

PART II. BOARD OF PROBATION AND PAROLE

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CHAPTER 61. GENERAL PROVISIONS

§ 61.1. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

Backtime—The unserved part of a prison sentence which a convict would have been compelled to serve if the convict had not been paroled.

Detainer sentence—A sentence to which a convict is subject following release from a sentence which the convict is currently serving.

Detention hearing—A probable cause hearing held to determine whether a parolee should be detained or returned pending disposition of a new criminal charge.

Examiner—A Board member or a representative of the Board who conducts interviews or hearings on behalf of the Board.

Interested party—A parolee or a parolee's counsel.

Official verification—Actual receipt by a parolee's supervising parole agent of a direct written communication from a court in which a parolee was convicted of a new criminal charge attesting that the parolee was so convicted.

Panel—Two members of the Board, or a Board member and an examiner.

Parole supervision staff—Parole agents, their supervisors, deputy district directors and district directors.

Preliminary hearing—A hearing held to determine whether there is probable cause to believe that a parolee has committed a technical violation of parole.

Return or detain—Synonymous actions which indicate that a parolee should either be returned to, or continued in, custody pending disposition of outstanding criminal charges.

Revocation decision—A decision to recommit a parolee to prison after a revocation or violation hearing.

Revocation hearing—A hearing held to determine whether a parolee should be recommitted as a convicted violator.

Violation hearing—A hearing held to determine whether a parolee should be recommitted as a technical violator.

§ 61.2. Confidentiality of records.

Records, reports and other written things and information, evaluations, opinions and voice recordings in the Board's custody or possession touching on matters concerning a probationer or parolee are private, confidential and privileged; except that a brief statement of the reasons for actions by the Board granting

CHAPTER 63. CONDITIONS GOVERNING PAROLE

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§ 63.1. Granting of parole.

- (a) The Board may grant paroles of its own motion under section 22 of the Pennsylvania Board of Probation and Parole Law (61 P. S. § 331.22).
- (b) Applications for parole may be submitted to the Board under section 22 of the Pennsylvania Board of Probation and Parole Law (61 P. S. § 331.22).
- (c) After review and consideration of each application, the Board will grant or deny approval to each applicant who is seeking parole.
- (d) If the Board grants parole, notice of such action will be sent to the parolee, setting forth the effective date of parole. The date of parole may be postponed until a satisfactory plan is arranged for the parolee and approved by the Board.

§ 63.2. Legal custody.

The parolee shall remain in the legal custody of the Board until the expiration of his maximum sentence, or until he is legally discharged.

§ 63.3. Violation of parole.

If the parolee violates the conditions of parole, at a time during his period on parole, the Board may cause his detention or return to a correctional institution.

§ 63.4. General conditions of parole.

If parole is granted, the parolee shall be subject to the following conditions:

- (1) Report in person or in writing within 48 hours to the district office or suboffice specified by the Board and not leave that district without prior written permission of the parole supervision staff.

(2) Live at the residence approved by the Board at release and not change residence without the written permission of the parole supervision staff.

(3) Maintain regular contact with the parole supervision staff by:

(i) Reporting regularly as instructed and following written instructions of the Board or the parole supervision staff.

(ii) Notifying the parole supervision staff within 72 hours of one of the following:

(A) Arrest.

(B) Receipt of a summons or citation for an offense punishable by imprisonment upon conviction.

(iii) Notifying the parole supervision staff within 72 hours of a change in status including but not limited to employment, on the job training and education.

(4) Comply with municipal, county, State and Federal criminal statutes, as well as the Vehicle Code and the Liquor Code (47 P. S. § § 1-101—9-902).

(5) Additionally:

(i) Abstain from the unlawful possession or sale of narcotics and dangerous drugs and abstain from the use of controlled substances within the meaning of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § § 780-101—780-144) without a valid prescription.

(ii) Refrain from owning or possessing firearms or other weapons.

(iii) Refrain from an assaultive behavior.

(6) Pay fines, costs and restitution imposed by the sentencing court in accordance with the instructions contained in the Conditions Governing Parole/Reparole form.

§ 63.5. Special conditions of parole.

(a) Parolees shall comply with special conditions which are imposed by the Board or which are subsequently imposed by the parole agent.

(b) If problems arise or questions occur concerning the conditions of parole, the parolee shall consult with the parole agent, as it is the responsibility of the latter to help the parolee in the interpretation of the conditions of parole. If a parolee is unable to contact his parole agent, he should contact the agent in charge of the district parole office.

§ 63.6. [Reserved].

§ 63.7. [Reserved].

§ 63.8. [Reserved].

CHAPTER 65. CONDITIONS GOVERNING SPECIAL PROBATION AND PAROLE

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§ 65.1. Board acceptance of cases.

Acceptance of a case for supervision or presentence investigation from a county which, on December 31, 1985, maintained adult probation offices and parole systems, will be at the Board's discretion. The Board will ordinarily accept a case that meets the following criteria:

- (1) For supervision:
 - (i) A felony conviction and a sentence to serve a probationary term of at least 2 years.
 - (ii) A felony conviction and parole from a sentence with a balance of at least 6 months.
 - (iii) A case otherwise under the Board's jurisdiction.
- (2) For presentence investigation:
 - (i) A felony conviction.
 - (ii) A case otherwise under the Board's jurisdiction.

§ 65.2. [Reserved].

§ 65.3. Detention and revocation.

The Board may, during the probation or parole period, in case of violation of the conditions of probation or parole, detain the special probationer or parolee in a county prison and make a recommendation to the court, which may result in the revocation of probation or parole and commitment to a penal or correctional institution to serve a sentence in the case of probation or the remainder of the sentence in the case of parole.

§ 65.4. General conditions of special probation or parole.

A special probationer or parolee is subject to the following conditions:

- (1) Be under the supervision of a district office or suboffice and not leave that district without prior written permission of the parole supervision staff.
- (2) Obtain the written permission of the parole supervision staff before changing his residence.
- (3) Maintain regular contact with the parole supervision staff by:
 - (i) Reporting regularly as instructed and following written instructions of the Board or the parole supervising staff.
 - (ii) Notifying the parole supervision staff within 72 hours of one of the following:
 - (A) Arrest.
 - (B) Receipt of a summons or citation for an offense punishable by imprisonment upon conviction.
 - (iii) Notifying the parole supervision staff within 72 hours of a change in status including, but not limited to employment, on the job training and education.
- (4) Comply with municipal, county, State and Federal criminal statutes, as well as the Vehicle Code and the Liquor Code (47 P. S. § § 1-101—9-902).
- (5) Additionally:
 - (i) Abstain from the unlawful possession or sale, of narcotics and dangerous drugs and abstain from the use of controlled substances within the meaning of the Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § § 780-101—780.144) without a valid prescription.
 - (ii) Refrain from owning or possessing firearms or other weapons.
 - (iii) Refrain from assaultive behavior.
- (6) Pay fines, costs and restitution imposed by the sentencing court in accordance with the instructions contained in the Conditions Governing Special Probation/Parole form.

§ 65.5. Special provisions or conditions of sentence.

Every special probationer or parolee shall comply with the following conditions of sentence or, in the case of a parolee, special conditions which will be subsequently imposed by his parole agent:

(1) If problems arise or questions occur concerning the conditions of probation or parole, the parolee shall consult with the parole agent, as it is the responsibility of the latter to help the parolee in the interpretation of the conditions of probation or parole. If a parolee is unable to contact his parole agent, he should contact the agent in charge of the district parole office.

(2) If a parolee is arrested while on special probation or parole, the Board may place a detainer against him which will prevent the parolee from making bail, pending the disposition of the new charges or other action of the court.

(3) If a parolee is convicted of a crime committed while on special probation, or violates the conditions of probation, the court may revoke probation of and impose sentence upon the parolee.

(4) If a parolee is convicted of a crime committed while on special parole, or violates the conditions of parole, the court may recommit the parolee to serve the balance of the sentence which the parolee was serving when paroled, with no credit given for time at liberty on parole.

§ 65.6. Acknowledgment by parolee.

Every parolee shall acknowledge the following:

- (1) That he has read, or has had read to him, the conditions of his parole.
- (2) That he fully understands the conditions of his parole and agrees to follow such conditions.
- (3) That he fully understands the penalties involved if he violates the conditions of parole in any manner.

§ 65.7. Parole agreement.

The parole agreement shall contain the parole number, date and signature of the parolee. If the signature is by mark, there shall be two witnesses to the execution of the parole agreement.

CHAPTER 67. SPECIAL CONDITIONS OF PAROLE OR PROBATION

- 67.1. [General requirements.](#)
- 67.2. [Release from conditions of probation or parole.](#)
- 67.3. [Acknowledgment by parolee.](#)
- 67.4. [Parole agreement.](#)

§ 67.1. General requirements.

(a) In addition to the general conditions of parole or probation imposed by Chapters 63 and 65 (relating to conditions governing parole; conditions governing special probation and parole), parolees shall be subject to the additional conditions imposed under § § 63.5 (relating to special conditions of parole) and 65.5 (relating to special conditions or conditions of sentence).

(b) If problems arise or questions occur concerning the conditions of parole or probation the parolee shall consult with the parole agent, as it is the responsibility of the latter to help the parolee in the interpretation of the conditions of probation or parole. If a parolee is unable to contact his parole agent, he should contact the agent in charge of the district parole office.

(c) If a parolee violates the special conditions of this chapter, he shall be subject to arrest and revocation of his parole or probation as if he had violated the original conditions as outlined in Chapters 63 and 65.

§ 67.2. Release from conditions of probation or parole.

The Board may release parolee or probationer from the conditions of parole or probation which it has imposed. In cases where a court of record has imposed conditions, only a court of record may release parolee or probationer from those conditions. The release form shall contain the parole number, name of parolee or probationer, date, signature of parole agent, and the conditions from which the parolee or probationer is released.

§ 67.3. Acknowledgment by parolee.

Every parolee shall acknowledge the following:

- (1) That he has read, or has had read to him, the conditions of his parole.
- (2) That he fully understands the conditions of his parole and agrees to follow such conditions.
- (3) That he fully understands the penalties involved if he violates the conditions of parole in any manner.

§ 67.4. Parole agreement.

The parole agreement shall contain the parole number, date and signature of the parolee. If the signature is by mark, there shall be two witnesses to the execution of the parole agreement.

CHAPTER 68. COUNTY OFFENDER SUPERVISION FEE PROGRAM

GENERAL

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ADMINISTRATION OF COUNTY FUNDS

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DISBURSEMENT OF COUNTY FUNDS

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§ 68.1. Scope.

This chapter applies to the following:

- (1) Offenders placed on probation, parole, accelerated rehabilitative disposition, probation without verdict or intermediate punishment under the jurisdiction of a county within this Commonwealth.
- (2) Counties having jurisdiction over offenders.

§ 68.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Benefit—A financial contribution other than salary which is for the improvement of the employe—for

example, health insurance premium payment and retirement contribution.

Board—The Board of Probation and Parole.

County Offender Supervision Fund—oneys administered by the county consisting of that 50% of the supervision fees retained by the county.

Defer—To temporarily postpone payment of the supervision fee, but not to waive or reduce the payment.

Dependent—A person legally eligible to be listed as an exemption for Federal income tax purposes.

Fiscal year—An account period of 12 months beginning July 1 and ending June 30.

Inability to pay—A present set of circumstances rendering an offender incapable of tendering the supervision fee.

Income—oneys derived from all sources, exclusive of Social Security and public assistance, which a client utilizes for self or familial support.

Offender—An adult individual placed on probation, parole, accelerated rehabilitative disposition, probation without verdict or intermediate punishment under the jurisdiction of a county probation department within this Commonwealth.

Personnel—The professional, clerical and support staff employed by a county adult probation department.

Program—A County Offender Supervision Fee Program.

Reduce—To lessen the amount of fee mandated by the Court.

Supervision—The services, including administration, provided offenders within the scope of this chapter.

Supervision fee—An amount of at least \$25 which is specified to be paid to the Court, unless reduced.

Waive—To dispense with the condition, which requires offenders to pay the supervision fee either permanently or temporarily.

ADMINISTRATION OF PROGRAM

§ 68.21. Imposition of condition.

The sentencing judge of the court of common pleas shall impose upon an offender, as a condition of supervision, a monthly supervision fee unless the court or a supervising agency designated by the court

determines that it should be reduced, waived or deferred based upon one or more of the following criteria:

- (1) The offender is 62 years of age or older with no income.
- (2) The offender is receiving public assistance.
- (3) The offender is enrolled as a full-time student for 12 semester credit hours in an educational organization approved by the United States Department of Education.
- (4) The offender is incarcerated.
- (5) The offender is not employable due to a disability, as determined by an examination acceptable to or ordered by the court.
- (6) The offender is responsible for the support of dependents and the payment of a supervision fee constitutes an undue hardship on the offender.
- (7) The client is participating in an inpatient treatment program.
- (8) Other extenuating circumstances as determined by the court or a supervising agency designated by the court.

§ 68.22. Program implementation.

(a) The president judge of the court of common pleas shall appoint an appropriate person to implement the Program. The designated official shall develop policies and procedures which clearly communicate the importance of fee collection and monitoring of payments to managers, supervisors and probation officers. These policies and procedures shall include the following:

- (1) *County sentenced supervision.* If an offender is placed under supervision of the county in which the offender was sentenced, that offender shall be required to pay a monthly supervision fee to that county unless this requirement is waived or deferred by the court or its supervising agency.
- (2) *Intercounty supervision.* If an offender is transferred from one county to another county in this Commonwealth, the monthly supervision fee shall be paid to the receiving county if the offender has the ability to pay as determined by the supervising agency.
- (3) *Interstate supervision.* If an offender is transferred through the Interstate Compact from a county in this Commonwealth to another state, the offender is no longer required to pay a supervision fee to the sending county in this Commonwealth. The transferred offender shall comply with the conditions of supervision of the receiving state, including a supervision fee, if applicable. An offender received for supervision from another state through the Interstate Compact is required to pay a monthly supervision fee unless this requirement is waived or deferred by the supervising agency.
- (4) *Cooperative supervision.* If an offender is under the supervision of the Board and a county adult probation/parole agency, the agency actively supervising the offender shall receive the monthly

supervision fee. If both agencies are providing active supervision, supervision fees shall be paid to only one agency and the Board's District Director for that area shall confer with the county chief adult probation officer to resolve the issue based upon the following criteria:

- (i) The agency supervising the sentence with the latest maximum term expiration date.
 - (ii) The availability of specialized programs.
- (b) Probation/parole administrators, in concert with the court, shall adopt classification systems and case management standards which assure that offenders who pay a supervision fee on a regular basis are not kept on supervision longer than necessary.
- (c) The president judge of the court of common pleas shall establish the priority of court ordered payments, including supervision fees.
- (d) The agency responsible for implementation of the Program shall inform the offender of the following:
- (1) The offender's obligation and responsibility to pay the supervision fee as ordered and according to the payment schedule as determined by the supervising or collecting agency, or both.
 - (2) The offender's responsibility to initiate a request for the fee to be reduced, waived or deferred based on the offender's inability to pay the fee.
 - (3) The range of sanctions available to the supervising agency and the court in the event the offender fails to pay the supervision fee as ordered.
- (e) The agency administrator or a designee, responsible for implementation of the Program, shall monitor Program operation through inspections and reviews at least annually to determine compliance with policies and procedures.
- (f) On or before August 31 of each year, the president judge of the court of common pleas shall provide the Board with an annual statement which fully reflects collections deposited into and expenditures from the County Offender Supervision Fund for the preceding fiscal year.

ADMINISTRATION OF COUNTY FUNDS

§ 68.51. Collecting entity.

- (a) The president judge of the court of common pleas and the board of county commissioners/county executive shall designate an appropriate county agency to be responsible for collection of supervision fees. Payments shall be in the form acceptable to the collecting agency.
- (b) The administrator of the collecting agency is responsible for the collection, safeguarding and disbursement of supervision fees in accordance with court order. Generally accepted accounting

principles shall provide for accurate and timely receipt of funds, expenditures made from the funds and unexpended balances.

(c) The collecting agency shall deposit, at least monthly, 50% of the fees collected into the County Offender Supervision Fund. The remaining 50% shall be deposited with the county clerk of courts for transmittal to the Board through the Department of Revenue.

§ 68.52. County treasurer/chief financial officer.

(a) The county treasurer/chief financial officer of each county shall establish and administer a county offender supervision fund.

(b) The county treasurer/chief financial officer shall disperse moneys from this fund only at the discretion of the president judge of the court of common pleas. The moneys in this fund shall be used to pay the salaries and employe benefits of adult probation and parole personnel employed by the county adult probation and parole departments and the operational expenses of the department. Moneys from this fund shall be used to supplement Federal, State or county appropriations for the county adult probation and parole department. Moneys remaining in the County Supervision Fee Fund will not lapse at the end of the county's fiscal year but will be rolled over to the next fiscal year.

§ 68.53. County clerk of courts.

The county clerk of courts shall on a monthly basis transfer 50% of the supervision fees collected by that county to the Board through the Department of Revenue on forms at times as directed by the Department of Revenue.

§ 68.54. Audits.

(a) Fiscal records for the receipt and expenditure of County Offender Supervision Funds shall be maintained. Generally accepted accounting principles shall provide for accurate and timely receipt of funds, expenditures made from the funds and unexpended balances.

(b) Independent audits shall be conducted, by or on behalf of, county or state officials at least annually to determine the county's compliance to statutes, court orders, policies and procedures.

DISBURSEMENT OF COUNTY FUNDS

§ 68.71. Conditions.

The treasurer/chief financial officer shall establish procedures which provide for accurate and timely recording of receipt of funds, expenditures made from the funds, transfer of funds and unexpended balances as necessary to administer this Program.

§ 68.72. Use of County Offender Supervision Funds.

Each county shall develop and implement a system by which funds are distributed. Moneys in this fund shall be used to pay the salaries and employee benefits of adult probation and parole personnel employed by the county adult probation and parole department and operational expenses. Moneys shall be used to supplement Federal, State or county appropriations for the county adult probation department to maintain and improve county adult probation services.

§ 68.73. Disbursement of funds by the Board.

(a) *Administration of the Program.* The Board will disburse funds received under § 68.53 (relating to county clerk of courts) to counties which:

- (1) Establish policies and procedures for a Program.
- (2) Implement a Program.

(b) *Use of funds distributed by the Board.* Moneys distributed to the counties by the Board shall be used solely for improved adult probation services as approved by the Board.

CHAPTER 69. PAROLE AGENTS

- 69.1. [General.](#)
- 69.2. [Limitations.](#)
- 69.3. [Procedures.](#)

§ 69.1. General.

The Board recognizes, in specific cases, the need for parole agents to carry a weapon for their protection. Therefore, parole agents shall be authorized to carry firearms in accordance with established standards and procedures of the Board.

§ 69.2. Limitations.

The authority extended by the provisions of this chapter shall be limited by the following provisions:

- (1) Firearms shall only be used for defensive purposes and may only be carried by parole agents while on duty.
- (2) Permission to carry firearms may only be given to those parole agents who have successfully completed a Board-approved and sponsored training course in the use of firearms.

§ 69.3. Procedures.

The following procedures have been adopted by the Board:

(1) Whenever a parole agent considers it necessary to carry a firearm, during that period, it should be carried on his person and in a manner that it is ready and available for use and, under no circumstances, is the weapon to be left or carried in the glove compartment of an automobile, a briefcase, a suitcase, or some receptacle other than on the person of the parole agent. The firearm is to be carried inconspicuously and is to be used only in the defense of the parole agent's person.

(2) Parole agents desiring to carry a firearm shall submit in writing a request to their immediate supervisor.

(3) His request shall include a rationale as to why it is necessary to carry a weapon while on duty.

(4) The immediate supervisor and district supervisor shall then review the case, making a decision with an accompanying statement either in support of or in opposition of the agent's request.

(5) Copies of requests and the final decision concerning the arming of the agents are to be submitted to the regional director and the Superintendent of Parole Supervision for information and review purposes.

CHAPTER 71. ARREST AND HEARING FOR PAROLE VIOLATORS

71.1. [Initiation of proceedings.](#)

71.2. [Procedure for violation of parole conditions.](#)

71.3. [Return for a new criminal charge.](#)

71.4. [Conviction for a new criminal offense.](#)

71.5. [General.](#)

§ 71.1. Initiation of proceedings.

(a) If an agent has reason to believe that a parolee has violated the conditions of his parole, that action of the Board is necessary, and that an arrest or the lodging of a detainer is appropriate, the agent may apply to his district supervisor for permission to arrest and for the issuance of a "Warrant to Commit and Retain" (PBPP-141).

(b) An application should normally be responded to either by the granting of permission to arrest with the issuance of the Board warrant or by a refusal to issue the warrant promptly.

(c) The warrant shall be executed forthwith, with every diligent effort being made to locate and arrest, as promptly as possible, the parolee named in the Board warrant.

(d) If the agent is unable to contact the district supervisor or feels that immediate confinement of the parolee is imperative, he may utilize an "Order to Detain for 48 hours" (PBPP-142), as warrant to commit and retain the parolee. If the warrant is used, the agent shall apply to his district supervisor for a "Warrant to Commit and Retain" (PBPP-141), as promptly as possible.

(e) In those instances where the parolee is already in custody on another charge, the “Warrant to Commit and Retain” (PBPP-141) shall be lodged as a detainer at the institution where the parolee is held.

§ 71.2. Procedure for violation of parole conditions.

The following procedures shall be followed if a parolee, not already detained after appropriate hearings for other technical violations or criminal charges, has been charged with a technical violation:

(1) After a parolee is detained under a Board warrant, the parolee shall be visited by a representative of the Board. The parolee shall be notified of the following:

(i) The charges against the parolee specifying the conditions of parole violated.

(ii) That a preliminary hearing will be held within 14 days and that the parolee will be notified of the exact date.

(iii) The parolee’s right to speak, to have voluntary witnesses appear and to present documentary evidence at the preliminary hearing.

(iv) The right to retain counsel, and the name and address of the public defender of the county of confinement.

(v) That the purpose of the hearing is to determine whether there is probable cause to believe that the parolee has committed a parole violation, and to resolve by admissions, agreements or stipulations as many factual matters as possible.

(2) After the preliminary hearing is scheduled, the parolee and counsel shall be given a copy of the written notice of the charges and of the date and time of the hearing.

(3) The preliminary hearing shall be held within 14 days of the detention of the parolee on the Board warrant.

(4) The preliminary hearing shall be held before an examiner. The parolee has the right to be present during the entire proceeding, unless the parolee waives that right, refuses to appear or behaves disruptively.

(5) When the parties are present and assembled for the preliminary hearing, the examiner shall verbally advise the parolee and counsel of the following: the parolee may retain counsel for the proceedings; the parolee may, with leave of the examiner, waive the right to the preliminary hearing; and, if the preliminary hearing is waived, the hearing may proceed as a violation hearing before the examiner, unless the parolee asserts the right to be heard by a panel at a violation hearing.

(i) Counsel for the parolee shall enter a written appearance.

(ii) A parolee may waive in writing the right to counsel.

(iii) If counsel is not present but the parolee desires counsel, that fact shall be documented by the examiner and acknowledged by the parolee. The examiner shall terminate the proceeding. The preliminary hearing shall be held within 14 days.

(iv) If the parolee waives both the right to a preliminary hearing and the right to be heard by a panel at a violation hearing, both waivers shall be signed by the parolee. The examiner may follow the procedures governing violation hearings, and the Board may treat the proceeding as a violation hearing.

(v) If the parolee waives the right to a preliminary hearing but does not wish to waive the right to be heard by a panel, the examiner shall terminate the proceedings, and the parolee shall be scheduled to be heard by a panel at a violation hearing.

(vi) If the parolee does not wish to waive the right to the preliminary hearing and where a waiver of, or appearance by, counsel has been signed as prescribed in this section, the examiner shall conduct a preliminary hearing.

(6) A representative of the Board who is familiar with the facts which constitute the alleged violation shall be present to testify.

(7) The examiner shall make a summary which shall state:

(i) Which violations are supported by probable cause.

(ii) A summary of the evidence presented.

(iii) Which of the violations have been admitted, agreed to or stipulated.

(8) If the examiner finds that none of the allegations were supported by probable cause, the parolee shall be released as soon as practicable.

(9) If the examiner finds probable cause and is of the opinion that a violation hearing is warranted, the examiner shall initiate the scheduling of a violation hearing, if desired by the parolee or by the Board's representative to resolve remaining contested relevant facts.

(10) If a violation hearing is scheduled, it shall be held not later than 120 days after the preliminary hearing.

(11) Before the violation hearing the parolee or counsel shall be notified of the following:

(i) The charges, specifying the conditions of parole violated and setting forth the circumstances of the violations.

(ii) The date set for the hearing and of the right to be heard by a panel.

(iii) The right to speak, to have witnesses appear and to present documentary evidence.

(iv) The right to cross-examine an adverse witness who appears at the hearing, unless the panel or examiner specifically finds good cause for not allowing confrontation.

(v) The right to representation by counsel at the hearing, the right to free counsel, if the parolee is unable to afford to retain counsel, and the name and address of the public defender.

(vi) That there is no penalty for requesting counsel.

(12) If the parolee is unable to afford counsel, the Board will notify the appropriate public defender by transmitting a copy of the written notice given to the parolee.

(13) The following procedures apply during a violation hearing:

(i) A violation hearing shall be held before a panel, or, if the parolee has waived hearing by a panel, the hearing shall be held before an examiner other than the examiner who conducted the preliminary hearing, if practicable.

(ii) The parolee has the right to be present during the entire proceeding, unless the parolee expressly waives that right, refuses to appear or behaves disruptively.

(14) If a parolee appears without counsel at the violation hearing, the panel or examiner shall determine whether the parolee understands the right to free counsel if unable to afford counsel, and that there is no penalty for requesting counsel.

(15) A representative of the Board who is familiar with the facts which constitute the violation shall be present to testify.

(16) If a violation hearing is conducted by an examiner, the examiner shall prepare a written report and file it with the other panel member for decision. The report shall state:

(i) Which violations have been proved by a preponderance of the evidence.

(ii) The evidence relied upon.

(iii) A decision as to disposition and the reasons for it.

(17) If the hearing is before a panel, the panel shall act promptly.

(18) If revocation is ordered, the revocation decision shall specifically state the reasons for revocation. The decision shall be transmitted to the parolee or to counsel of record.

(19) The panel may not find that a violation was proved except by a preponderance of the evidence.

§ 71.3. Return for a new criminal charge.

The following procedures shall be followed if a parolee, not already detained after appropriate hearings for other criminal charges or technical violations, has been charged with a new criminal offense:

(1) A parolee may be detained on a Board warrant pending disposition of a criminal charge following the occurrence of one of the following:

(i) A district justice has conducted a criminal preliminary hearing and concluded that there is a prima facie case against the parolee.

(ii) The parolee waives a criminal preliminary hearing and is held for court.

(iii) The parolee is convicted of a crime at a trial before a judge of the Philadelphia Municipal Court or a district justice.

(iv) An examiner conducts a detention hearing.

(2) A parolee detained on a Board warrant upon the occurrence of one of the events enumerated in paragraph (1) may be held, without further hearing, pending disposition of the new criminal charge.

(3) If the decision of the agent, with concurrence of the district director, is to detain a parolee, the agent shall file a written report with the Board stating the reasons for detention.

(4) The Board may either concur in the decision of the agent to detain or reject the decision and order the parolee continued on parole pending disposition of the new criminal charge.

(5) If the Board concurs with the agent's decision to detain the parolee, the parolee shall be notified of the decision in writing.

(6) If an agent determines that a parolee poses a risk to the community or to self and that immediate incarceration or continued detention of the parolee is necessary, the agent shall apply to the district director for authorization to detain.

(7) If application is made under paragraph (6), the district director shall promptly grant or deny the request.

(8) If the application is granted, the parolee may be detained up to 30 days without the occurrence of one of the events enumerated in paragraph (1).

(9) The Board will follow the procedures generally governing preliminary hearings contained in § 71.2(1)—(8) (relating to procedure for violation of parole conditions) in conducting detention hearings, except that a detention hearing shall be held within 30 days of the parolee's detention. After the detention hearing, a panel shall determine whether to continue to detain the parolee pending disposition of the new criminal charge.

(10) In determining whether a parolee should be detained under this section, the agent and the district director shall consider the following criteria:

(i) Risk to the community if the parolee is not detained.

(ii) Evidence that the parolee has violated parole in a sufficiently serious manner to warrant return as a technical violator.

- (iii) The history of the parolee while under supervision.
- (iv) Whether the parolee is in delinquent status by absconding.
- (v) Seriousness of the offense with which the parolee has been charged.
- (vi) Possibility that the parolee may abscond from parole supervision if not detained.
- (vii) Whether the new criminal charge involves an alleged use of a weapon or physical assault.
- (viii) Whether the parolee already has another pending criminal charge.

§ 71.4. Conviction for a new criminal offense.

The following procedures shall be followed before a parolee is recommitted as a convicted violator:

(1) A revocation hearing shall be held within 120 days from the date the Board received official verification of the plea of guilty or nolo contendere or of the guilty verdict at the highest trial court level except as follows:

(i) If a parolee is confined outside the jurisdiction of the Department of Corrections, such as confinement out-of-State, confinement in a Federal correctional institution or confinement in a county correctional institution where the parolee has not waived the right to a revocation hearing by a panel in accordance with *Commonwealth ex rel. Rambeau v. Rundle*, 455 Pa. 8, 314A.2d 842 (1973), the revocation hearing shall be held within 120 days of the official verification of the return of the parolee to a State correctional facility.

(ii) A parolee who is confined in a county correctional institution and who has waived the right to a revocation hearing by a panel in accordance with the *Rambeau* decision shall be deemed to be within the jurisdiction of the Department of Corrections as of the date of the waiver.

(2) Prior to the revocation hearing, the parolee will be notified of the following:

(i) The right to a revocation hearing, the right to notice of the exact date and the right at the revocation hearing to be heard by a panel.

(ii) The right to retain counsel, the right to free counsel if unable to afford to retain counsel and the name and address of the public defender.

(iii) There is no penalty for requesting counsel.

(iv) The right to speak, to have voluntary witnesses appear and to present documentary evidence.

(v) The purpose of the hearing is to determine whether to revoke parole and that if revocation is ordered, the parolee will receive no credit for time spent at liberty on parole.

(3) If the parolee cannot afford counsel, the Board will notify the appropriate public defender by transmitting a copy of the written notice given to the parolee.

(4) The revocation hearing shall be held by a panel or, when the parolee has waived the right to a hearing by a panel, by an examiner.

(5) If a parolee appears without counsel at a revocation hearing, it shall first be determined whether the parolee understands the right to retain counsel, the right to free counsel if unable to afford counsel and that there is no penalty for requesting counsel. If the parolee then wishes to exercise the right to counsel, the panel or examiner shall terminate the proceedings and the revocation hearing shall be rescheduled.

(6) The parolee has the right to be present during the entire proceeding, unless the parolee waives that right, refuses to appear or behaves disruptively.

(7) If the hearing is conducted by an examiner, the examiner shall file a report with the other panel member for decision.

(8) If revocation is ordered, the revocation decision shall be transmitted to the parolee and to counsel of record.

§ 71.5. General.

(a) If the parolee is in custody in another state, or in Federal custody, the Board may lodge its detainer but other matters may be deferred until the parolee has been returned to a State correctional facility in this Commonwealth.

(b) In hearings conducted under this chapter, documentary evidence and reports, including, but not limited to, depositions, written interrogatories, affidavits, laboratory reports, business records, public records, official records and letters rogatory, may be utilized solely, if the panel or examiner is satisfied as to their authenticity, relevancy, accuracy and reliability.

(c) In determining the period for conducting hearings under this chapter, there shall be excluded from the period, a delay in any stage of the proceedings which is directly or indirectly attributable to one of the following:

(1) The unavailability of a parolee or counsel.

(2) Continuances granted at the request of a parolee or counsel, in which case the Board is not required to reschedule the hearing until it receives a written request to reschedule the hearing from the parolee or counsel.

(3) Reasonable or necessary continuances granted to, or occurrences related to, the Board or its employees.

(4) A change of decision by a parolee either to waive the right to be heard by a panel after asserting it or to assert that right after waiving it. In this case, the hearing shall be held within 120 days of the last change of decision.

(5) An event which could not be reasonably anticipated or controlled by the Board, including, but not limited to, illness, injury, acts of nature and prison or civil disorder.

(d) The number of days set forth in this chapter shall be calculated as prescribed by 1 Pa.C.S. § 1908 (relating to computation of time).

(e) Notwithstanding § 71.4 (relating to conviction for a new criminal offense), the Board may defer the revocation hearing until either partial or full service of a new sentence which a parolee receives.

CHAPTER 73. SPECIAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE

73.1. [Appeals and petitions for administrative review.](#)

§ 73.1. Appeals and petitions for administrative review.

(a) *Appeals.*

(1) An interested party, by counsel unless unrepresented, may appeal a revocation decision. Appeals shall be received at the Board's Central Office within 30 days of the mailing date of the Board's order. When a timely appeal of a revocation decision has been filed, the revocation decision will not be deemed final for purpose of appeal to a court until the Board has mailed its decision on the appeal. This subsection supersedes 1 Pa. Code § 35.226 (relating to final orders).

(2) The scope of review of an appeal will be limited to whether the decision is supported by substantial evidence, an error of law has been committed or there has been a violation of constitutional law.

(3) The failure of an appeal to present with accuracy, brevity, clearness and specificity whatever is essential to a ready and adequate understanding of the factual and legal points requiring consideration will be a sufficient reason for denying the appeal.

(4) Second or subsequent appeals and appeals which are out of time under these rules will not be received.

(b) *Petitions for administrative review.*

(1) A parolee, by counsel unless unrepresented, may petition for administrative review under this subsection of determinations relating to revocation decisions which are not otherwise appealable under

subsection (a). Petitions for administrative review shall be received at the Board's Central Office within 30 days of the mailing date of the Board's determination. When a timely petition has been filed, the determination will not be deemed final for purposes of appeal to a court until the Board has mailed its response to the petition for administrative review. This subsection supersedes 1 Pa. Code § 35.226.

(2) The failure of a petition for administrative review to present with accuracy, brevity, clearness and specificity whatever is essential to a ready and adequate understanding of the factual and legal points requiring consideration will be a sufficient reason for denying the petition.

(3) Second or subsequent petitions for administrative review and petitions for administrative review which are out of time under this part will not be received.

(4) An employe of the Board designated by the Chairperson may review and respond to a petition for administrative review.

CHAPTER 75. PRESUMPTIVE RANGES FOR RECOMMITMENTS OF PAROLE VIOLATORS

75.1. [Application of presumptive ranges to convicted parole violators.](#)

75.2. [Presumptive ranges for convicted parole violators.](#)

75.3. [Application of presumptive ranges to technical parole violators.](#)

75.4. [Presumptive ranges for technical parole violators.](#)

§ 75.1. Application of presumptive ranges to convicted parole violators.

(a) Presumptive ranges of parole backtime to be served will be utilized if a parolee is convicted of a new criminal offense while on parole and the Board orders recommitment as a convicted parole violator after the appropriate revocation hearing.

(b) The presumptive ranges of parole backtime are intended to structure the discretion of the Board while allowing for individual circumstances in terms of mitigation and aggravation to be considered in the final decision.

(c) The Board may deviate from the presumptive range or determine that recommitment should not occur, provided written justification is given.

(d) The presumptive ranges are intended to directly relate to the severity of the crime for which the parolee has been convicted.

(e) The severity ranking of crimes listed in § 75.2 (relating to presumptive ranges for convicted parole violations) is not intended to be exhaustive, and the most closely related crime category in terms of severity and the presumptive range will be followed if the specific crime which resulted in conviction is not contained within the listing.

§ 75.2. Presumptive ranges for convicted parole violators.

If the Board orders the recommitment of a parolee as a convicted parole violator, the parolee shall be recommitted to serve an additional part of the term which the parolee would have been compelled to serve had he not been paroled, in accordance with the following presumptive ranges:

<i>Offense Categories</i>	<i>Presumptive Ranges</i>
Murder	36 months to expiration of maximum sentence
Criminal Conspiracy (Murder)	24 months to 48 months
Voluntary Manslaughter	24 months to 48 months
Involuntary Manslaughter	12 months to 18 months
Homicide by Vehicle	12 months to 18 months
Driving Under Influence	3 months to 6 months
Violation No Fault Motor Vehicle Insurance Act	3 months to 6 months
Accident Involving Death or Personal Injury (Hit and Run)	1 month to 6 months
Reckless Driving	0 months to 6 months
Aggravated Assault: Felony of the Second Degree	24 months to 40 months
Misdemeanor of the First Degree	15 months to 28 months
Assault by Prisoner	24 months to 33 months
Recklessly Endangering Another Person	12 months to 18 months
Simple Assault	9 months to 15 months
Terroristic Threats	6 months to 12 months
Harrassment	1 month to 6 months
Kidnapping	30 months to expiration of maximum sentence
False Imprisonment	6 months to 12 months
Rape (Forcible)	30 months to 48 months
Involuntary Deviate Sexual Intercourse	27 months to 40 months
Statutory Rape	18 months to 24 months
Indecent Assault	12 months to 18 months
Indecent Exposure	6 months to 12 months

Arson	27 months to 40 months
Criminal Mischief:	
Felony of the Third Degree	6 months to 12 months
Misdemeanor of the Second Degree	3 months to 6 months
Misdemeanor of the Third Degree or Summary Offense	1 month to 3 months
Burglary	15 months to 24 months
Criminal Trespass:	
Felony of the Second Degree	12 months to 18 months
Felony of the Third Degree	6 months to 12 months
Misdemeanor of the Third Degree or Summary Offense	1 month to 6 months
Robbery:	
Felony of the First Degree	30 months to 48 months
Felony of the Second or Third Degree	24 months to 40 months
Theft:	
Felony of the Third Degree or Misdemeanor of the First Degree	6 months to 12 months
Misdemeanor of the Second Degree	3 months to 6 months
Misdemeanor of the Third Degree	1 month to 6 months
Theft by Deception:	
Felony of the Third Degree or Misdemeanor of the First Degree	6 months to 12 months
Misdemeanor of the Second Degree	3 months to 6 months
Misdemeanor of the Third Degree	1 month to 6 months
Receiving Stolen Property:	
Felony of the Third Degree or Misdemeanor of the	

First Degree Misdemeanor of the	6 months to 12 months
Second Degree Misdemeanor of the Third	3 months to 6 months
Degree	1 month to 6 months
Theft of Services: Felony of the Third Degree or Misdemeanor of the	6 months to 12 months
First Degree Misdemeanor of the	6 months to 12 months
Second Degree Misdemeanor of the Third	3 months to 6 months
Degree or Summary Offense	1 month to 6 months
Unauthorized Use of Auto or Other Vehicle	6 months to 12 months
Retail Theft: Felony of the Third Degree or Misdemeanor of the	6 months to 12 months
First Degree Misdemeanor of the	6 months to 12 months
Second Degree Misdemeanor of the	3 months to 6 months
Third Degree or Summary Offense	1 month to 6 months
Forgery	6 months to 12 months
Bad Checks: Misdemeanor of the	
Second Degree	6 months to 12 months
Summary Offense	1 month to 6 months
Credit: Felony of the Third Degree	6 months to 12 months
Misdemeanor of the	
Second Degree	3 months to 6 months
Summary Offense	1 month to 6 months
Incest	12 months to 18 months
Unsworn Falsification to Authorities	3 months to 6 months
Obstructing Administration	

of Law or other	
Governmental Function	6 months to 12 months
Resisting Arrest	6 months to 12 months
Escape	6 months to 12 months
Default in Required	
Appearance	1 month to 6 months
Failure to Disperse Upon	
Official Order	3 months to 6 months
Disorderly Conduct	1 month to 6 months
Harassment by	
Communication or	
Address	1 month to 6 months
Loitering & Prowling at	
Night	6 months to 12 months
Open Lewdness	3 months to 6 months
Prostitution	3 months to 6 months
Drug Law Violations:	
Felony with Statutory	
Maximum of 15 years	24 months to 36 months
Felony with Statutory	
Maximum of 10 years	18 months to 24 months
Felony with Statutory	
Maximum of 5 years	9 months to 15 months
Felony with Statutory	
Maximum of 3 years and	
Misdemeanors	
with Statutory	
Maximum of 2 or 3 years	6 months to 12 months
Misdemeanor with	
Statutory Maximum	
of 1 year	3 months to 6 months
Misdemeanor with	
Statutory Maximum of	
30 days	1 month to 3 months
Violation of any Provision	
of the Pennsylvania	
Uniform Firearms Act	18 months to 24 months
Prohibited Offensive	
Weapons	12 months to 18 months

Possessing Instruments of Crime	6 months to 12 months
Corruption of Minors	18 months to 24 months
Criminal Attempt	Relate to Crime
Criminal Solicitation	Relate to Crime
Criminal Conspiracy	Relate to Crime

§ 75.3. Application of presumptive ranges to technical parole violators.

(a) Presumptive ranges of parole backtime to be served shall be utilized if a parolee violates a general or special condition of parole, and the Board orders recommitment as a technical violator after the appropriate violation hearing.

(b) The presumptive ranges of parole backtime are intended to structure the discretion of the Board while allowing for individual circumstances in terms of mitigation and aggravation to be considered in the final decision.

(c) The Board may deviate from the presumptive range or determine that recommitment should not occur provided sufficient written justification is given.

(d) The presumptive ranges are intended to directly relate to the severity of the technical violation, both singly and in combination.

(e) When multiple violations occur, the presumptive range will be used which has the highest backtime range of those conditions violated.

(f) Backtime for a violation of a special condition shall be aggregated with other backtime, unless the revocation decision states otherwise.

§ 75.4. Presumptive ranges for technical parole violators.

The presumptive ranges for recommitment for the general conditions of parole are as follows:

<i>Violation of:</i>	<i>Single</i>	<i>Multiple</i>
Condition 1 (see § 63.4(1))	6 to 12 months	6 to 18 months
Condition 2 (see § 63.4(2))	6 to 9 months	6 to 18 months
Condition 3(a) (see § 63.4(3)(i))	3 to 6 months	6 to 18 months
Condition 3(b)	3 to 6 months	6 to 18 months

	(see § 63.4(3)(ii))	
Condition 3(c)	3 to 6 months	6 to 18 months
	(see § 63.4(3)(iii))	
Condition 4	3 to 9 months	6 to 18 months
	(see § 63.4(4))	
Condition 5(a)	5 to 12 months	6 to 18 months
	(see § 63.4(5)(i))	
Condition 5(b)	6 to 12 months	6 to 18 months
	(see § 63.4(5)(ii))	
Condition 5(c)	6 to 18 months	6 to 18 months
	(see § 63.4(5)(iii))	
Condition 6	0 to 6 months	
	(see § 63.4(6))	
Special Condition	3 to 18 months	See § 75.3(f)
	(see § 63.5)	

CHAPTER 77. CITIZENS ADVISORY COMMITTEES

77.1. [Composition.](#)

77.2. [Functions and responsibilities.](#)

§ 77.1. Composition.

The district director shall appoint at least seven persons to a citizens advisory committee. If possible, the membership of the committee shall include but not be limited to:

- (1) Members of ethnic and minority groups in proportion to their numbers in the district.
- (2) A resident of each county within the district.

§ 77.2. Functions and responsibilities.

A citizens advisory committee shall:

- (1) Advise the Board of the issues and concerns of the citizens of this Commonwealth regarding probation and parole.

(2) Inform the citizens of this Commonwealth regarding probation and parole and the functions of the Board.

(3) Assist the district staff in discharging their duties.

(4) Review established policies and programs of the Board.

(5) Explore innovative administrative and programmatic ideas.

(6) Develop new resources.