the subject is not served at that time, efforts must subsequently be made to serve the releasee at the first opportunity. Releasees must be served no later than at the time of the recognizance hearing. The violation documents are to be submitted to the defense attorneys and PVU immediately following service.
5. In all instances where a warrant has been issued and executed, the releasee must be transported from local detention by facility staff to the designated criminal, city, or county court where the alleged behavior occurred within 24 hours of the execution of the warrant (or by the next available court date when court is in session).
6. The CLO or designee shall store a copy of the case specific VORR and supporting documents in their state issued iPhones for those cases that will be heard on the scheduled dates.

7. Following completion of the service process, the CLO or designee shall take a photograph/digital image of Form #CS9011 and the court-issued Securing Order (Parole Recognizance Hearing Form UCS-514PV) if provided by the Judge on the date of the recognizance hearing. The digital image, securing order, VORR(s), and related violation materials will then be sent via Outlook email (on the iPhone) to the following parties as applicable:
 - a. Legal Aid Society shared mailbox (for Upstate regions, only if Legal Aid is the assigned counsel)
 - b. 18-b defenders' mailbox (NYC)
 - c. Downstate PVU's shared mailbox (NYC)
8. If the alleged violator and the attorney refuse service, the CLO/PO should move forward with reviewing the documents with the alleged violator (preferably with the attorney present) and provide the alleged violator with all documents/materials. A preliminary hearing must be scheduled and can only be waived via the completion of a fully executed and accurate Notice of Violation (Form #CS9011). During the course of the recognizance hearing, the CLO or designee will notify the judge that the alleged violator has refused service of the Notice of Violation and supporting documents.
9. The CLO or designee shall have the burden of demonstrating to the court that the executed warrant was properly issued and served including what procedural steps were taken prior to warrant issuance in technical violation cases (i.e., home visit, 48-hour grace period to report, etc.) and will not object to any such inquiries by the defense on the subject during the recognizance hearing. The Officer will also be responsible for presenting information about the alleged violation and the person's community supervision record. If there are criminal charges, the Officer may have to coordinate with the District Attorney's Office to ensure that the alleged violation information and community supervision records are provided to the court.
10. The CLO or designee will provide the court with all known information regarding the potential for the alleged violator to willingly refuse to appear for future preliminary and final hearings. This information may include, but is not limited to histories of absconding, bench warrants, non-compliance with GPS, non-compliance with geographic restrictions, erratic office reporting, and lack of ties to the community, etc.
11. If the violation charges involve conduct that would constitute a new felony or misdemeanor, the recognizance hearing may be held at the same time as a bail proceeding. If the releasee has no bail or is able to pay bail, they shall not be held solely on the warrant issued by the Department; however, they may be held on a judge's Securing Order.
12. If the bail hearing has already occurred prior to the execution of the DOCCS warrant, a recognizance hearing shall take place in the designated criminal, city, or county court where the behavior occurred.
13. The releasee is entitled to counsel at the recognizance hearing.

14. The court shall consider all information about the releasee's employment, family and community ties, length of residency in the community, history of reporting in a timely fashion to the PO, and other indicators of stability. The court can order that the alleged violator be detained pending a preliminary or final revocation hearing only if there is a substantial risk of the releasee willfully failing to appear at the hearing and that no monetary condition or combination of conditions will reasonably assure the releasee's appearance at future hearings.
15. When an alleged violator who has been released by the court at a recognizance hearing subsequently absconds or engages in new non-technical behavior leading to the issuance of a DOCCS warrant, they will be afforded another recognizance hearing within 24 hours of the execution of the warrant.

NOTE: Because certain courts are open 24hours/seven days a week, to include evenings, weekends, and holidays, there will be instances where a CLO or their designee must attend a recognizance hearing outside of normal business hours.

B. Parole Officer Responsibilities

1. The PO is responsible for conducting a thorough investigation and preparing a Notice of Violation (Form #CS9011), a VORR (Form #CS4003), a case summary, and gathering the alleged violator's release sheet, conditions of release, a recent photograph of the alleged violator, and a copy of the DOCCS warrant. The PO is responsible for compiling and including all evidentiary information and documents that fortify the VORR.
2. The assigned PO is responsible for conferencing the case with the CLO prior to the recognizance hearing.
3. POs are responsible for serving in the role of the CLO at those locations where there is presently no CLO assigned or available to conduct a recognizance hearing.
4. The PO is responsible for conferencing cases with their Senior Parole Officer (SPO) when representing DOCCS at a recognizance hearing. If the releasee is not held at the recognizance hearing, the PO will conference an updated supervision plan with the SPO to include GPS monitoring and appropriate referrals. Any further violative behavior exhibited by the releasee will be brought to the attention of the SPO for further direction.

C. Senior Parole Officer Responsibilities

1. The SPO is responsible for conferencing cases with the PO when either officer will be representing DOCCS at a recognizance hearing. Case conferences are to be held by the SPO in order to construct an appropriate supervision plan for continued community-based supervision when appropriate.
2. If a warrant is issued, the SPO will review the prepared VORR and supporting documents for completion and accuracy.
3. The SPO will ensure that the completed VORR and supporting documents are forwarded to the court via EDDS or the mechanism required by the specific court when that court does not utilize EDDS. Confirmation will be made in relation to the location of the alleged violator and that an Order to Produce has been provided. EDDS submissions and confirmation of receipt must be documented in CMS.

4. The SPO will ensure that the jail records administrator where the releasee is detained is advised of the recognizance hearing information and the need for the releasee to be transported to court.
5. The SPO will ensure that a CLO or their designee is available to present the case to the court at the recognizance hearing.
6. Upon notification of the completion of a recognizance hearing the SPO will confirm that the Parole Violations Unit (PVU) is supplied with the signed Form #CS9011, the VORR, supporting documents, and Securing Order.

D. Bureau Chief Responsibilities

1. The Bureau Chief will monitor warrant issuance/execution and ensure timely recognizance hearings are held with DOCCS staff present to represent the agency and present the case to the court.
2. The Bureau Chief will oversee staff compliance with recognizance hearings and communication processes.

E. Court Liaison Officer (or designee) Responsibilities

1. The CLO is responsible for representing DOCCS at recognizance hearings.
2. The CLO coordinates hearings and serves as the community liaison with OCA, judges and their court staff, District Attorney offices, and Community Supervision/PVU staff.
3. The CLO will assist with written reports and documents as needed or as requested from supervisory staff.
4. The CLO will review the VORR, Violation of Release Summary, Notice of Violation of Release, and all supporting documentation.
5. The CLO will prepare Form CS9049A, "Recognizance Hearing Worksheet," and be prepared to present the case to the court. The CLO will ensure that the VORR and all supporting documents are available for the judge, the alleged violator, and their counsel.
6. The CLO will assist with escorting alleged violators between the courtroom and holding area as necessary.
7. Upon completion of the hearing when the alleged violator is remanded, the CLO will confirm that a Securing Order has been received by the holding facility and that the court/PVU has provided the holding facility with an Order to Produce for future hearings.
8. Upon completion of the recognizance hearing, the CLO will immediately notify, via email at a minimum, the PO, SPO, Bureau Chief, and local PVU staff of the outcome of the hearing, to include any special instructions from the judge, the next report date if not remanded, and the dates for future preliminary and final hearings.
9. If the alleged violator is released at the recognizance hearing, the CLO will instruct them to report to the Area Office no later than the next business day.

10. The CLO will document all activity in CMS including the date, time, and place of the recognizance hearing, the names of the judge and defense attorney, service of Notice of Violation and supporting documents to the alleged violator, waiver or acceptance of preliminary hearing, Securing Order, any adjournments, any special conditions given by the judge, and hearing dates for the preliminary and final hearings. Documentation should be specific in nature for each activity performed.
11. The CLO will document providing the violation documents to PVU and confirmation of hearing dates as well as any documents provided to the alleged violator's attorney or Legal Aid if they are representing the alleged violator.
12. The CLO will assist the Area Office with any other needs or duties as directed by a supervisor when not participating in recognizance hearings.

V. REFERENCES

- Penal Law Articles 130, 255
- ACA Expected Practices 4-APPFS-2A-07, 4-APPFS-2A-10, 4-APPFS-2A-11, 4-APPFS-2B-01, 4-APPFS-2B-02, 4-APPFS-2B-03, 4-APPFS-2B-04, 4-APPFS-2B-05, 4-APPFS-2B-06, 4-APPFS-2B-07, 4-APPFS-2B-08