

 <b>Corrections and Community Supervision</b>  <b>DIRECTIVE</b>	TITLE <b>Return of Parole Violators from Other Jurisdictions</b>		NO. 9072
			DATE 09/17/2019
SUPERSEDES DOP P&P Manual Item 9405.05	DISTRIBUTION A	PAGES PAGE 1 OF 7	DATE LAST REVISED
REFERENCES (Include but are not limited to) NYS Penal Law Article 125 & Article 130	APPROVING AUTHORITY 		

- I. **PURPOSE:** To provide Department of Corrections and Community Supervision (DOCCS) staff with guidelines for the return of parole violators to New York State who have been detained in other jurisdictions.
- II. **POLICY:** To enhance public safety, DOCCS staff, as directed, will return parole violators who have been arrested and detained in jurisdictions other than New York State.
- III. **DEFINITIONS**
  - A. Jurisdiction: An authority other than New York State and its subdivisions.
  - B. Extradition/Governor's Warrant: The legal process required to compel a parole violator to return to New York State when the parole violator refuses to be voluntarily returned to face revocation of parole following an arrest in another jurisdiction.
  - C. Pre-Signed Waiver of Extradition: Language included on the releasee's Certificate of Release to Parole Supervision (see Section IV-B-3-e) or Agreement to Return form.
  - D. Waiver of Extradition for Interstate Compact Services: A document signed by all releasees who apply for Interstate transfer of parole supervision.
  - E. Teletype: An electronic message that can be transmitted to another police/criminal justice agency by means of eJusticeNY Integrated Justice Portal. There are different categories of messages. One indicates the subject is a WANTED fugitive and a warrant for arrest exists. On the basis of such a message, most jurisdictions will hold and arraign the subject.
  - F. Locate: Notification to NCIC by the arresting law enforcement agency that a "WANTED PERSON" has been located. A locate leads to the cancellation of an NCIC wanted posting.  
 NOTE: If DOCCS staff makes the determination that the apprehended subject is not the parole violator and a locate was entered by the arresting agency, then the Fugitive Wanted Notice will need to be re-posted.

#### IV. PROCEDURE

- A. Notification of Arrest in Another Jurisdiction

NOTE: ALL NOTIFICATIONS OF ARREST MUST BE ACTED UPON IMMEDIATELY.

The Community Supervision Operations Center (CSOC) will respond to all teletypes (Hit Confirmation Requests and/or Administrative Messages) regarding the arrest of a parole violator, verify that an active DOCCS parole warrant exists, and request the other jurisdiction to detain the parole violator on this agency's behalf. CSOC will also provide contact information for the assigned Community Supervision staff to the other jurisdiction.

1. Parole Officer/Senior Parole Officer/Bureau Chief/DOCCS Staff:

- a. Upon notification of the arrest of a parole violator in another jurisdiction, DOCCS staff to whom the case is assigned will do the following:

- (1) Inform the supervising Senior Parole Officer/supervisor and conference whether DOCCS will be seeking rendition of the fugitive;

NOTE: Only the Deputy Commissioner for Community Supervision or designee can authorize the return of a parole violator from a foreign country. Extradition from other countries is extremely involved. The Bureau must obtain guidance and direction from the Director of Internal Operations (DIO) in order to proceed with such a process (see Section IV-E of this directive).

NOTE: No parole violator should be returned who is past the original Maximum Expiration of the sentence(s) and who owes less than one year of delinquent time, except those convicted in the instant offense(s) under Article 125 of the Penal Law; relating to Murder and Homicide, and Article 130 of the Penal Law; relating to Sex Offenses. In all cases, the return of a parole violator will be at the discretion of the Bureau Chief/Unit Chief based upon the following Return Guidelines:

- The decision as to whether or not to return a particular parole violator will be based upon the Department's mission to promote and enhance public safety.
  - Absent mitigating circumstances, DOCCS should return parole violators with a prior, instant, or subsequent record of sex offense, violent felony, and/or felony driving while intoxicated.
  - Consideration must be given to whether the parole violator is being held on a DOCCS parole warrant only, being held on new criminal charge(s), or is serving a sentence on a new conviction.
  - If the parole violator is being held on a DOCCS parole warrant only, a report requesting Cancel Delinquency and Close by Maximum Expiration (CDME) may be submitted to the Board of Parole for consideration. If CDME is approved, the violator will not be returned. If CDME is not approved, the parole violator will be returned.
  - If the parole violator is being held on a new felony charge(s), the request for CDME will be deferred pending disposition of the charge(s) in the other jurisdiction or waiver of extradition.
  - If the new charge(s) results in a misdemeanor conviction, CDME may be requested.
  - If the parole violator is serving a sentence for a new conviction(s), the nature of the conviction(s) will be considered in determining whether or not the violator will be returned.
  - For any case, the Bureau Chief/Unit Chief, in conjunction with the Regional Director/Unit Head, may return a parole violator where failure to return the violator would diminish the seriousness of the instant offense, obstruct the administration of local law enforcement, or jeopardize public safety.
- (2) Contact the arresting agency to confirm detention of the parole violator on the NYS DOCCS parole warrant and advise that a decision on extradition will be forthcoming.

- (3) Confirm identity by:
    - (a) Sending a photo, fingerprints, and a physical description to the arresting agency and receiving written communication that the subject is the DOCCS fugitive;
    - (b) Reviewing the criminal history to determine if the fugitive arrest appears on the Ill report; and
    - (c) Receipt of FBI – CJIS teletype indicating an arrest fingerprint card was submitted by the arresting jurisdiction.
2. DOCCS staff assigned to the case must immediately ascertain the following from the arresting agency:
  - a. Arrest name, alias, date of birth, and physical description;
  - b. The date, time, and place of arrest;
  - c. The name, address, telephone, email address, and fax number of the holding facility;
  - d. Whether there are pending criminal charges, and if so, the nature of the charges and the next court date(s);
  - e. Whether the parole violator will waive extradition and if the court will accept the pre-signed waiver;
  - f. The name, address, telephone, email address, and fax number of the contact person; and
  - g. Confirm that the local jail or detention facility Records Unit has a copy of the DOCCS parole warrant lodged against the fugitive.
3. DOCCS staff will conference the case with the Senior Parole Officer/Unit Chief, who will consider all pertinent factors and make a recommendation to the Bureau Chief/Unit Head.

NOTE: Should a decision to CDME be recommended, then all paperwork necessary for the Board of Parole should be submitted immediately.
4. The DOCCS staff member assigned to the case will then send correspondence via fax or email (see Appendix A) to the contact person requesting that the warrant be enforced and include the following:
  - a. "Certificate of Release to Supervision" ([Form #CS3010](#) or [Form #CS3010A](#)).
  - b. Certified copy of the DOCCS parole warrant.
  - c. Parole violator's photograph and fingerprint card.
  - d. A request that the arresting agency advise the Parole Officer in writing whether or not the parole violator agrees to waive extradition.
5. Should the DOCCS staff member determine that the fugitive was arrested and is detained in the state to which he was released through the Interstate Compact, notification is to be made to the Interstate Bureau so that a Probable Cause proceeding can be scheduled pursuant to the Interstate Compact agreement.

---

**B. Arranging for Return of Parole Violator**

1. Assigned DOCCS Staff Member/Supervisor
  - a. Upon notification that a parole violator, for whom there is an active DOCCS parole warrant, is in custody in another jurisdiction (except if that jurisdiction is in a foreign country) and is available to the parole warrant, the officer must immediately notify the Warrant and Transfer Unit, which will coordinate the parole violator's return to New York State.
  - b. The assigned DOCCS staff member must provide the following information to the Warrant and Transfer Unit via email to the shared mailbox ([osiwarrantandtransfer@doccs.ny.gov](mailto:osiwarrantandtransfer@doccs.ny.gov)):
    - (1) The date the parole violator became available to the DOCCS parole warrant.
    - (2) The date DOCCS was notified that the parole violator was available to the DOCCS parole warrant.
    - (3) Whether the parole violator waived extradition, the Pre-Signed Waiver/Waiver of Extradition for Compact Services is being accepted, or the parole violator is being returned pursuant to a Governor's Warrant.
    - (4) The name, Bureau/Area Office, telephone number, and email of the Parole Officer and the Senior Parole Officer of record.
    - (5) The alias or name under which the parole violator was arrested.
    - (6) The parole violator's name and New York State Identification (NYSID) Number.
    - (7) The name, address, telephone, fax number, and email of the facility where the parole violator is being held.
    - (8) The name, address, telephone, and fax number of the contact person.
    - (9) Parole time owed.
    - (10) Maximum Expiration Date.
    - (11) Facility in which parole violator is to be lodged upon return to New York State.
    - (12) Whether or not the parole violator is entitled to a Preliminary Hearing.  
NOTE: Eligibility for a Preliminary Hearing is determined by whether or not the parole violator has been convicted of a misdemeanor or a felony committed since release to parole supervision. The Parole Officer MUST obtain a certified copy of the Certificate of Conviction as evidentiary documentation.
2. The Parole Officer must also provide any additional information and documents useful to, or pertaining to, the safety of the parole violator and the officers assigned to return the parole violator to New York State.
3. The officer must provide legible copies of the following documents to the Warrant and Transfer Unit via email to the shared mailbox ([osiwarrantandtransfer@doccs.ny.gov](mailto:osiwarrantandtransfer@doccs.ny.gov)):
  - a. The parole violator's photograph, physical description, and fingerprint card.
  - b. The DOCCS parole warrant.

- c. Notification, from the jurisdiction where the parole violator is in custody, of availability to the parole warrant.
  - d. The Violation of Release Report and Case Summary, including criminal history.
  - e. "Certificate of Release to Parole Supervision" ([Form #CS3010](#) or [Form #CS3010A](#)).
  - f. [Form #CS9011](#), "Notice of Violation," or a memorandum stating dates, times, and locations of Preliminary and Final Hearings, and the assigned counsel's address.  
NOTE: Warrant and Transfer Unit staff will determine and provide both Preliminary and Final Hearing dates for parole violators returned to New York City Department of Corrections custody.
4. Warrant and Transfer Unit
    - a. Warrant and Transfer Unit will coordinate assignment of staff to return parole violators to New York State. One of the officers should be of the same gender as the parole violator.  
NOTE: Warrant Officers will be used to return parole violators from other jurisdictions when using Warrant Officers is compatible with the best interests of DOCCS.
    - b. Warrant and Transfer Unit staff will make travel arrangements including transportation and lodging.
    - c. Warrant and Transfer Unit staff will provide all necessary information and documents to one of the assigned officers.
- C. Return of Parole Violator to New York State
1. Parole/Warrant Officer
    - a. The officer, to whom the documents were provided, will contact the jurisdiction where the parole violator is in custody to:
      - (1) Re-confirm the parole violator's availability to the DOCCS parole warrant; and
      - (2) Make specific arrangements to take custody of the parole violator.
    - b. Assigned officers must ensure that, prior to traveling to the jurisdiction where the parole violator is in custody, they have all necessary documents and information and that the documents are legible.
    - c. Assigned officers will travel to and from the jurisdiction where the parole violator is in custody, as described in the itinerary provided by the Warrant and Transfer Unit, and will not deviate without coordinating with Unit staff.
    - d. The jurisdiction where the parole violator is in custody will designate the specific custodial facility or court where the violator is to be picked up.
  2. Officers must allow adequate time for procedures required by the facility or court.
  3. When commercial airline or railroad travel is used, officers must allow adequate time for required check-in procedures at the travel terminal.

NOTE: Transportation of Prisoners is addressed in Directive #9403, "Transporting Parole Violators/Prisoners."

D. Lodging Parole Violator Returned from Other Jurisdictions

Parole/Warrant Officer: Officers who return a parole violator must, within 24 hours:

1. Submit, via email to the Parole Officer/Senior Parole Officer of record and the Warrant and Transfer Unit to the shared mailbox ([osiwarrantandtransfer@doccs.ny.gov](mailto:osiwarrantandtransfer@doccs.ny.gov)), the completed [Form #CS9011](#) and Form #3024, "Parole Violator Intake Sheet." The Parole Officer/Senior Parole Officer of record will then notify the Parole Violation Unit of the hearing dates.
2. Submit, to the Warrant and Transfer Unit, the original completed [Form #CS9011](#), and Form #3024, and any documents from the jurisdiction where the parole violator was taken into custody.

E. Return of Parole Violator from a Foreign Country

1. Community Supervision Staff
  - a. When staff are advised of the availability of a parole violator in a foreign country, staff will send a memorandum to the Deputy Commissioner for Community Supervision or designee, summarizing all information and documentation needed to reach a decision as to whether or not to return the parole violator.
  - b. If the Deputy Commissioner for Community Supervision or designee DOES NOT authorize the return of a parole violator from a foreign country, staff will notify the Board of Parole, forward information and documentation to the Board, and request that a Parole Board member grant permission not to enforce the warrant unless the parole violator voluntarily returns to the United States.
  - c. If the Deputy Commissioner for Community Supervision or designee DOES authorize the return of a parole violator from a foreign country, staff will communicate, through the NYS DOCCS Interstate Bureau ONLY, with the United States Department of Justice, Criminal Division, Office of International Affairs to obtain necessary authorizations and consents to return the parole violator.
2. Interstate Staff: Staff will follow all necessary procedures described in this directive to return the parole violator and will keep the Deputy Commissioner for Community Supervision or designee advised of the status of the return proceedings.

**SAMPLE LETTER TO HOLDING AUTHORITY**

DATE:

\_\_\_\_\_  
\_\_\_\_\_

Dear \_\_\_\_\_:

This subject is wanted by the New York State Department of Corrections & Community Supervision (NYS DOCCS). DOCCS Parole Warrant # \_\_\_\_\_ has been issued for his or her apprehension. Please hold, no bond or bail. The New York State DOCCS will extradite. Please advise if subject will waive extradition or refuses to waive extradition. A certified copy of the warrant, a photograph, fingerprints, the Certificate of Release, and a copy of NYS Executive Law documenting the Department's authority to issue warrants are enclosed. Please reply by teletype confirming positive identification, the date arrested on the NYS DOCCS Warrant, extradition waiver status (waived or your acceptance of the Certificate of Release noting item #10, or the subject's refusal to waive extradition), and next scheduled appearance date. If you have any questions, contact SPO/PO \_\_\_\_\_ at \_\_\_\_\_.

Thank you for your assistance and cooperation in this matter.

Very Truly Yours,

\_\_\_\_\_  
Bureau Chief

cc: Area Office  
Central Files  
Quality Control  
Attachments

**STATE OF NEW YORK**  
**DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION (DOCCS)**  
**CERTIFICATE OF RELEASE TO COMMUNITY SUPERVISION**

SENTENCE: Choose an item

RELEASE TYPE: Choose an item

INMATE RELEASE FUNDS: Enter Balance. RESTITUTION/SURCHARGES: Click or tap here to enter text.

NYSID: Click or tap here to enter text DIN: Click or tap here to enter text

Click or tap here to enter text, now confined in Click or tap here to enter text Facility who was convicted and/or adjudicated of:

CRIME/COUNTS	SENTENCE	COUNTY	COURT	SENTENCING DATE	JUDGE

has agreed to abide by the conditions to which they have signed their name below, and is hereby granted release, by virtue of the authority conferred by New York State Law.

Maximum Expiration Date: Click here to enter a date

PRS Maximum Expiration Date: Click here to enter a date

Post-Release Supervision Period (years/months/days): Click or tap here to enter text

It is hereby directed that Click or tap here to enter text be released and placed under legal jurisdiction of the Department of Corrections and Community Supervision until the Community Supervision End Date of Click here to enter a date.

Date of Release: Click here to enter a date

Parole Eligibility Date: Click here to enter a date

Board of Parole: Click or tap here to enter text.

Board Decision Date: Click here to enter a date

Approved Residence Address: Click or tap here to enter text.

City/State/Zip: Click or tap here to enter text.

I, Click or tap here to enter text., understand I will be subject to Community Supervision. I fully understand that my person, residence and property are subject to search and inspection. I understand that Community Supervision is defined by these Conditions of Release and all other conditions that may be imposed upon me by the Board of Parole or an authorized representative of the Department of Corrections and Community Supervision. I understand that my violation of these conditions may result in the revocation of my release.

**CONDITIONS OF RELEASE**

- I will proceed directly to the area to which I have been released, and, within twenty-four hours of my release, make my arrival report to the Community Supervision Office indicated below, unless other instructions are designated on my release agreement.

Assigned Bureau: Click or tap here to enter text.

Assigned Bureau Address: Click or tap here to enter text.

City/State/Zip: Click or tap here to enter text.

Bureau Phone Number: Click or tap here to enter text.

Assigned Parole Officer: Click or tap here to enter text.

Assigned Senior Parole Officer: Click or tap here to enter text.

Emergency/After Office Hours & Weekends, contact the Community Supervision Operations Center (CSOC) (212) 239-6159

Click or tap here to enter text.

- I will make office and/or written reports as directed.
- I will not leave the State of New York or any other state to which I am released or transferred, or any area defined in writing by my Parole Officer without permission.

ORIGINAL TO CENTRAL FILES  INMATE COPY

COMMUNITY SUPERVISION FOLDER (GREY FOLDER)  COPY TO FACILITY IRC

Type Department ID Number & Name

- 4. I will permit my Parole Officer to visit me at my residence and/or place of employment and I will permit the search and inspection of my person, residence and property. I will discuss any proposed changes in my residence, employment or program status with my Parole Officer. I understand that I have an immediate and continuing duty to notify my Parole Officer of any changes in my residence, employment or program status when circumstances beyond my control make prior discussion impossible.
- 5. I will reply promptly, fully and truthfully to any inquiry of or communication by my Parole Officer or other representative of the Department of Corrections and Community Supervision.
- 6. I will notify my Parole Officer immediately any time I am in contact with or arrested by any law enforcement agency. I understand that I have a continuing duty to notify my Parole Officer of such contact or arrest.
- 7. I will not be in the company of or fraternize with any person I know to have a criminal record or whom I know to have been adjudicated a Youthful Offender except for accidental encounters in public places, work, school or in any other instance with the permission of my Parole Officer.
- 8. I will not behave in such a manner as to violate the provisions of any law to which I am subject which provide for a penalty of imprisonment, nor will my behavior threaten the safety or well-being of myself or others.
- 9. I will not own, possess, or purchase any shotgun, rifle or firearm of any type without the written permission of my Parole Officer. I will not own, possess or purchase any deadly weapon as defined in the Penal Law or any dangerous knife, dirk, razor, stiletto, or imitation pistol. In addition, I will not own, possess or purchase any instrument readily capable of causing physical injury without a satisfactory explanation for ownership, possession or purchase.
- 10. In the event that I leave the jurisdiction of the State of New York, I hereby waive my right to resist extradition to the State of New York from any state in the Union and from any territory or country outside the United States. This waiver shall be in full force and effect until I am discharged from Community Supervision. I fully understand that I have the right under the Constitution of the United States and under law to contest an effort to extradite me from another state and return me to New York, and I freely and knowingly waive this right as a condition of my Community Supervision.
- 11. I will not use or possess any drug paraphernalia or use or possess any controlled substance without proper medical authorization.

12. Special Conditions:

13. I will fully comply with the instructions of my Parole Officer and obey such special additional written conditions as he or she, a Member of the Board of Parole or an authorized representative of the Department of Corrections and Community Supervision, may impose.

I hereby certify that I have read and that I understand the foregoing conditions of my release and that I have received a copy of the Certificate of Release.

Signed the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Releasee: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Witness Name: \_\_\_\_\_

Witness Title: \_\_\_\_\_

ORIGINAL TO CENTRAL FILES  INMATE COPY

COMMUNITY SUPERVISION FOLDER (GREY FOLDER)  COPY TO FACILITY IRC

**STATE OF NEW YORK  
DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION (DOCCS)  
CONDITIONAL PAROLE FOR DEPORTATION ONLY**

SENTENCE: Choose an item.

NYSID: Click or tap here to enter text. DIN: Click or tap here to enter text.

ALIEN REGISTRATION NUMBER: Click or tap here to enter text.

WARRANT NUMBER: Click or tap here to enter text.

Click or tap here to enter text, now confined in Click or tap here to enter text Facility who was convicted and/or adjudicated of:

CRIME/COUNTS	SENTENCE	COUNTY	COURT	SENTENCING DATE	JUDGE

has agreed to abide by the conditions to which they have signed their name below, and is hereby granted Conditional Parole for Deportation Only by the Board of Parole, by virtue of the authority conferred by New York State Executive Law §259-i (2)(d)(i): "Parole for Deportation Only."

Maximum Expiration Date: Click here to enter a date. PRS Maximum Expiration Date: Click here to enter a date.

Post-Release Supervision Period (years/months/days): Click or tap here to enter text.

It is hereby directed that Click or tap here to enter text be released and placed under legal jurisdiction of the Department of Corrections and Community Supervision until the Community Supervision End Date of Click here to enter a date..

Date of Release: Click here to enter a date.

Board of Parole: Click or tap here to enter text.

Board Decision Date: Click here to enter a date.

I, Click or tap here to enter text., voluntarily accept Conditional Parole for Deportation Only. I fully understand that I have been granted release for the purpose of effecting my deportation out of the U.S.A. Conditional Parole for Deportation Only is defined by the Conditions of Release noted below.

I understand that I am being transferred to the custody of the Immigration and Customs Enforcement (ICE) for the purpose of deportation only and that only the United States government and the New York State Board of Parole can give me permission to return to the U.S. after I have been deported. I understand that once I am deported from the United States, I cannot re-enter the United States unless my re-entry is authorized under 8 U.S.C. § 1326. If I am convicted of illegally re-entering the United States, 8 U.S.C. § 1326 authorizes the United States District Court to impose a fine, a period of imprisonment up to ten (10) years, or both. I further understand that I cannot re-enter the United States prior to the maximum expiration of my sentence, unless I receive prior written permission from the New York State Board of Parole. I fully understand that re-entry to the United States prior to the maximum expiration of my sentence, without the authorization of the United States District Court and permission of the New York State Board of Parole, may be the basis for a revocation of my conditional parole for deportation only.

I understand that at no time while in the custody of the Immigration and Customs Enforcement (ICE) authorities will I attempt to escape or escape.

I also understand that I must comply with the following general conditions of release, should I return to the United States of America:

(8) I will not behave in such manner as to violate the provisions of any law which I am subject, which provide for a penalty of imprisonment, nor will my behavior threaten the safety or well being of myself or others.

(10) I hereby waive my right to resist extradition to the State of New York from any state in the Union and from any territory or country outside the United States. This waiver shall be in full force and effect until I am discharged from

ORIGINAL TO CENTRAL FILES  INMATE COPY

COMMUNITY SUPERVISION FOLDER (GREY FOLDER)  COPY TO FACILITY IRC

my sentence. I fully understand that I have the right under the Constitution of the United States and under law to contest an effort to extradite me from another state and return me to New York, and I freely and knowingly waive this right as a condition of my conditional parole for deportation only.

(11) I will not use or possess any drug paraphernalia or use or possess any controlled substance without proper medical authorization.

(12) I will fully comply with any additional instructions or special conditions imposed by the New York State Board of Parole.

(13) I will fully comply with the instructions of a Parole Officer and obey such special additional written conditions as he or she, a member of the Board of Parole or an authorized representative of the Department of Corrections and Community Supervision, may impose.

I hereby certify that I have read and that I understand the foregoing conditions of my release for deportation purposes only and that I have received a copy of this Certificate of Release.

Signed the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Releasee: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Witness Name: \_\_\_\_\_

Witness Title: \_\_\_\_\_

ORIGINAL TO CENTRAL FILES  INMATE COPY

COMMUNITY SUPERVISION FOLDER (GREY FOLDER)  COPY TO FACILITY IRC

STATE OF NEW YORK  
DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION (DOCCS)  
**NOTICE OF VIOLATION**

TO: \_\_\_\_\_ INST.# \_\_\_\_\_

WARRANT# \_\_\_\_\_ NYSID# \_\_\_\_\_

You are charged with violating the conditions of your release in the manner specified on the attached violation of release report.

A preliminary hearing on these charges has been scheduled on \_\_\_\_\_ at \_\_\_\_\_ at \_\_\_\_\_  
Date Time Place

Should you waive a preliminary hearing or should probable cause be found at this hearing that you have violated any condition of your release in an important respect, a

final hearing on these charges will be held on \_\_\_\_\_ at \_\_\_\_\_ at \_\_\_\_\_  
Date Time Place

In the event that your return to the State of New York cannot be effected for the hearing as scheduled above due to circumstances beyond the Department's control, you will be afforded a preliminary hearing and final revocation hearing at such time as you may become available for return on the Department's warrant.

You have the right to a preliminary and final revocation hearing. A preliminary hearing may be held to determine whether there is probable cause to believe that you violated one or more of the conditions of your release in an important respect. At this hearing you are entitled to appear and speak on your own behalf; introduce letters and documents; present witnesses who can give relevant information; and confront and cross-examine adverse witnesses. Proof of your conviction of a crime committed after your release shall constitute probable cause for the purpose of the preliminary hearing. You may be represented by counsel. It is your responsibility to obtain counsel. Your waiver of this preliminary hearing is the equivalent to a finding of probable cause.

In the event you are convicted of either a misdemeanor or a felony offense committed while under community supervision and a preliminary hearing has not been completed, you will not be entitled to the preliminary hearing on the basis of the new conviction. Any preliminary hearing which may have been scheduled may therefore be cancelled upon your conviction for such misdemeanor or felony.

Following the establishment of probable cause, the Board of Parole or its designee will review your case and may order that you be held for a final revocation hearing.

At the final revocation hearing, the presiding officer will determine whether there is a preponderance of evidence to support each of the charged violations. At this hearing, you have the right to be represented by counsel; to speak on your own behalf; have the right to introduce letters and documents; present witnesses who can give relevant information; and confront and cross-examine adverse witnesses against you. At this hearing, you also have the right to present mitigating evidence relevant to your restoration to community supervision.

In the event you are convicted of a felony offense committed while under community supervision and you receive a new indeterminate or determinate sentence, any final revocation hearing which has been scheduled for you may be cancelled. In such instances, the Board of Parole may issue a final declaration of delinquency based upon that conviction and sentence.

In the event the Board of Parole issues a final declaration of delinquency, you will be served with a copy of that determination together with a copy of the commitment.

Should you be convicted of a crime committed after your release, it is the intention of the Department of Corrections and Community Supervision to introduce evidence of your conviction at the time of your revocation hearing.

A request to adjourn either scheduled hearing should be made in the case of a preliminary hearing, at least three (3) days, and in the case of a final hearing, at least seven (7) days prior to the hearing, in writing, to the local area office. Requests for adjournments made at the hearing will only be granted for good cause shown.

Violation of Release Report received:

\_\_\_\_\_  
Signature Date

All persons charged with a violation are required to be present at all proceedings regarding that violation of community supervision which are authorized by the Board of Parole. Any voluntary failure on your part to be present at any of these proceedings may result in a finding that your failure to appear was a voluntary, knowing and intelligent waiver of your right to appear. Should such a finding be made, a hearing in absentia can be held and a final determination be made regarding the charges pending against you, including, if necessary, a time assessment because of the violation of community supervision.

I **DO** wish to have a preliminary hearing

I do **NOT** wish to have a preliminary hearing

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Releasee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Witness

-----  
If you cannot afford an attorney and wish to have counsel at your preliminary hearing, sign and detach this form. It is your responsibility to mail the form to the address shown on the form. If you request counsel at your preliminary hearing, you must mail this form **IMMEDIATELY**.

TO: \_\_\_\_\_

RE: \_\_\_\_\_  
Name

\_\_\_\_\_  
WARRANT # \_\_\_\_\_

I am an alleged community supervision violator being held at: \_\_\_\_\_

I am scheduled for a preliminary hearing to be held on \_\_\_\_\_ at \_\_\_\_\_ at \_\_\_\_\_  
Date Time Place

I have waived my preliminary hearing. A final hearing has been scheduled for \_\_\_\_\_  
Date

at \_\_\_\_\_ at \_\_\_\_\_  
Time Place

I cannot afford an attorney and request that I be assigned counsel.  
Releasee \_\_\_\_\_  
Name