Parole Revocation in Connecticut

OPPORTUNITIES TO REDUCE INCARCERATION

Samuel Jacobs Criminal Justice Clinic | Jerome N. Frank Legal Services Organization

September 2017

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Introduction and Methodology

In February of 2015, Governor Dannel Malloy announced the launch of his Second Chance Society Initiative. The goals of that initiative were straightforward: First, to reduce the number of Connecticut residents sent to prison, and second, to assist people leaving prisons in reintegrating into society.[1] To those ends, the governor pushed for increased transparency across the criminal justice system and appealed to universities to provide research support for reform efforts across the state.

As part of those efforts, the Samuel Jacobs Criminal Justice Clinic ("CJC") agreed to undertake a research project exploring state parole revocation procedures in the fall of 2015. The clinic's chief task was to identify the causes of Connecticut's stubbornly high rate of reincarceration through the parole revocation process.[2]

CJC began this research by sending teams of students and professors to observe 49 parole revocation hearings in Connecticut during the month of November 2015. Clinic students and faculty took detailed notes during each of these observations. Additionally, clinic members researched the statutory, regulatory, and constitutional frameworks governing the revocation process to determine how closely the daily practice of revocation hearings matched the requirements set by law.

In January 2016, CJC presented its initial findings at the Connecticut State Capitol to a group composed of members of the governor's staff, the Board of Pardons and Paroles ("BOPP"), the Department of Correction, and the Office of Policy and Management. In the wake of this presentation, BOPP took an important step toward reform by changing its practice on preliminary hearings.[3] As of March 2016, BOPP began to hold preliminary hearings in all cases involving parolees accused of technical violations.

After the January 2016 presentation, CJC was asked to follow up on its initial observations by conducting interviews with the parolees whose revocation hearings it had observed in November 2015. The clinic developed a questionnaire (see Appendix II) to record parolees' experiences in the revocation process. CJC students and faculty then made efforts to reach all 49 of these parolees, and were ultimately able to complete interviews with 34. The questionnaire was designed to elicit information about the parolees' experiences in the process by posing questions about (a) their understanding of the procedures; (b) their knowledge of their rights; (c) their decisions to waive or invoke rights; and (d) the personal consequences of revocation.

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1 Press Release, Gov. Dannel P. Malloy, *Gov. Malloy Announces "Second Chance Society Initiatives to Further Reduce Crime, Reintegrate Nonviolent Offenders Into Society"* (Feb. 3, 2015), http://portal.ct.gov/Office-of-the-Governor/Press-Room/Press-Releases/2015/02-2015/Gov-Malloy-Announces-Second-Chance-Society-Initiatives-to-Further-Reduce-Crime-ReIntegrate-Nonviolen.

2 In October 2015, for example, Connecticut's Office of Policy and Management ("OPM") analyzed parole revocation statistics for inmates on special parole, the largest category of parolees in Connecticut. Special parole is a sentencing mechanism, enacted in 1998, that permits a sentencing judge to impose a period of parole supervision that the defendant must serve after completing a prison term. The state's analysis revealed that nearly 50% of people discharged from prison on special parole in 2012 and 2013 were returned to prison within 12 months. Technical violations "were reported to account for 75% of these returns." Special Parole Update, Office of Policy and Management, Criminal Justice Policy and Planning Division, October 2015, http://www.ct.gov/opm/lib/opm/cjppd/cjcjpac/20151030_cjpac_specialparole_presentation.pdf

3 A preliminary hearing is an initial hearing to determine if there is probable cause for the alleged violation; if the act is serious enough to warrant revocation; and if detention is appropriate pending further proceedings.

In December 2016, CJC returned to the Capitol to present its findings from the questionnaire and interview process. Members of the governor's staff attended this presentation, along with employees of BOPP, the Department of Correction, and the Office of Policy and Management.

Following this presentation, BOPP evaluated its preliminary hearing procedures and implemented three key reforms, which went into effect on April 4, 2017. First, BOPP improved its data tracking process to ensure that the deadline for scheduling a preliminary hearing is calculated based on the actual date that a parolee is returned to custody. Second, BOPP established deadlines for the Department of Correction to submit evidence in support of an alleged parole violation. Third, BOPP clarified that an alleged parole violation was criminal in nature (as opposed to technical) only if the violation was based on an arrest for a new crime or on a warrant, signed by a judge. This clarification was particularly significant in light of BOPP's March 2016 decision to hold preliminary hearings in all cases involving technical violations.

In ongoing discussions over the spring 2017 semester, BOPP asked that CJC present additional recommendations in writing. In response to this request, this report sets forth CJC's findings from its research beginning in November 2015 and makes recommendations to further improve the parole revocation process in the State of Connecticut.

Basic Structure of Parole Revocation in Connecticut

Connecticut's parole revocation process is divided between two distinct executive agencies: the Department of Correction Parole and Community Services Division ("DOC") and the Board of Pardons and Paroles ("BOPP" or the "Board"). DOC employs the parole officers responsible for supervising parolees in the community, while BOPP makes parole release decisions, sets the terms and conditions of parole, and administers the parole revocation process.

DOC parole officers can initiate revocation proceedings if they believe that a parolee has violated a condition of parole. Upon review of the alleged violation(s), a DOC parole officer may decide to return the parolee to custody by issuing a Remand to Actual Custody Order. In so doing, the DOC parole office must also submit a parole violation report to BOPP.[4] The return to custody (the remand) formally initiates the parole revocation process, and the DOC parole violation report serves as a warrant application for BOPP's review.

At this point, a parolee is entitled to a preliminary hearing to contest the DOC parole officer's decision to remand.[5] This proceeding requires a BOPP parole officer acting as a hearing examiner to determine: (1) "whether there is probable cause to believe the offender has committed an act in violation of the conditions of parole;" (2) "whether the act is serious enough to warrant revocation of parole;" and (3) "whether the offender should be detained pending further revocation proceedings."[6] If the

4 *See* Conn. Agencies Regs. § 54-124a(j)(1)-4.
5 *Morrissey v. Brewer*, 408 U.S. 471 (1972).
6 Conn. Agencies Regs. § 54-124a(j)(1)–5(e)(1)-(3).

hearing examiner finds probable cause for an alleged violation that is "serious enough to warrant revocation," the examiner may order the parolee detained pending a final revocation hearing.[7] In the alternative, the examiner may release the parolee back into the community under supervision upon an affirmative finding that the person is unlikely to engage in further misconduct and the release does not jeopardize public safety.[8] Unless the parolee affirmatively waives the preliminary hearing, or it is continued for good cause, the hearing must take place within 14 business days of his or her remand.[9] If the parolee is not released and returned to parole supervision after the preliminary hearing, he or she will be provided a final revocation hearing.[10] The purpose of this hearing is to "determine contested relevant facts regarding allegations of violation of parole; to determine whether the facts as found warrant revocation of parole; and, if so, to determine an appropriate disposition."[11]

A BOPP parole officer acting as a hearing examiner conducts the final revocation hearing. First, the hearing examiner decides whether there has been a violation of a condition of parole. In making this decision, the examiner may "require the presence of any relevant witness" and must afford the parolee an opportunity to contest the allegations and offer mitigating evidence.[12] At the conclusion of this stage of the hearing, if the examiner finds no violation, the hearing is over and parole is reinstated. In the alternative, if the examiner determines that there has been a violation *and* that this violation may merit revocation, the examiner hears evidence about the parolee's background and history for the purpose of considering the appropriate disposition. After hearing this evidence, the examiner makes one of two recommendations: either that parole should be reinstated or that parole should be revoked. If the examiner recommends revocation, he or she also recommends a period of incarceration to be imposed as a sanction.[13]

A panel of Board Members, appointed by the governor, reviews the hearing examiner's recommendations and decides whether or not to revoke parole. If the panel decides to revoke parole, it also decides what sanction should be imposed.[14]

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7 *Id.*

8 *Id.* at § 54-124a(j)(1)–5(g).

9 *Id.* at § 54-124a(j)(1)–5(b).

10 *Id.* at § 54-124a(j)(1)–9(b). Under Connecticut regulations, the final revocation hearing must occur no later than "sixty business days from remand unless continued for good cause." *Id.* at § 54-124a(j)(1)–9(a).

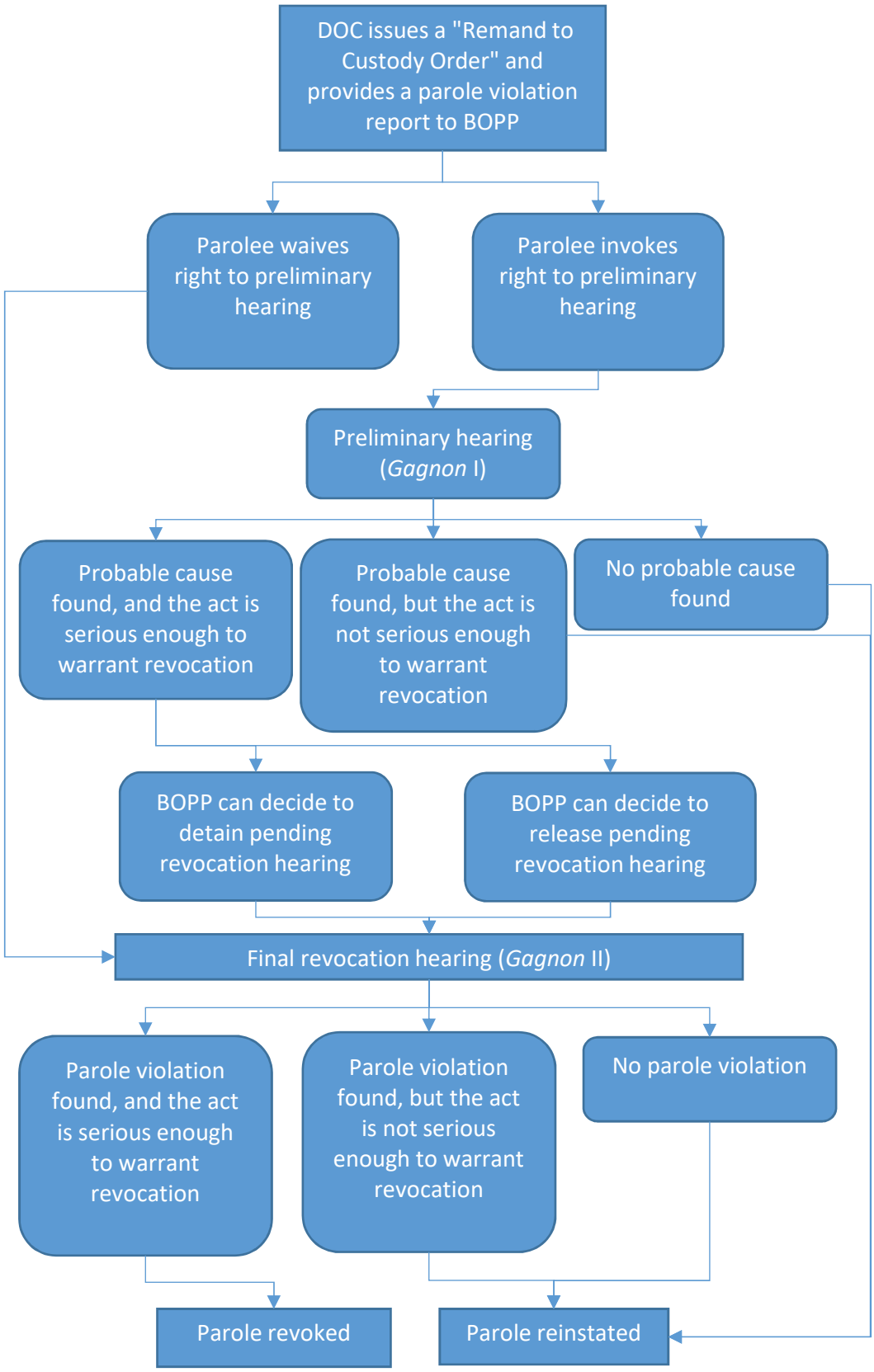
11 *Id.* at § 54-124a(j)(1)–9(b).

12 *Id.*at § 54-124a(j)(1)–9(f).

13 *Id.* at § 54-124a(j)(1)–9(f)-(i).

14 *Id.* at § 54-124a(j)(1)–9(l)-(m).

Figure 1: The Parole Revocation Process in Connecticut



Executive Summary

After reviewing the relevant constitutional, statutory, and regulatory standards, observing preliminary and final revocation hearings, interviewing parolees, and surveying procedures and developments in other jurisdictions, CJC identified multiple areas of concern in the parole revocation process in Connecticut.

Hearing Observations

CJC observed 49 parole revocation hearings in Connecticut during the month of November 2015. After those observations, CJC reported the following findings at a January 2016 meeting at the state Capitol:

- BOPP's hearing examiners made a finding of a violation in 100 percent of the cases CJC observed in November 2015.
- BOPP's hearing examiners recommended that parole be revoked in 100 percent of observed cases.
- The BOPP panel revoked parole and imposed a prison sanction in 100 percent of the observed hearings, despite the panel's broad power to reject a hearing examiner's recommendation and reinstate parole.
- No parolee appeared with appointed counsel, even though a number of parolees seemed to qualify for state-provided counsel under the federal constitutional standard.
- At least 94 percent of observed parolees had previously waived their right to have a preliminary hearing within 14 business days of re-incarceration. These same parolees were routinely incarcerated for at least three months awaiting their final revocation hearings.
- The standard procedure at final revocation hearings made it difficult for parolees to adequately contest disputed facts or to present mitigating evidence. As a result, BOPP decisions were often made based on intuited credibility determinations rather than verified facts, and parolees were unable to properly present mitigation arguments in favor of a reduced sanction or reinstatement.

Follow-up Survey of Parolees

In 2016, CJC conducted follow-up interviews with the observed parolees. We found that 68 percent of parolees surveyed did not know what a preliminary hearing was.[15] This information was especially troubling in light of several parolees' claims that DOC parole officers either directly or indirectly encouraged them to waive their preliminary hearings or simply told them to initial the waiver provisions without further explanation.

Correspondingly, interviewed parolees were generally unaware of the rights they were afforded at their hearings. The interviews revealed that 88 percent were unaware that they could have had their parole reinstated at a preliminary hearing, and thus be released from custody; 85 percent were unaware of their right to question the witnesses against them at a preliminary hearing; and 56 percent did not know they could question adverse witnesses at their final revocation hearings.

Parolees also lost significant gains they had made before being remanded to prison. In Connecticut, most alleged parole violators spend at least several months incarcerated, during which time they cannot work or attend to responsibilities outside of prison. Accordingly, among the interviewed parolees, 79 percent lost employment and 47 percent lost housing after undergoing the revocation process.

The high rate of job and housing loss may be due to the standard incarceration periods that accompany revocation proceedings in Connecticut. DOC automatically incarcerates a parolee awaiting revocation proceedings regardless of the nature of the alleged violation(s). And parolees are incarcerated for up to two weeks before BOPP makes a probable cause determination for the alleged violation.

Parolees whose alleged violation is based on a new criminal charge have been affected by Connecticut's revocation process in a number of distinctive ways. In Connecticut, an alleged parole violator with a new criminal charge has traditionally been detained under a DOC "parole hold" (or "detainer") without regard to the seriousness of the underlying charge. Because the alleged parole violator is expected to resolve the criminal case before being granted a parole revocation hearing, the parolee remains incarcerated during the pendency of that criminal case, even if the charge is of a kind that would normally result in bail being set by a court. In interviews, parolees reported feeling pressure to plead guilty to criminal charges in order to be allowed to start BOPP's parole revocation process and attempt to get out of jail.

15 CJC began asking this question after an interviewee made clear that he did not know what a preliminary hearing was. At this point, several interviews had already been conducted without specifically confirming the interviewee's basic familiarity with the concept of a preliminary hearing. In the interviews, when shown the forms in which they had waived their right to a preliminary hearing, 20 out of 34 respondents reported waiving their rights because a DOC parole officer either advised them to waive or told them to initial in the area indicating waiver.

Key Recommendations

1 CJC recommends that BOPP conduct trainings for its members and employees to ensure that its policies regarding the appointment of counsel comply with the relevant regulatory and constitutional standards. In that same vein, the Board should seek opportunities to partner with public defender offices, law school clinics, and the pro bono defense bar to provide counsel to parolees. The Board should also work with lawyers and law students to design a pro se guide for parolees explaining the revocation process.

2 CJC recommends setting up procedures to ascertain the existence of disputed facts prior to the final revocation hearing—potentially at the preliminary hearing—and to ensure that a parolee has the chance to develop and present mitigating evidence at the final revocation hearing. Parolees in revocation proceedings should be provided information about their rights to present evidence and call into question the state's evidence, and they should not face barriers to exercising those rights.

3 CJC identified several opportunities to reduce the high rate of incarceration caused by the revocation process so that it might be less disruptive for parolees and preserve state resources at the same time. Beginning in January 2016, CJC recommended that BOPP exercise its power to release parolees at preliminary hearings if there was no probable cause to support the violation, or if the alleged violation was relatively minor. In March 2016, BOPP took a significant step toward implementing this recommendation when it began holding preliminary hearings in all cases involving parolees accused of technical violations. In April 2017, BOPP improved the procedures surrounding these preliminary hearings with several key reforms. To further reduce incarceration, BOPP should explore the possibility of conducting at least some preliminary hearings in the community. This potential reform would require the cooperation of DOC, which currently uses its remand authority under C.G.S.A. § 54-127 to return parolees to custody in every case in which it initiates revocation proceedings. BOPP should also work with DOC to encourage the use of sensible graduated sanctions to keep parolees in the community. BOPP has the statutory authority to establish a graduated sanction system under C.G.S.A. § 54-124a(l)(2).

4 BOPP should review DOC parole holds in revocation proceedings that involve low-level criminal charges that would otherwise result in bail. Under the regulations, BOPP has the authority to evaluate a new criminal charge at a preliminary hearing to determine if the circumstances are sufficiently serious to justify continued detention.[16] Developing standards on the release of DOC parole holds could reduce incarceration rates and help limit the pressure on parolees to plead guilty to disputed charges.

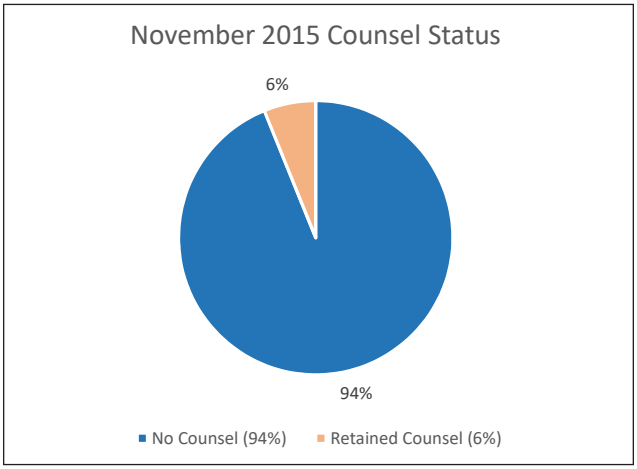
16 Conn. Agencies Regs. § 54-124a(j)(1)-4 & (1)-5.

5 Finally, the state's Office of Policy and Management ("OPM") should include monthly statistics in its Monthly Indicators Report aimed at increasing the transparency of the parole revocation process. In particular, OPM should include monthly statistics on: (1) the number of remands by DOC; (2) the percentage of cases in which BOPP held a preliminary hearing and the results of those hearings; (3) the percentage of cases in which the remanded parolee received appointed counsel for the preliminary hearing; (4) the number of final revocation hearings and the results of those hearings (including the length of the sanctions imposed); and (5) the percentage of cases in which the remanded parolee received appointed counsel for the final revocation hearing. In each of these five categories, OPM should report the data in a manner that allows for a separate analysis regarding the handling of criminal versus technical violations.

Both DOC and BOPP should work closely with OPM to facilitate the reporting of this data. To increase BOPP's own research capacities, DOC should permit BOPP to extract data (including aggregated data) from the CaseNotes system so that BOPP can generate its own analytic reports.

Assistance of Counsel

Forty-six of the 49 parolees facing revocation in November 2015 represented themselves in their revocation hearings. While parole was ultimately revoked in all 49 cases, the only person whom the Board acquitted on any count was among the three parolees with private retained counsel. Though both state regulations and the federal constitution promise access to appointed counsel for certain parolees, not one indigent person we observed ever obtained the assistance of a lawyer.



BOPP procedure on the appointment of counsel falls short of federal constitutional requirements.

In certain cases, particularly where the probationers or parolees allege "substantial reasons" that justify or mitigate the alleged violation, "fundamental fairness—the touchstone of due process—will require that the State provide at its expense counsel for indigent probationers or parolees."[17]

17 *Gagnon v. Scarpelli*, 411 U.S. 778, 790 (1973).

An indigent parolee has a presumptive federal constitutional right to counsel at both the preliminary and final revocation hearing when he or she makes:

> [a] colorable claim (i) that he has not committed the alleged violation of the conditions upon which he is at liberty; or (ii) that, even if the violation is a matter of public record or is uncontested, there are substantial reasons which justified or mitigated the violation and make revocation inappropriate, and that the reasons are complex or otherwise difficult to develop or present.[18]

Furthermore, when deciding on a request to appoint counsel, "the responsible agency also should consider, especially in doubtful cases, whether the [parolee] appears to be capable of speaking effectively for himself."[19]

Connecticut regulations incorporate the *Gagnon* standard into revocation proceedings. The remanding authority is required to "advise the offender of the right to counsel at personal expense and a limited right to counsel appointed by the State to represent him."[20] Yet, in revocation hearings that CJC observed, parolees often denied the accusations levied against them and disputed key facts alleged in the violation report. These parolees were all incarcerated, and were severely limited in their ability to build a case to defend themselves and present mitigation evidence on their own. Absent counsel, it appeared that there was no real avenue for these parolees to gather evidence and corroborate their claims.

When asked in November 2015, the Board informed CJC that it was using a strict competency standard to assess whether a person was entitled to counsel, rather than the presumptive standard pronounced by the *Gagnon* Court. The Board indicated that it only considered parolees eligible for appointed counsel when they were wholly incapable of speaking for themselves. This policy may have been based on confusing regulatory language in § 54-124a(j)(1)-12.[21] Nevertheless, as CJC communicated in the January 2016 presentation, the broader constitutional standard governs, and must be applied by the Board. Additionally, even observed parolees who appeared to meet the strict competency standard described by the Board went unrepresented, as in the case of Mr. A described below.

> The November 5, 2015 final revocation hearing of one parolee, Mr. A,[22] illustrates the problems created by the current policies on appointed counsel. Mr. A's revocation hearing focused on the fact that his sponsor had lost his home and could not house Mr. A, and that the Residential Parole Unit and REACH (a program for individuals with cognitive and developmental disabilities) had denied Mr. A treatment because of his significant psychiatric and medical needs.[23] A DOC nursing home had also denied him placement.

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18 *Id.*

19 *Id.* at 790–91.

20 Conn. Agencies Regs. § 54-124a(j)(1)-4(d)(2).

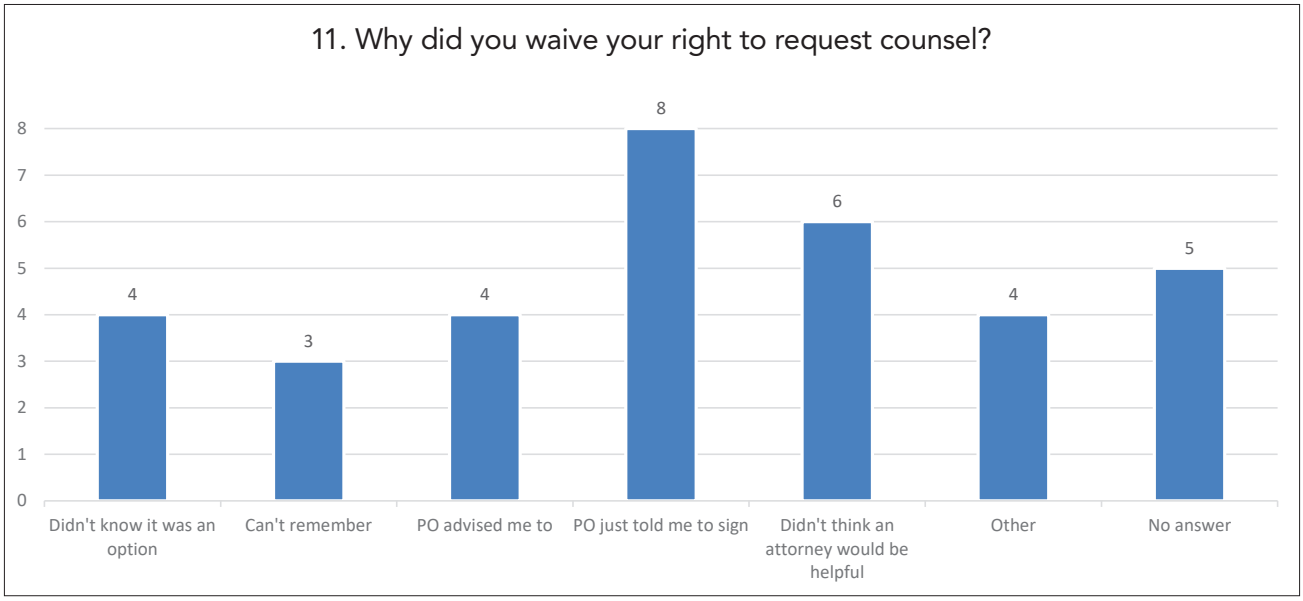
21 Due to confusing grammar, the current language of § 54-124a(j)(1)-12 appears to suggest that the state must provide counsel only when parolees are "incapable of speaking for themselves." State officials should revise the language of § 54-124a(j)(1)-12 to clear up the confusion and ensure that the regulatory language aligns properly with *Gagnon*.

22 All names have been altered to preserve confidentiality.

23 Background details were provided by the parole violation report attached to Mr. A's file.

At the revocation hearing, Mr. A struggled to communicate basic facts and details, and his responses indicated that he did not understand questions posed by the Board. For instance, Mr. A repeatedly said that he was scheduled to leave prison on March 12, 2012 —even though the hearing was taking place in November 2015. Mr. A was ordered held until the end of his sentence. He could have benefited greatly from legal representation.

In devising the survey instrument, CJC made sure to ask questions directed at the counsel issue. Specifically, CJC asked parolees why they had waived their right to ask for counsel. The results of that inquiry indicate that a plurality of parolees recall being encouraged to waive their right to counsel by a DOC parole officer. More troublingly, a substantial number reported being encouraged to sign waivers without being informed of the actual rights they were waiving.



BOPP's procedure for appointing counsel contravenes the state's federal constitutional duty articulated in *Gagnon*. The Board does not appear to have any standards for considering what constitutes a satisfactorily "colorable" claim of innocence or when mitigating circumstances are "substantial" and "complex" enough for appointment purposes. Furthermore, beyond presenting a request in writing to the Chairperson, there appears to be scant guidance for the parolee seeking appointed counsel, who must present this information to satisfy his or her burden.

Parolees we observed were ill-positioned to defend themselves.

Most parolees facing revocation are indigent and lack adequate information and resources needed to understand and navigate the complicated revocation process. Given the significant hurdles to attaining appointed counsel, it appears that indigent parolees are at a significant disadvantage in these proceedings. In practice, only those wealthy enough to hire their own lawyers have access to counsel.

Best Practices in Other Jurisdictions

In the District of Columbia, all indigent parolees are entitled to appointed counsel through the Public Defender Service for both preliminary hearings and revocation hearings. Source: www.pdsdc.org

Parolees who are mentally ill or low-functioning are at an even greater disadvantage. BOPP will only consider appointing counsel if a parolee first requests counsel. This practice poses a risk for vulnerable parolees who may obviously need appointed counsel but for whatever reason do not act affirmatively to request an attorney.

In CJC observations, parolees often seemed unaware of elements of the revocation process or how best to respond to Board questions. In general, parolees seemed to think that it was in their best interests to admit to violations upfront, even if they did not believe they were guilty of those violations. The clinic observed hearings, for example, in which a parolee admitted to a violation at the beginning of the revocation hearing, but then went on to provide evidence that rebutted that supposed violation. The BOPP hearing examiner often used the fact of the admission to support the finding of a violation.

Lawyers could provide valuable guidance to parolees to ensure that they understand their rights and the implications of admissions. Attorneys could also be critical in developing evidence for the Board to consider when facts are in dispute. This kind of assistance could contribute to both the efficiency and equity of the proceedings by ensuring that BOPP's decision-making process is based on more complete and accurate information.

Recommendations

Ensure that all relevant officials know and apply the constitutional standards on the appointment of counsel in parole revocation cases.

The regulations governing appointment of counsel should be revised to clarify the parolee's presumptive right to counsel in circumstances that meet the standards outlined in *Gagnon v. Scarpelli*, 411 U.S. 778 (1973).

Educate parolees and their representatives on the standards governing parole revocation proceedings.

Design and publish training guides for parolees and for appointed and retained counsel. Publish the guides for parolees in multiple formats and languages to make them accessible. Ensure that the guides clearly communicate the standards, best practices, and procedures of the parole revocation process in Connecticut. Consider partnering with public defenders or law school clinics for the production of these guides.

Partner with local lawyers and law clinics.

BOPP should seek opportunities to partner with the Connecticut Bar Association, the Connecticut Criminal Defense Lawyers Association, public defender offices, and law school clinics to provide legal representation to parolees in the revocation process.

Train DOC parole officers to ensure they are not advising or pressuring parolees to waive the right to request appointed counsel.

BOPP should collaborate with DOC officials to ensure that all parole officers and parole managers are trained thoroughly on the *Gagnon* standards for appointing counsel and on best practices for properly informing parolees of their right to request counsel. The rights of parolees should be made clear from the beginning of the revocation process through the final revocation hearing.

Establish procedures to ensure early appointment of counsel.

BOPP should establish a streamlined process to appoint counsel early and quickly. The current appointment process discourages parolees from requesting counsel because it leads to lengthier incarceration periods and delayed hearings. These delays could be reduced by establishing smooth partnerships with members of the bar and with law school clinics. A swifter appointment system will help ensure that parolees who are entitled to attorneys can be effectively represented.

BOPP should consider moving to a system that provides for the default appointment of counsel in revocation proceedings involving indigent parolees, particularly parolees who are incarcerated. If BOPP moves to a default system, counsel should be appointed shortly after remand to allow for representation at the preliminary hearing. Parolees should be permitted to opt out of a default appointment system on a case-by-case basis.

Publish monthly statistics on the appointment of counsel.

To increase transparency, OPM should work with BOPP to track monthly statistics on the appointment of counsel for preliminary hearings and final revocation hearings. OPM should include these statistics in its Monthly Indicators Reports, and BOPP should publish them on its website.

Investigations of Disputed Facts and Mitigation

BOPP procedures do not provide for adequate investigation of disputed facts or presentation of mitigation evidence as required by Connecticut regulations and due process principles.

Investigation of Disputed Facts

As CJC observed final parole revocation hearings in the month of November 2015, the clinic found that the proceedings were not structured to enable parolees to adequately contest disputed facts or present evidence in mitigation of their alleged violations.

Both Connecticut regulations and the United States Supreme Court provide a framework that establishes the structure and purpose of parole revocation hearings. According to Connecticut regulations, "[t]he purpose of a revocation hearing is to determine contested relevant facts regarding allegations of violation of parole."[24] The United States Constitution also requires that parole revocation hearings conform with certain principles of due process, namely that a parole revocation hearing be "structured to assure that the finding of a parole violation will be based on verified facts and that the exercise of discretion will be informed by an accurate knowledge of the parolee's behavior."[25]

However, in the final revocation hearings CJC observed, there was no real opportunity for investigation of the validity of any disputed facts underlying the alleged violation. This lack of opportunity for investigation stems in large part from the fact that most parolees are incarcerated prior to the final revocation hearing. Without lawyers on the outside, they have severely restricted opportunities to carry

24 Conn. Agencies Regs. § 54-124a(j)(1)–9(b).
25 *Morrissey v. Brewer,* 408 U.S. 471, 484 (1972).

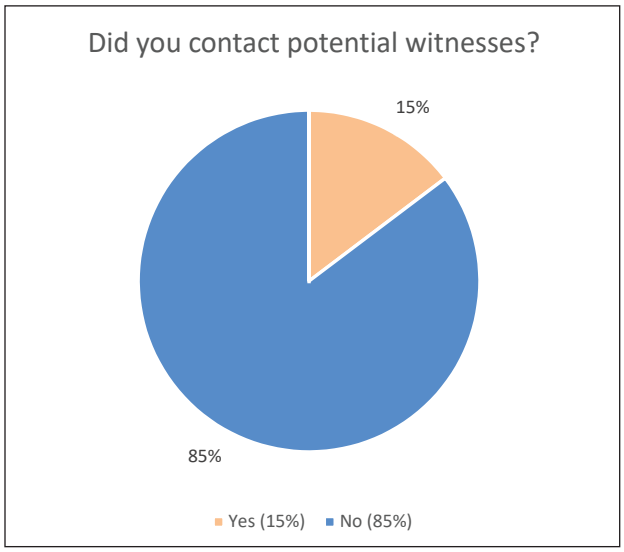
out investigations and produce evidence in support of their claims. In line with this observation, CJC found that 85 percent of the parolee-respondents to its questionnaire reported that they did not contact potential witnesses in advance of their final revocation hearings, and 91 percent did not collect exculpatory evidence. In the final revocation hearings CJC observed, BOPP's response to disputed facts was to adopt the allegations made by the DOC parole officer, without conducting an independent investigation. BOPP staff emphasized to CJC that BOPP is responsible for the adjudication process, not the investigation process.

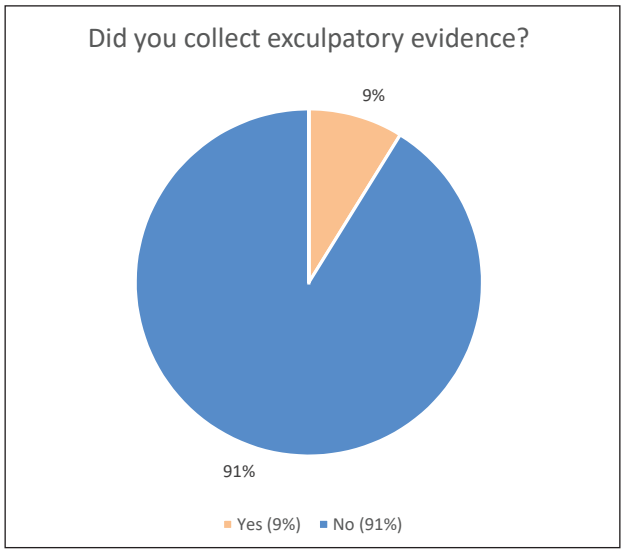
"The fact is that some parole officers are good at what they do, and some are not. We have to believe what they tell us is true."

– A Board Member deliberating contested facts on November 17, 2015.

"If the parole officer says something, you have to believe the parole officer."

– A Board Member deliberating contested facts on November 19, 2015.





During a November 17, 2015 final revocation hearing, a parolee was given a seven-month sanction for leaving his halfway house and testing positive for drugs. At his hearing, the parolee testified that he had been kicked out of the halfway house when the house manager rejected his money order and demanded that he pay his rent in cash. The parolee claimed that the manager had been fired the next week from the halfway house for taking money. The parolee further testified that a medication he was prescribed for HIV causes false positives on drug tests. Although one Board Member noted that he knew some such medication did cause false positives, no investigation was made into either of these issues. The parolee was found to have violated on both charges.

"I'm concerned about the HIV medication. I am. I'm concerned about that. I do know he's right about the medication. It does give you a false positive."

– A Board Member discussing this parolee's claim on November 17, 2015.

Mitigation

A second area of concern was the lack of opportunity for parolees to present mitigation evidence. While such evidence does not negate a finding of a violation, it might still be dispositive for the Board when determining whether to revoke parole or to sanction a parolee.

Both Connecticut regulations and U.S. Supreme Court precedent require that parolees be permitted to present evidence in mitigation of their alleged violations at parole revocation hearings. According to Connecticut regulations, a parolee accused of violating the conditions of his or her parole has a right to be heard and to present evidence demonstrating that the "circumstances in mitigation show that the violation does not warrant revocation."[26] Moreover, if the hearing examiner concludes that the accused violated a condition of parole that may warrant revocation, "the Hearing Examiner shall hear from both the attending parole officer and the offender regarding the offender's background and history for the purpose of considering the appropriate disposition."[27] In addition, the U.S. Supreme Court has held that in a parole revocation hearing, "[t]he parolee must have an opportunity to be heard and to show, if he can, that he did not violate the conditions, or, if he did, that circumstances in mitigation suggest that the violation does not warrant revocation."[28]

Despite these legal requirements, parolees were generally not given the opportunity to present mitigation evidence in the final revocation hearings we observed in November 2015. The rare case in which the parolee mounted a serious mitigation effort was met with impatience and confusion:

> On November 5, 2015, a parolee's retained lawyer attempted to present mitigation evidence during his final revocation hearing to explain the parolee's actions and make the case for a more lenient sanction. Throughout his presentation of mitigation evidence, the attorney was interrupted by both the hearing examiner and the Board panel members, who told him to focus on the violation allegations. The attorney was allowed to continue presenting mitigation, but only after he insisted that this mitigation evidence was relevant to the case.

Recommendations

Develop procedures to thoroughly investigate potential disputes of fact prior to the final revocation hearing.

BOPP hearing examiners should use a preliminary hearing as an opportunity to ascertain whether there are any disputed facts, rather than waiting for the final revocation hearing. Once on notice that material disputes exist, a hearing examiner should encourage the parolee to develop his or her own corroborating evidence and provide the parolee with an opportunity to request the appointment of counsel.

Under the current system, nobody is assigned the role of helping indigent and incarcerated parolees gather the necessary evidence to support their claims. Appointed counsel, law students, or volunteer attorneys could conduct pre-hearing investigations to verify facts and develop mitigation evidence.

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26 Conn. Agencies Regs. § 54-124a (j)(1)–9(g).
27 *Id.* § 54-124a (j)(1)–9(h).
28 *Morrissey*, 408 U.S. at 488.

Give parolees the opportunity to develop mitigation evidence and present this evidence at the final revocation hearing.

In order to ensure that the final revocation hearing provides the opportunity for the parolee to present mitigation evidence, the function and purpose of mitigation evidence should be explained to the parolee (and/or his or her counsel) immediately after a parole violation is initiated. At the final revocation hearing, the parolee should be encouraged to present mitigation evidence if he or she so chooses. If the parolee presents mitigation evidence, BOPP should consider it in making a determination as to what, if any, sanction is warranted for the violation, with the understanding that the regulations authorize the release and reinstatement of a parolee even if a violation is found.

Train hearing examiners and Parole Board Members on the due process standards underlying the revocation process.

To bring final revocation hearing practices in line with regulations and due process requirements, we recommend trainings with hearing examiners and Board Members that highlight the purpose of revocation hearings, with particular emphasis on the need to rely on verified facts and to permit the introduction of mitigation evidence.

Train BOPP and DOC employees on the importance of BOPP exercising independent oversight over the parole revocation process.

BOPP and DOC employees should both be trained on the importance of the BOPP maintaining its independence from DOC parole officers. BOPP hearing examiners and panel members must be free to exercise independent review power over decisions made by DOC parole officers for the integrity of the adjudication process.

Publish monthly statistics on the outcomes of preliminary hearings and final revocation hearings.

To increase transparency, OPM should work in conjunction with BOPP and DOC to track and publish monthly statistics on: (1) the number of remands by DOC; (2) the percentage of cases in which the BOPP held a preliminary hearing and the results of those hearings; and (3) the number of final revocation hearings and the results of those hearings (including the length of the sanctions imposed for criminal v. technical violations). OPM should include these statistics in its Monthly Indicators Reports, and BOPP should publish them on its website.

Opportunities to Reduce Incarceration

The Board can make use of already-existing procedures to prevent unnecessary incarceration.

On average, parolees accused of technical violations spent 12 weeks in custody awaiting their final revocation hearing. Parolees accused of criminal violations[29] spent an average of 15 weeks in custody awaiting their revocation hearing.

Each parolee in the final revocation hearings CJC observed in November 2015 spent additional time incarcerated after the hearing, given the 100 percent finding of violation and the 100 percent revocation rate. However, it is important to note that 75 percent of these parolees did receive re-parole dates. In other words, 75 percent of the observed parolees were returned to parole supervision after completing the sanction imposed on them.

More attention should be paid to the negative effects of remand and incarceration.

The parolees we interviewed reported significant hardships as a result of being remanded to custody. Seventy-nine percent of parolees lost employment as a result of being remanded, and 47 percent lost their housing. Employment and housing provide stability for parolees when they are out in the community. Losing these support systems hinders rehabilitation and reintegration into the community. As such, reincarceration of parolees should be employed as sparingly as possible.

> "I think the parole officer was the catalyst for the problem."
>
> – A Board Member evaluating the accused absconder's case on November 19, 2015.

One parolee whose final revocation hearing CJC observed in November 2015 explained that after being reassigned to a new DOC parole officer, communication issues resulted in him being returned to prison based on a claim that he had not reported. At his revocation hearing, a Board Member concluded that the new DOC parole officer was the catalyst for the problem. Nevertheless, the Board revoked parole in the case. The Board did consider the possibility of releasing the parolee immediately, but one of the Board Members then asked: "Do you really want to slap the parole officer in the face like that? Give him at least a week." In the end, concern about the reaction of the DOC parole officer appeared to control the punishment decision in the case. The parolee lost his job as a result of the revocation process.

The current process for notification and waiver of hearing rights is unreliable.

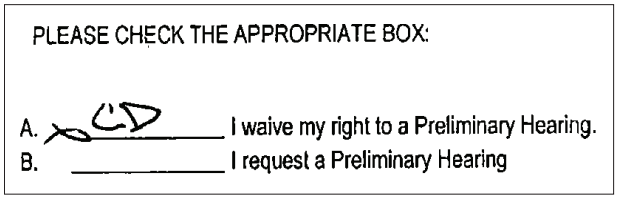
Properly-conducted preliminary hearings can help address serious deficiencies in the notification stage of the revocation process. For instance, 68 percent of parolees surveyed by CJC did not even know what a preliminary hearing was, even after they had already gone through the revocation process. One parolee said he had been through the revocation process three times in two years without ever being told about his right to a preliminary hearing. Like several other interviewed parolees,

29 At the time of our 2015 observations and 2016 interviews, this designation did not necessarily mean that the parolee was arrested or charged with a new crime. As of April 4, 2017, however, BOPP started applying a new standard, which narrowed the definition of "criminal violation."

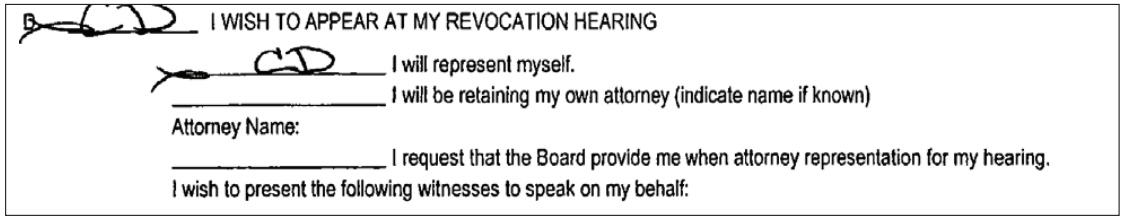
this parolee recalled that his remanding DOC parole officer told him to mark off the waiver provisions without explanation. Other parolees also reported that officers encouraged them to waive their right to a preliminary hearing.

> "This is the third time they've put me back in the last two years, and they never gave me that option. **They always said, 'check this box.'"**
>
> – A parolee who did not know what a preliminary hearing was describing his remand experience in a 2016 interview.

Although CJC was unable to observe and confirm such reports first-hand, both the 94 percent preliminary hearing waiver rate observed in November 2015 and the subsequent interview results strongly suggest that parolees were not being properly informed of the rights they were waiving away. Additionally, while reviewing documents provided during the course of this study, clinic members noticed markings on waiver forms handled by certain remanding DOC parole officers who happened to have served multiple parolees. Seven of these multiple-remand officers appeared to have placed ✗s or ✓s (or other such markings) beside the place where a parolee would initial in order to waive a preliminary hearing, decide to represent him or herself (thus waiving counsel), or both.


PLEASE CHECK THE APPROPRIATE BOX:

A. CD I waive my right to a Preliminary Hearing.
B. _____ I request a Preliminary Hearing


B CD I WISH TO APPEAR AT MY REVOCATION HEARING

CD I will represent myself.
_____ I will be retaining my own attorney (indicate name if known)
Attorney Name:
_____ I request that the Board provide me when attorney representation for my hearing.
I wish to present the following witnesses to speak on my behalf:

There were no similar markings beside the lines in which a parolee could request a preliminary hearing or request appointed counsel. This pattern was observed by the clinic only because the markings, which varied by parole officer, were consistent for specific officers across multiple parolees. These observations were shared with state officials at the December 2016 presentation, and a spreadsheet of the waiver forms containing markings by parole officer is shown in Appendix I. CJC cannot confirm when precisely these markings were made—or clarify the context in which they were made—but the clinic believes the markings underscore the need for DOC training on this issue.

BOPP should continue to reform its practices on preliminary hearings.

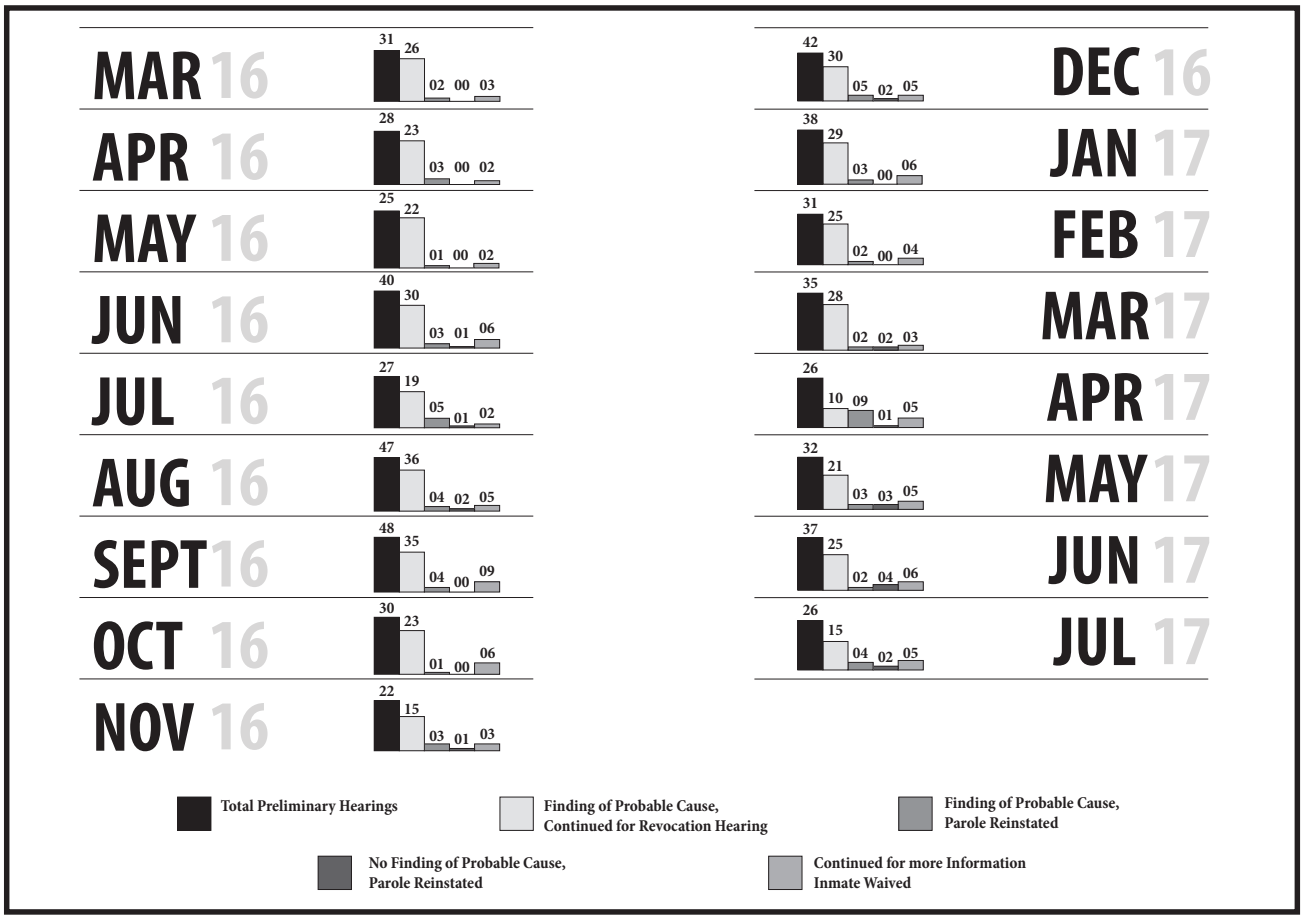
In March 2016, in response to CJC's finding that nearly all observed parolees waived their preliminary hearings, BOPP began to hold automatic preliminary hearings for all technical parole violators.

After CJC's December 2016 presentation, BOPP further evaluated its practices and announced three significant amendments to its preliminary hearing procedures in April 2017. First, it changed its data tracking system to ensure that the deadline for scheduling a preliminary hearing is calculated based on the actual date that a parolee is returned to custody. Second, it established deadlines for DOC to

submit evidence in support of an alleged parole violation. Third, BOPP clarified that an alleged parole violation should only be considered criminal in nature (as opposed to technical) if the violation is at least partially based on an arrest for a new crime or on a warrant, signed by a judge.

The chart below reflects the outcomes of the preliminary hearings that BOPP held between March 2016 and July 2017. This chart, which is based on data provided by BOPP, shows the number of parolees who were released after a preliminary hearing either because no probable cause was found; or because the alleged violation was considered insufficiently serious to justify revocation, despite a finding of probable cause.[30]

Preliminary Hearing Status 2016–2017



30 CJC is grateful to Vilmaris Diaz, Associate Research Analyst at BOPP, for ensuring that data on preliminary hearings is collected on an ongoing basis and for providing the data to CJC for inclusion in this report.

CJC observed some preliminary hearings on March 7th and March 21st of 2017, one year after BOPP announced its policy change. In the course of those observations, CJC found that not all BOPP hearing examiners were making use of the full range of options included in the Connecticut regulations. According to those regulations, preliminary hearings are conducted in order to (1) "determine whether there is probable cause to believe the offender has committed an act in violation of the conditions of parole;" (2) "whether the act is serious enough to warrant revocation of parole;" and (3) "whether detention pending further proceedings is warranted."[31] Accordingly, the hearing examiner is empowered to release a parolee under three circumstances: (1) if the examiner finds no probable cause to support the alleged violation, (2) if the examiner finds that the violation does not warrant revocation, *notwithstanding a finding of probable cause* or (3) if the examiner determines that the parolee should not be detained pending the final revocation hearing, *notwithstanding a finding of probable cause*.[32]

However, the scripted statement that CJC observed some BOPP hearing examiners read to unrepresented parolees at the outset of preliminary hearings in March 2017 did not acknowledge the possibility of a parolee being released in a case in which probable cause was found:

> "If I find probable cause that you have violated one or more of the conditions of your release, you will be held in custody pending a final revocation hearing. If I do not find probable cause to believe that you violated one or more of the conditions of your release, then your parole will be reinstated."

Based on the clinic's March 2017 observations, it appeared that not all hearing examiners considered the other available grounds for release at preliminary hearings in which they did make a finding of probable cause.

Recommendations

Exercise the full range of release powers at preliminary hearings.

To effectuate the regulations, BOPP hearing examiners should be affirmatively trained that they can choose to release people at preliminary hearings even if they make a finding of probable cause. Hearing examiners should utilize all of the regulatory provisions at their disposal when they encounter relatively minor violations that may not merit continued incarceration.

Consider conducting preliminary hearings in the community and/or reducing the time lapse between remand and the preliminary hearing.

Connecticut should consider altering its preliminary hearing practices in order to conduct preliminary hearings in the community in appropriate cases. Summoning parolees to report to their local parole office (or other location) for a preliminary hearing could decrease the disruptive nature of revocation proceedings for individuals with relatively minor alleged violations.

31 Conn. Agencies Regs. § 54-124a(j)(1)–1(11).

32 *Id.* at § 54-124a(j)(1)–5(g).

DOC and BOPP should jointly consider this proposed reform. In order to make it possible for BOPP to conduct preliminary hearings in the community, DOC would have to cooperate by not issuing a Remand to Actual Custody Order in those cases.

For cases in which DOC does remand a parolee for an alleged violation, the state should consider amending its regulations to reduce the time lapse between remand and the preliminary hearing. The regulations currently require that the preliminary hearing be held within 14 business days of remand, unless continued for good cause.

Reduce time between remand and final revocation hearing.

In addition, incarceration rates could be reduced—and collateral consequences lessened—if the time between remand and the final revocation hearing were to be shortened. Connecticut parole regulations require that a revocation hearing take place no later than 60 business days from remand, unless continued for good cause. It is standard for parolees to be held in custody for three months or more before the final revocation hearing. In 2016, for instance, parolees remanded on alleged technical violations spent an average of 12 weeks in custody awaiting their final revocation hearings—at a rough cost to the state of $11,500 for each parolee during this period. Those remanded on alleged criminal violations waited an average of 15 weeks in custody at an approximate cost of $14,500.

If the time between remand and the final revocation hearing were reduced, it could save the state money and lessen the destabilizing impact of consequences such as joblessness and lack of housing. The state should consider amending its regulations to shorten the time-period between remand and the final revocation hearing.

Consider parole hold waivers for parolees with pending criminal proceedings in appropriate cases.

BOPP should institute a process for lifting DOC parole holds for parolees with relatively minor criminal charges. Lifting the parole hold would allow bail to be set on those charges. At present, all parolees charged with new crimes are incarcerated for the duration of the time between remand and the disposition of the criminal charges, even if bail would otherwise be set for those charges. The final revocation hearing is not scheduled until the criminal charges are resolved, further prolonging the period of detention.

Institute graduated sanctions as well as policies that set limits on incarceration for first-time violations of parole and/or technical violations of parole.

Under the current system, Connecticut parolees spend lengthy periods incarcerated even when they are first-time parole violators and even when they have committed minor technical violations.

BOPP should work with DOC to encourage the use of graduated sanctions to keep parolees in the community. Under C.G.S.A. § 54-124a(l)(2), BOPP has the authority to establish a graduated sanction system that includes non-incarcerative sanctions. BOPP should also consider implementing policies that cap the prison terms that can be imposed on first-time parole violators and/or on parolees who have been accused of exclusively technical violations.

Conclusion

CJC undertook this study in support of Connecticut's efforts to reduce the high rate of incarceration attributable to the parole revocation process. This study has benefited from the input of parolees who experienced the process first-hand, as well as from the commitment of BOPP's leadership to an open and transparent evaluation of BOPP policies and practices. While this study was ongoing, BOPP began implementing reforms to its parole revocation procedures, particularly in the context of preliminary hearings.

There are several key steps BOPP should now take to further improve the parole revocation process and protect the rights of those on parole. The Board should focus on addressing parolee due process rights in final revocation proceedings by establishing an adequate counsel appointment system and improving procedures for ascertaining and evaluating disputes of fact and mitigating evidence. Additionally, BOPP should ensure that it is exercising the full range of its release powers at preliminary hearings. BOPP should also explore the possibility of conducting preliminary hearings in the community, and it should establish a process for lifting DOC parole holds for parolees with appropriately minor pending criminal cases.

This report is based on a study of BOPP parole revocation proceedings, and the recommendations focus primarily on BOPP procedures for that reason. Connecticut's parole revocation process is jointly administered by BOPP and DOC, however, and many of the recommended reforms in this report require the cooperation of both agencies.

Additionally, interviews, observations, and documents submitted to CJC raised significant questions (which are outside the scope of this research project) that should be addressed by a future study of the DOC Division of Parole and Community Services. Such a study could examine unit policies and practices regarding supervision strategies and the use of graduated sanctions. The study could also investigate the way that DOC uses its remand authority in the parole revocation context by analyzing patterns of remand across parole units and individual officers.

Appendix I: Waiver Marking Patterns

This Appendix presents the waiver forms that CJC identified as bearing marks consistent across certain DOC parole officers. The first parolee's documents are displayed in their entirety to provide context for the presented portion of the other forms, which have been excerpted to simply show the marked portions.

Notice of Parole Violation

RIGHTS:

1. YOU HAVE THE RIGHT TO ADEQUATE NOTICE OF THIS HEARING AND THE CHARGES AGAINST YOU.
2. YOU MAY TESTIFY ON YOUR OWN BEHALF OR YOU MAY CHOOSE TO REMAIN SILENT AT THIS HEARING. IF YOU CHOOSE TO REMAIN SILENT, A DECISION WILL BE MADE ON THE BASIS OF THE AVAILABLE INFORMATION.
3. YOU MAY PRESENT DOCUMENTARY EVIDENCE (FOR EXAMPLE, LETTERS OR OTHER WRITTEN DOCUMENTS). YOU MAY ALSO REVIEW THE DOCUMENTS PRESENTED AS EVIDENCE SUPPORTING THE CHARGES AGAINST YOU (THESE INCLUDE THE NOTICE OF PAROLE VIOLATION, PAROLE VIOLATION REPORT, SIGNED CONDITIONS OF PAROLE, REMAND TO CUSTODY ORDER OR ANY OTHER INFORMATION SUPPORTING THE CHARGES AGAINST YOU.
4. YOU MAY ASK INDIVIDUALS WHO HAVE RELEVANT KNOWLEDGE REGARDING THE ALLEGED VIOLATIONS TO APPEAR AND TESTIFY ON YOUR BEHALF.
5. YOU MAY ASK TO HAVE INDIVIDUALS WHO HAVE GIVEN INFORMATION AGAINST YOU TO APPEAR AT THIS HEARING FOR CROSS-EXAMINATION UNLESS GOOD CAUSE FOR THEIR NON-APPEARANCE IS FOUND.
6. YOU MAY HAVE THE ASSISTANCE OF AN ATTORNEY TO REPRESENT YOU AT THIS HEARING. IF YOU WISH TO RETAIN AN ATTORNEY, YOU MAY REQUEST A POSTPONEMENT OF THIS HEARING FOR THIS PURPOSE. IF YOU CANNOT AFFORD AN ATTORNEY, THERE ARE LIMITED CIRCUMSTANCES IN WHICH THE PAROLE BOARD MAY SECURE AN ATTORNEY TO REPRESENT YOU. IF YOU REQUEST AN ATTORNEY REPRESENTATION FROM THE BOARD, YOUR REQUEST WILL BE EVALUATED TO DETERMINE IF YOU QUALIFY FOR APPOINTMENT OF COUNSEL. THIS MAY RESULT IN A POSTPONMENT OF THIS HEARING.

PLEASE CHECK THE APPROPRIATE BOX:

A. X CD _____ I waive my right to a Preliminary Hearing.
B. _____ I request a Preliminary Hearing
_____ I will represent myself.
_____ I will be retaining my own attorney (indicate name if known)
Attorney Name:
_____ I request that the Board provide me when attorney representation for my hearing.
I will present the following witnesses to speak on my behalf:

_____

_____

I wish to have the following persons who gave evidence against me present for cross-examination:

_____

_____

Offender Signature: [redacted] Date: _____

Parole Officer Signature ► [redacted] Date: 9-2-15

Notice of Parole Violation

Rights at Final Revocation Hearing

A final Revocation Hearing is conducted by a panel of the Board of Parole to determine, by a preponderance of evidence, whether you have violated one or more conditions of your parole. In addition to the Board voting whether or not to revoke your parole, it also has the statutory authority to order the forfeiture of any and all awarded good time in matters of final revocation.

RIGHTS:

1. YOU HAVE THE RIGHT TO ADEQUATE NOTICE OF THIS HEARING AND THE CHARGES AGAINST YOU.
2. YOU MAY TESTIFY ON YOUR OWN BEHALF OR YOU MAY CHOOSE TO REMAIN SILENT AT THIS HEARING. IF YOU CHOOSE TO REMAIN SILENT, A DECISION WILL BE MADE ON THE BASIS OF THE AVAILABLE INFORMATION.
3. YOU MAY PRESENT DOCUMENTARY EVIDENCE (FOR EXAMPLE, LETTERS OR OTHER WRITTEN DOCUMENTS). YOU MAY ALSO REVIEW THE DOCUMENTS PRESENTED AS EVIDENCE SUPPORTING THE CHARGES AGAINST YOU (THESE INCLUDE THE NOTICE OF PAROLE VIOLATION, PAROLE VIOLATION REPORT, SIGNED CONDITIONS OF PAROLE, REMAND TO CUSTODY ORDER OR ANY OTHER INFORMATION SUPPORTING THE CHARGES AGAINST YOU.
4. YOU MAY ASK INDIVIDUALS WHO HAVE RELEVANT KNOWLEDGE REGARDING THE ALLEGED VIOLATIONS TO APPEAR AND TESTIFY ON YOUR BEHALF.
5. YOU MAY ASK TO HAVE INDIVIDUALS WHO HAVE GIVEN INFORMATION AGAINST YOU TO APPEAR AT THIS HEARING FOR CROSS-EXAMINATION UNLESS GOOD CAUSE FOR THEIR NON-APPEARANCE IS FOUND.
6. YOU MAY HAVE THE ASSISTANCE OF AN ATTORNEY TO REPRESENT YOU AT THIS HEARING. IF YOU WISH TO RETAIN AN ATTORNEY, YOU MAY REQUEST POSTPONEMENT OF THIS HEARING FOR THIS PURPOSE. IF YOU CANNOT AFFORD AN ATTORNEY, THERE ARE LIMITED CIRCUMSTANCES IN WHICH THE PAROLE BOARD MAY SECURE AN ATTORNEY TO REPRESENT YOU. IF YOU REQUEST AN ATTORNEY REPRESENTATION FROM THE BOARD, YOUR REQUEST WILL BE EVALUATED TO DETERMINE IF YOU QUALIFY FOR APPOINTMENT OF COUNSEL. THIS MAY RESULT IN A POSTPONMENT OF THIS HEARING.

PLEASE CHECK THE APPROPRIATE BOX:

(note: If you check the box to continue your hearing pending disposition of criminal charges, once notified that the charges are disposed, you wil be scheduled to appear at a hearing. If you do not want to appear at that hearing, please indicate below).

A. _____ I WAIVE MY RIGHT TO APPEAR BEFORE A PANEL OF THE BOARD OF PAROLE FOR A REVOCATION HEARING. I fully realize that the Board of Parole may revoke my parole in my absence and recommit me to a correctional facility and, at its discretion, determine forfeiture of any or all applicable good time.

B. _____ I REQUEST THAT MY REVOCATION HEARING BE CONTINUED PENDING THE DISPOSITION OF CRIMINAL CHARGES. I will notify the Board as soon as charges are disposed of.

C. _____ I REQUEST THAT MY REVOCATION HEARING BE CONTINUED PENDING MY OBTAINING AN ATTORNEY FOR REPRESENTATION AT THIS HEARING. Either myself or my attorney will notify the Board as soon as possible to reschedule my Revocation Hearing.

B CD I WISH TO APPEAR AT MY REVOCATION HEARING

CD I will represent myself.

_____ I will be retaining my own attorney (indicate name if known)

Attorney Name:

_____ I request that the Board provide me when attorney representation for my hearing.

I wish to present the following witnesses to speak on my behalf:

_____

_____

I wish to have the following persons who gave evidence against me present for cross examination (not applicable in cases of criminal conviction):

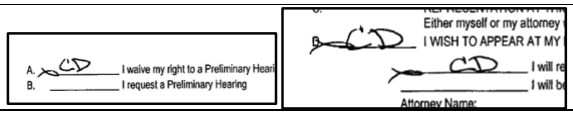
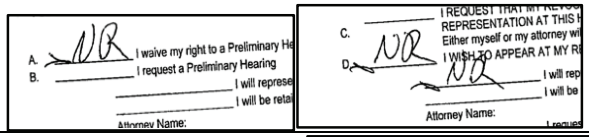
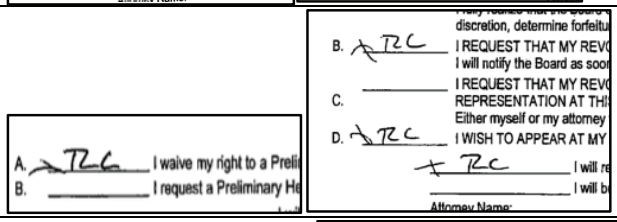
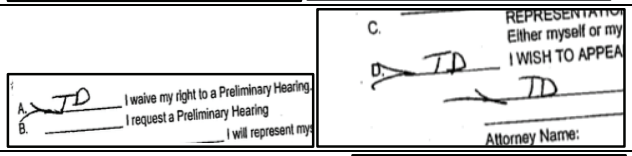
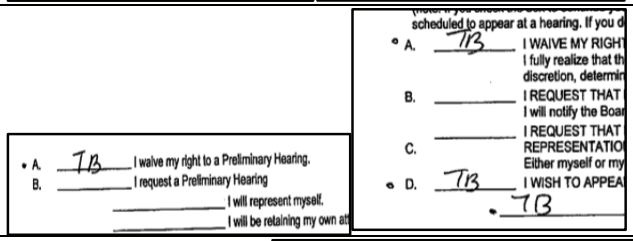
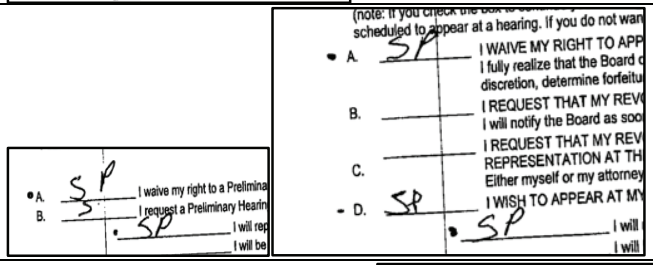
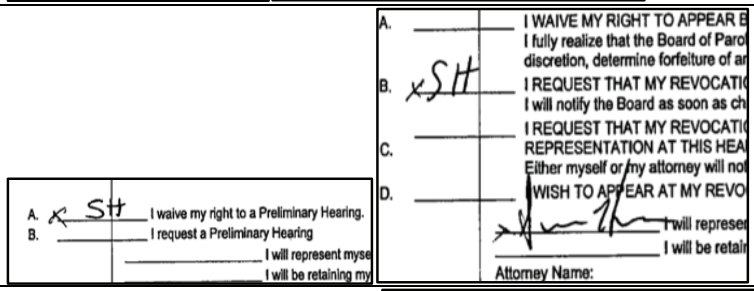
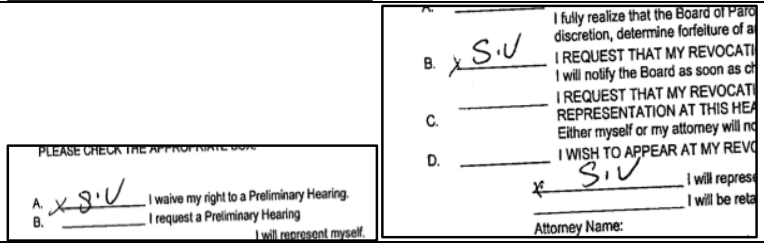
_____

_____

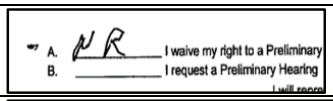
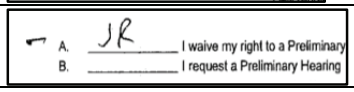
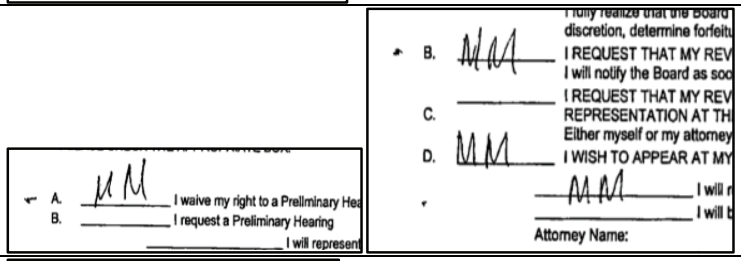
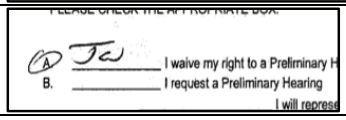
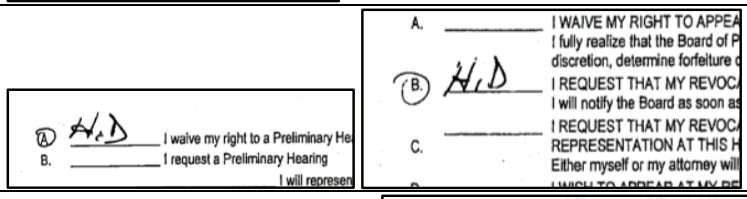
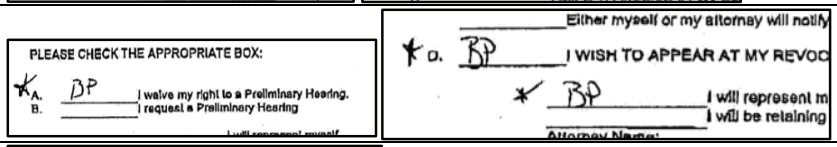
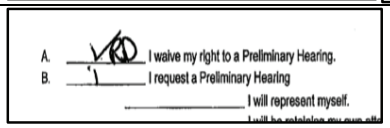
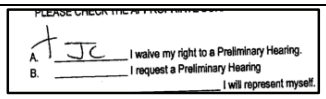
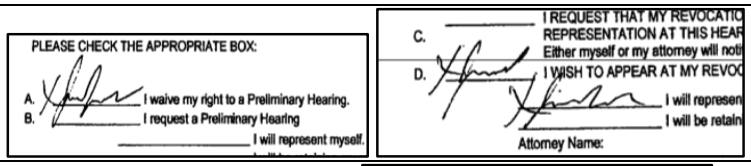
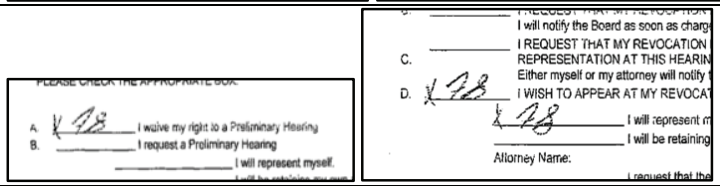
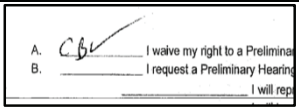
Offender Signature: [redacted] Date: 9/2/15

Parole Officer Signature [redacted] Date: 9-2-15

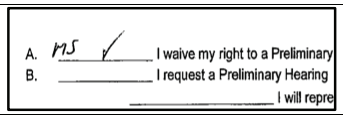
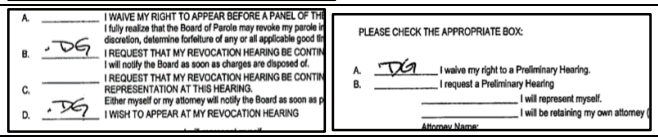
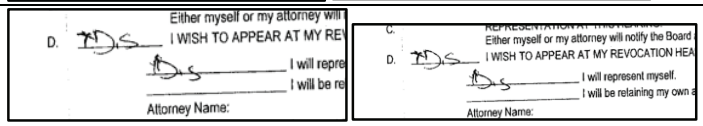
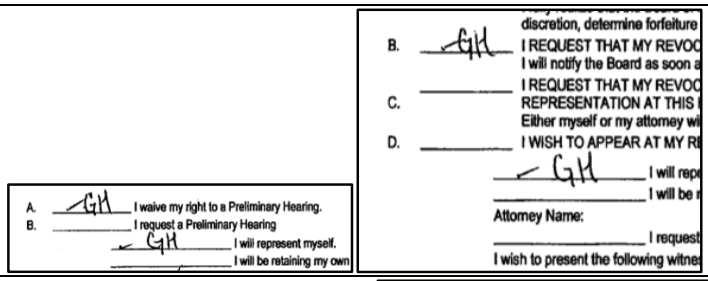
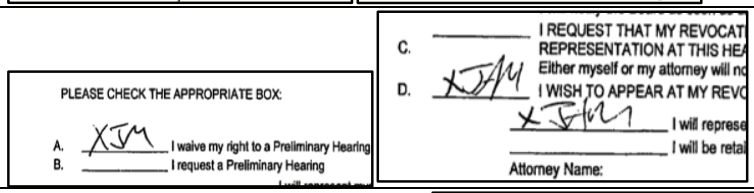
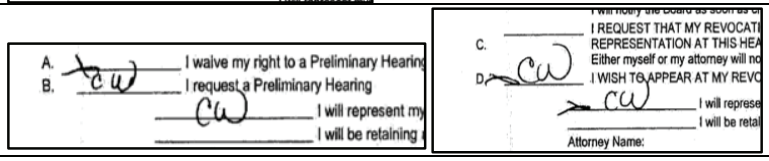
Appendix I: Waiver Marking Patterns

#	Marking Image	Parole Officer	Type of Hearing
1		PO1	Revocation Hearing
2		PO1	Other
3		PO1	Revocation Hearing
4		PO1	Revocation Hearing
5		PO2	Other
6		PO2	Other
7		PO3	Revocation Hearing
8		PO3	Revocation Hearing

Appendix I: Waiver Marking Patterns

#	Marking Image	Parole Officer	Type of Hearing
9		PO4	Revocation Hearing
10		PO4	Other
11		PO4	Revocation Hearing
12		PO5	Revocation Hearing
13		PO5	Revocation Hearing
14		PO6	Revocation Hearing
15		PO6	Other
16		PO7	Other
17		PO7	Other
18		PO8	Other
19		PO9	Revocation Hearing

Appendix I: Waiver Marking Patterns

#	Marking Image	Parole Officer	Type of Hearing
20		PO10	Revocation Hearing
21		PO11	Revocation Hearing
22		PO12	Other
23		PO13	Revocation Hearing
24		PO14	Other
25		PO15	Revocation Hearing

Revocation hearings were among the 49 observed by CJC in the month of November 2015 in which parolees appeared. Other hearings include expedited hearings, waived hearings, continued hearings, and hearings for which parolees did not appear.

Appendix II: Parolee Revocation Questionnaire

PAROLE REVOCATION QUESTIONNAIRE

PLEASE READ: The following questions refer to the events surrounding your **November 2015 parole revocation hearing.** Unless otherwise noted, "parole officer" refers to the officer who ordered you sent back to prison for alleged violations of your parole conditions.

1. Did you suffer any of the following consequences as a result of being returned to prison for allegedly violating your parole conditions? Please check each of the following you experienced.

❑ Lost your job

❑ Lost your housing

❑ Lost your bed in a halfway house

❑ Lost your placement in a treatment program

❑ Lost your benefits (please specify what kind: _____)

❑ Other (please describe: _____)

2. Did a parole officer explain why you were being charged with violating your parole conditions?

❑ Yes

❑ No

3. Within three days (minus weekends) were you given any documents related to your alleged parole violations?

❑ Yes

❑ No

❑ I received them, but not within three days.

❑ I received them, but I do not remember when.

4. Were these documents explained to you?

❑ Yes

❑ No

5. Did a parole officer explain the purpose of the preliminary hearing to you?

❑ Yes

❑ No

6. The list below includes things that could happen at a preliminary hearing. Please answer "yes" or "no" if you were aware of each possibility.

You could testify on your own behalf ❑ Yes ❑ No

You could present written materials and witnesses to challenge or explain the violation allegations ❑ Yes ❑ No

You could present evidence that excused or explained the alleged violation and helped your case ❑ Yes ❑ No

You could question witnesses who supported the allegations against you ❑ Yes ❑ No

You could have your parole reinstated and be released from custody at the Hearing Examiner Hearing examiner's discretion ❑ Yes ❑ No

Appendix II: Parolee Revocation Questionnaire

7. According to your records, you waived your right to a preliminary hearing. Why?

_____

_____

_____

_____

8. Did a parole officer advise you of your right to retain or request an appointed attorney to represent you at the hearing?

❑ Yes

❑ No

9. Did a parole officer say anything about how long the revocation process would take if you requested an appointed attorney?

❑ Yes

❑ No

10. If yes, how would requesting an appointed attorney affect the revocation process, according to the parole officer?

❑ It would take more time

❑ It would take less time

❑ It would take the same amount of time

11. According to your records, you waived your right to ask for an appointed attorney. Why?

_____

_____

_____

_____

12. What did you expect would happen at your revocation hearing?

❑ I expected to be found innocent of the violation

❑ I expected to be found guilty of the violation and released

❑ I expected to be found guilty and given less than six months (from the time of remand)

❑ I expected to be found guilty and given more than six months (from the time of remand)

❑ Other, please explain: _____

13. At the time you were returned to prison, how long did you think you would wait before your revocation hearing?

❑ Less than 3 months

❑ 3 to 6 months

❑ I don't know

14. Did you prepare for your revocation hearing?

❑ Yes

❑ No

15. If yes, how did you prepare for your hearing?

❑ I contacted potential witnesses

❑ I asked my employer for a reference letter

❑ I collected letters from friends and family

❑ I collected evidence to prove my innocence

❑ I prepared a statement on why I should be released from custody

❑ Other, please explain:

16. The list below includes ways you were allowed to present your case at your revocation hearing. Please answer "yes" or "no" if you were aware of each right:

Present written materials to show you were innocent of the violation(s) ❑ Yes ❑ No

Present witnesses to show you were innocent of the violation(s) ❑ Yes ❑ No

Present written materials that excused or explained the violation(s) ❑ Yes ❑ No

Present witnesses that excused or explained the alleged violation(s) ❑ Yes ❑ No

Ask to question witnesses against you ❑ Yes ❑ No

17. Do you understand why the Board made its decision in your case?

❑ Understand very much

❑ Mostly understand

❑ Understand a little

❑ Do not understand

18. Is there anything you would do differently in the revocation process if you could go back and redo it? Answer all that apply.

❑ I would have requested a preliminary hearing

❑ I would have requested an appointed attorney

❑ would have presented mitigating evidence (including witnesses)

❑ I would have questioned witnesses who supported the allegations against me

❑ Other, please explain: _____

19. Based on your experience, do you think the revocation process you went through was fair?

- ❑ Very fair
- ❑ Somewhat fair
- ❑ A little fair
- ❑ Not at all fair

20. Is there anything you would want people to know about the parole revocation process?