


<p>Commonwealth of Pennsylvania</p>  <p>Pennsylvania Board of Probation and Parole</p>	<p>Volume III CHAPTER X Procedure 10.3</p>	<p>Replaces No. 10-5/1 Dated 5/9/88</p>
<p>Chapter Title VIOLATION AND REVOCATION PROCEDURES</p>		
<p>Subject THE DETENTION HEARING</p>		<p>Effective Date 10/03/01</p>

I. Definitions

Refer to Procedure 10.1.

II. Purpose/Applicability

A Detention Hearing shall be held for all offenders who have been detained on a Board Warrant to Commit and Detain (**PBPP 141**), as the result of new criminal charges, except as delineated in III.A.2. below.

III. Procedures

A. Detention Hearing

1. An offender under the Board's jurisdiction who has been arrested on new criminal charges is to be detained on a Board Warrant to Commit and Detain (**PBPP 141**).
2. A Detention Hearing must be held within 30 calendar days of the lodging of the Warrant to Commit and Detain (**PBPP 141**), except in any of the following circumstances:
 - a. A District Justice has conducted a Criminal Preliminary Hearing and concluded that there is a prima facie case against the offender;
 - b. The offender waives a Criminal Preliminary Hearing and is held for Court;
 - c. The offender is convicted of a crime at a trial before a judge of the Philadelphia Municipal Court or a District Justice; or
 - d. The offender was previously detained on other criminal charges or probable cause was previously established for technical parole violations.
3. In cases where any of the above exceptions apply, the agent must complete the Criminal Arrest and Disposition Report (**PBPP 257C**), and Supervision History Report (**PBPP 257H**), and forward them to the Special Projects Division at Central Office with an appropriate recommendation regarding the lodging of a Board Warrant to Commit and Detain (**PBPP 141**). These cases will then be presented to the Board for action and the field staff will be advised of the Board's decision on the Notice of Board Decision (**PBPP 15**).

B. Additional Criminal Charges When Offender is Already Confined

1. When additional criminal charges are filed while the offender is already detained on a Board Warrant to Commit and Detain (**PBPP 141**), the agent must submit a Criminal Arrest and Disposition Report (**PBPP 257C**) to the Special Projects Division within five working days. Following the Criminal Preliminary Hearing, the Parole Agent must update the Criminal Arrest and Disposition Report (**PBPP 257C**) and complete the "Criminal Preliminary Hearing" and "Reason(s) to Detain" sections.

2. Additional Detention Hearings are not necessary unless the charges which resulted in the initial detain action have been disposed of in favor of the offender, and probable cause has not been established on any technical parole violations.

C. Release of the Offender Prior to Detention Hearing

An offender facing new criminal charges may be released prior to a Detention Hearing only in extraordinary circumstances and with the concurrence of the District Director.

D. Release of the Offender at Expiration of A Maximum Sentence

An offender, who has been detained on a Board Warrant to Commit and Detain (**PBPP 141**) pending disposition of new criminal charges, and who has not been convicted of those charges upon the expiration of his/her maximum sentence date as extended by delinquent time, if any, must be released.

E. Scheduling the Detention Hearing

1. Field Staff shall schedule a Detention Hearing with the appropriate Hearing Coordinator within 15 calendar days following the lodging of the Board Warrant to Commit and Detain (**PBPP 141**).
2. The Hearing Coordinator shall determine the date, time, and location of the hearing and notify the appropriate field staff.

F. Preparation of the Notice of Charges and Hearing (PBPP 257N)

1. Upon scheduling the Detention Hearing, parole supervision staff shall prepare the Notice of Charges and Hearing (**PBPP 257N**), and provide copies to the offender for his/her signature, the offender's counsel, if any, and the warden/superintendent of the institution where the hearing is scheduled. This must occur no later than three working days prior to the scheduled hearing.
2. If the Detention Hearing is to be conducted at a state correctional facility, the institutional parole staff shall be sent a copy of the Notice of Charges and Hearing (**PBPP 257N**), a copy of which must be provided to the offender for his/her signature at least 72 hours prior to the scheduled hearing.

G. Notice of Changes in the Detention Hearing

If copies of Notice of Charges and Hearing (**PBPP 257N**) have been distributed, and the scheduled hearing is not required or is changed for any reason, the Board staff member who initiated the scheduling of the hearing is responsible to notify all parties, including the offender, and offender's counsel, if any, of the change(s).

H. Preparation for Detention Hearing

1. The Parole Agent is responsible for preparing the necessary reports and obtaining the required documentation for the Detention Hearing.
2. The following materials shall be brought to the hearing:
 - a. Criminal Arrest and Disposition Report (**PBPP 257C**);
 - b. Supervision History Report (**PBPP 257H**);
 - c. Notice of Charges and Hearing (**PBPP 257N**);
 - d. Waiver/Request of Hearing/Counsel (**PBPP 72**);
 - e. Release Orders, including Order to Release on Parole/Reparole (**PBPP**

10) and Conditions Governing Parole/Reparole (PBPP 11);

- f. Criminal Complaint and/or any documents to substantiate the arrest;
- g. Warrant to Commit and Detain (PBPP 141), and any related warrants;
- h. Request For Continuance of Hearing (PBPP 29), if any;
- i. Summarization Report (PBPP 382); and,
- j. Pre-Sentence Investigation, if available.

- 3. Sufficient copies of the Notice of Charges and Hearing (PBPP 257N), Supervision History Report (PBPP 257H), Criminal Arrest and Disposition Report (PBPP 257C) and any Request for Continuance of Hearing (PBPP 29) are to be available for distribution to the Hearing Examiner, offender and offender's counsel, if any.

I. Change of Recommendation at Detention Hearing

If the Parole Agent wishes to change his/her recommendation to detain an offender at the Detention Hearing, he/she must present a memorandum, signed by the Field Supervisor and the District Director or designee, stating the rationale for the change.

J. Hearing Examiner's Decision and Report

The Hearing Examiner must submit a Preliminary/Detention Hearing Report (PBPP 343) within five working days of the hearing. If a Violation Hearing is held in conjunction with the Detention Hearing, the Hearing Examiner will record his/her recommendations regarding the Detention Hearing on the Hearing Report (PBPP 344).

K. No Probable Cause Established

- 1. An offender shall be released from confinement where no probable cause has been established to support a detain action. The offender shall be released no later than four working days from the Board's final decision.
- 2. If a parole plan has not been approved within four working days from the Board's final decision, the Parole Agent shall impose a Special Condition (PBPP 336) requiring the offender to report to the appropriate Board office on the first business day following his/her release. The agent shall make every effort to place the offender in alternate housing, such as a Community Corrections Center, pending the establishment of an approved home plan.
- 3. A Special Field Report shall be forwarded to the Special Projects Division within ten working days of the offender's release. This report shall detail the release plan, reporting instructions, and actual date of release.

L. Probable Cause Established

Where probable cause to detain has been established, the offender shall remain in confinement pending a decision by the Board unless the charges are dismissed. In extraordinary circumstances, the District Director or Hearing Examiner can recommend action to continue on parole. This action, however, requires Board Member concurrence.

M. The Board Decision

Immediately following a final decision by the Board, the Notice of Board Decision (PBPP 15) shall be prepared and provided to the offender, offender's counsel, if any, the superintendent or warden of the institution in which the offender is confined, and to the appropriate District Office.

N. Detain Pending Disposition of Criminal Charges

Where the Board's decision is to detain and the offender is not in custody, the offender shall immediately be arrested and confined on the Board's Warrant to Commit and Detain (PBPP 141). An offender already confined has the right to post bail on any new criminal charges, however he/she will remain in custody on the Board's Warrant to Commit and Detain (PBPP 141).

O. Continue on Parole Pending Disposition of Criminal Charges

A Board Warrant to Commit and Detain (PBPP141) shall be removed within four working days following a Board decision to continue that offender on parole pending disposition of his/her criminal charges.

IV. Superseded Policy and ACA Standards

Manual of Operations and Procedures, Chapter 10, Procedure 5, dated 5/9/88
(Reference No. 10-5/1)

ACA Standards: 3-3160
3-3161
3-3162
3-3163
3-3164
3-3165
3-3166
3-3167