

- Allow to discharge if the offender is past the

UNDER WHAT CIRCUMSTANCES CAN A HEARING BE REOPENED?

When an offender receives notice that the Parole Panel's decision is revocation, they will have 60 days from the date of the decision to request the hearing be reopened. Such a request will be granted under the following circumstances and/or on the following grounds:

- for any substantial error in the revocation process; or
- upon newly discovered information.

Upon receipt of a request for reopening, a Parole Panel will either:

- grant the motion and order the hearing reopened for a stated, specific and limited purpose;
- deny the motion; or
- reverse the previous revocation decision.

REQUEST FOR REOPENING

**Texas Board of Pardons and Paroles
Legal Section
P.O. Box 13401
Austin, Texas 78711
T 512-406-5353 • F 512-467-0945**



**Texas Board of Pardons and Paroles
P.O. Box 13401, Capitol Station
Austin, Texas 78711**



**TEXAS
BOARD OF
PARDONS AND
PAROLES**

**HEARING
PROCESS**

When the Parole Division discovers a potential violation of parole or new criminal charge(s) it is investigated by a Parole Officer employed by TDCJ. It is at their discretion whether to impose graduated local sanctions such as a verbal warning, a conference with a supervisor, increase the reporting requirement, refer the offender to substance abuse counseling, or issue a pre-revocation warrant or summons for the offender. The warrant, sometimes called a "Blue Warrant" serves as a mechanism to place the offender in-custody pending an administrative pre-revocation hearing. A summons allows the offender to remain under supervision, working, attending programs, and remaining with his family pending the convening of a hearing. Prior to the hearing, the Parole Division may withdraw its warrant and continue supervision of the offender with or without additional graduated local sanctions.

HEARING OPERATIONS

Hearing Operations facilitates the parole revocation hearings process, which includes:

- scheduling hearings;
- reviewing attorney determination requests and appointment of attorneys;
- conducting hearings;
- reviewing hearing reports and waivers for those who have waived their hearing(s);
- making recommendations to the Parole Panels;
- conducting hearings for cases being supervised by Texas for another state; and
- providing a process for reconsideration of a revocation decision.

TYPES OF HEARINGS

A preliminary hearing is conducted to determine whether probable cause exists to proceed to a revocation hearing. This is the same level of proof needed when a Police Officer pulls you over for a traffic stop or a Magistrate sets a bond. Only offenders with pending criminal charges or unfiled charges are entitled to a preliminary hearing.

A revocation hearing is conducted to determine whether a preponderance of credible evidence exists to believe that one or more conditions of release have been violated. A preponderance means that there is more evidence than not that a violation occurred. A

revocation hearing may be conducted for law violations where there has been probable cause found in a preliminary hearing, a conviction has occurred, or if there are only technical violations alleged. There must be an affirmative finding in the revocation hearing for a Board panel to take action. The panel has several options: the offender may be continued on supervision with or without additional graduated sanctions; they may be incarcerated in an Intermediate Sanction Facility for a limited period of time while remaining on supervision; or an offender's parole or mandatory release may be revoked.

NOTE: An offender has the right to waive their hearing(s) if eligible to do so.

HOW THE ADMINISTRATIVE HEARING PROCESS WORKS

An offender can get to a hearing either due to a warrant being issued by the Parole Division or due to a summons while they remain on supervision. When the hearing is due to a warrant there are generally two categories of offenders arrested: 1) those entitled to both preliminary and revocation hearings, and 2) those entitled to a revocation or mitigation hearing only. If the offender is not eligible for bond at the initial interview with the Parole Officer, the offender is required to choose whether they want to have their hearing(s) or waive their right to one or both hearings.

PAROLE PANEL DECISION MAKING

Hearings and waivers are decided by a majority of a three-member Parole Panel consisting of Board Members and Parole Commissioners. There are seven panel locations throughout the state. Where a case is considered is generally determined by the geographic location where the offender is in custody. Board analysts located at each panel location review hearings and waivers for presentation to the panel. Additional analysts at the Central Administration office review Super Intensive Supervision Program (SISP) cases.

RIGHTS OF THE OFFENDER

Once the offender is detained and the Parole Division decides to request a hearing, the offender is interviewed by a Parole Officer. The offender is advised of their rights in the revocation hearing process to:

- be personally served with written notice of alleged parole violations;
- a preliminary hearing, unless the offender is accused only of administrative violations or has been convicted of a new criminal offense. The purpose of this hearing is to determine if there is probable cause to believe a condition of release was violated. In some cases, the offender may choose to waive the preliminary hearing;
- a revocation hearing, if the offender is alleged to have committed administrative violations or has been found guilty in a criminal case;
- full disclosure of all the evidence against the offender before the hearing;
- hire an attorney, and, under certain circumstances, the conditional right to a state-appointed attorney;
- tell the Hearing Officer in person what happened and to present evidence, affidavits, letters, and documents to support their position, including the right to subpoena witnesses through the Parole Officer;
- confront and cross-examine adverse witnesses (unless the Hearing Officer finds good cause to deny confrontation); and
- be heard on the allegations by someone designated by the Board.

If parole or mandatory supervision is revoked as a result of the hearing, the offender receives a written report by the Hearing Officer which describes the evidence relied upon in finding a violation. In certain cases, the offender may petition the Board to reopen the revocation hearing.

ACTIONS TAKEN DURING THE PAROLE REVOCATION PROCESS