


<p><b>Commonwealth of Pennsylvania</b></p>  <p><b>Pennsylvania Board of Probation and Parole</b></p>	<p><b>Volume III Chapter 3</b></p> <p><b>Procedure 3.03.07</b></p>	<p><b>Date Revised: New BULLETIN: 3.03.07-01 5/14/2013, 3.03.07-02 12/31/15</b></p>
<p><b>Chapter Title CASE RECORDS, DECISIONAL PROCESSING</b></p>		<p><b>Date of Issue 01/26/2011</b></p>
<p><b>Subject HEARING WAIVERS AND ADMISSIONS</b></p>		<p><b>Effective Date 02/04/2011 <b>PUBLIC</b></b></p>

**I. AUTHORITY**

The chairman of the board is granted the authority to “direct the operations of the board and fulfill the functions established by th[e] act... including organizing, staffing, controlling, directing, and administering the work of the staff.” 61 Pa.C.S. § 6112 (a)(1) & (a)(4).

**II. PURPOSE**

To provide offenders arrested for violating conditions of parole the opportunity to waive their hearing rights and admit to violations of parole.

**III. APPLICABILITY**

This procedure is applicable to all Board employees.

**IV. DEFINITIONS**

Refer to Procedure 3.03.01.

**V. POLICY**

All rights shall be afforded to offenders at hearings conducted before the Pennsylvania Board of Probation and Parole Board unless otherwise waived by the offender.

**VI. PROCEDURES**

The following waiver procedures outline the application of PBPP waiver forms with regard to several types of hearings conducted before PBPP decision makers. The specific procedures for each type of hearing are located in other sections of this chapter and should be followed.

**A. Waiver/Request for Hearing/Counsel (PBPP-72)**

A hearing request for a first level hearing (ie: Preliminary, Detention, Interstate Probable Cause) must be submitted in the Hearing Interview Program (HIP) application within two (2) business days of the offender’s arrest.

1. Right to Counsel

- a. The appropriate parole institutional or supervision staff shall determine if the offender desires to have counsel present for a Preliminary or Preliminary/Detention Hearing. If the offender desires to be represented by counsel, the parole supervision staff must advise that the Board does not provide counsel and that it is the offender's obligation to secure counsel.
- b. If the offender waives the right to be represented by counsel, the applicable sections of the Waiver/Request for Hearing/Counsel (PBPP-72) shall be completed.

2. Right to First Level Hearing: Preliminary or Detention Hearing

- a. If the offender desires to waive the Preliminary or Preliminary/Detention Hearing, the Waiver/Request for Hearing/Counsel (PBPP- 72) shall be completed.

3. Right to a Panel Hearing:

- a. The offender has a right to have his Violation/Revocation Hearing held before a panel of two (2) decision-makers. The offender may waive his right to a panel hearing and request that the proceeding be held before a Hearing Examiner only.
- b. If the offender desires to waive this right, the applicable section of the Waiver/Request for Hearing/Counsel (PBPP- 72) shall be completed.

B. Waiver of Violation Hearing (PBPP- 72T)

- 1. If the offender agrees to waive the right to a Violation Hearing and admits to all violations:
  - a. The appropriate institutional parole or parole supervision staff provides the Notice of Charges and Hearing (PBPP-257N) and the Waiver of Violation Hearing (PBPP-72T) to the offender. The appropriate institutional parole or parole supervision staff shall read the entire PBPP-72T to the offender.
  - b. If the offender agrees to waive the Violation Hearing, the offender shall be given the opportunity to fill out any additional information in the designated sections on the PBPP-72T.
  - c. The offender must sign the PBPP-72T and be provided a copy.
  - d. The PBPP-72T shall be witnessed/signed and dated by the appropriate institutional parole or parole supervision staff.

2. The signed waiver form shall be provided to the field Parole Supervisor for review and signature and returned to the supervising agent.
3. The supervising agent will prepare the "waiver packet" to include:
  - a. All applicable PBPP-257 documents (257N, 257T, 257H, 257C);and,
  - b. The signed PBPP-72T;and,
  - c. A copy of all Orders to Release on Parole/Reparole (PBPP-10) and the Conditions Governing Parole/Reparole (PBPP- 11); and,
  - d. A copy of all related warrants, including the Warrant to Commit and Detain (PBPP- 141) or the Warrant for the Arrest of Paroled Prisoner (PBPP-6); and,
  - e. Violator Sanctioning Grid (PBPP-347); and
  - f. Copies of board actions processed since January 2013 with recommitment periods of 6, 9 or 12 months; and,
  - g. Any other documents to support the violation as charged or in regard to disposition of the violation; and,
  - h. Any applicable release from detainers, and a copy of the latest ICSA
    - 1) In cases where the ICSA is not available, a copy of the institutional minimum summarization report (PBPP- 382) will be provided. If the PBPP- 382 is not available, a Pre-sentence investigation is provided, if available.
4. In order to have the waiver applied and no attendance required at a scheduled hearing, a hearing request must be submitted through HIP and a complete waiver packet shall be received by the Hearing Coordinator within two (2) business days of the scheduled hearing date.
  - a. The packet is scanned and emailed to the assigned resource account indicating the offender's name and parole number in the subject line. Use Appendix A Hearing location chart to determine which of the following resource accounts to use:
    - 1) PM, CENTRAL REGION WAIVERS
    - 2) PM, EASTERN REGION WAIVERS
    - 3) PM, NORTH CENTRAL REGION WAIVERS
    - 4) PM, WESTERN REGION WAIVERS

- b. If the offender is located in a Contracted County Jail (CCJ) or Parole Violator Center (PV Center), the Hearing Coordinator will forward the email containing the complete hearing waiver packet to the location as provided on the Notice of Charges and Hearing (PBPP-257N).
  - c. Upon review of the waiver packet the hearing shall be waived by the coordinator unless the waiver packet is incomplete. If additional information is needed, it shall be submitted by parole supervision staff within two (2) business days to the Hearing Coordinator, at which point the hearing will be cancelled. If not complete, the hearing shall go forward as scheduled.
5. The offender may withdraw the waiver up to ten (10) calendar days after the PBPP-72T is signed. The offender informs parole supervision staff of his intention to withdraw the waiver. All such withdraws must be in writing from the offender. If the waiver is withdrawn, the appropriate institutional parole or parole supervision staff will notify the Hearing Coordinator to re-schedule the hearing.
- a. The hearing is re-scheduled within the appropriate timeframes from the date the offender informed PBPP staff, in writing, of their intent to withdraw the waiver.

C. Waiver of Revocation Hearing (PBPP- 72C)

1. For convicted parole violators (CPVs) pending a revocation hearing, upon receipt of the proof of conviction or the offender's return to SCI, the supervising agent shall request a revocation hearing in the HIP application.
2. If the offender wants to waive a Revocation Hearing:
  - a. The appropriate institutional parole or parole supervision staff shall provide the Notice of Charges and Hearing (PBPP-257N) and Waiver of Revocation Hearing (PBPP-72C) to the offender. The appropriate PBPP staff shall read the entire PBPP-72C to the offender.
  - b. If the offender agrees to waive the Revocation Hearing, the offender will be given the opportunity to fill out any additional information in the designated section of the PBPP- 72C.
  - c. The offender must sign the PBPP- 72C and be provided a copy.
  - d. The PBPP-72C shall be witnessed/signed by the appropriate parole institutional or parole supervision staff.
  - e. The PBPP-72C shall not be presented to the offender before he is convicted on the new criminal charges or returned to custody.
3. The signed PBPP-72C shall be scanned/emailed or given to the field parole supervisor for review and signature and returned to the supervising agent.

4. The supervising agent will prepare the “waiver packet” to include:
  - a. All applicable PBPP-257 documents (257N, 257H, 257C, 257T); and,
  - b. The signed PBPP- 72C; and,
  - c. A copy of all Orders to Release on Parole/Reparole (PBPP-10) and the Conditions Governing Parole/Reparole (PBPP-11); and,
  - d. A copy of all related warrants, including the Warrant to Commit and Detain (PBPP-141) or the Warrant for the Arrest of Paroled Prisoner (PBPP-6); and,
  - e. Any applicable release from detainers, and a copy of the latest ICSA.
    - 1) In cases where the ICSA is not available, a copy of the institutional minimum summarization report (PBPP- 382) will be provided. If the PBPP- 382 is not available, a pre-sentence investigation is provided, if available); and,
  - f. Proof of the conviction - a certified copy of the judgment of conviction or obtain a copy of the conviction signed by the judge.
5. In order to have the waiver applied and no attendance required at a scheduled hearing, a hearing request must be submitted through HIP and a complete waiver packet shall be received by the Hearing Coordinator within two (2) business days of the scheduled hearing date.
  - a. The packet is scanned and emailed to the assigned resource account indicating the offender’s name and parole number in the subject line. Use appendix A Hearing Location Chart to determine which of the following resource accounts to use;
    - 1) PM, CENTRAL REGION WAIVERS
    - 2) PM, EASTERN REGION WAIVERS
    - 3) PM, NORTH CENTRAL REGION WAIVERS
    - 4) PM, WESTERN REGION WAIVERS
  - b. Upon review of the waiver packet, the hearing shall be waived by the coordinator unless the waiver packet is incomplete. If additional information is needed, it shall be submitted by field supervision staff within two (2) business days to the hearing coordinator, at which point the hearing will be cancelled. If not complete, the hearing may go forward as scheduled.
  - c. A Hearing Examiner will review the packet and complete the appropriate report within ten (10) business days, barring any documentation issues such as missing information from the central office file.

6. The offender may withdraw the waiver up to ten (10) calendar days after the PBPP-72C is signed. The offender informs parole supervision staff of his intention to withdraw the waiver. All such withdraws must be in writing from the offender. If the waiver is withdrawn, the appropriate institutional parole or parole supervision staff will notify the Hearing Coordinator to re-schedule the hearing.
  - a. The hearing is re-scheduled within appropriate time limits, beginning from the date the offender informed the PBPP staff, in writing, of their intent to withdraw the waiver.

D. Waiver of Probable Cause Hearing – Interstate cases (PBPP 72ICS)

1. In situations where the offender is being supervised for an entity outside of Pennsylvania, and the offender agrees to waive his probable cause hearing, staff will refer to the procedure contained in the Interstate Procedures (4.05.07).
2. The waiver of probable cause hearing proceedings by an offender under Interstate Compact supervision is not acceptable unless the waiver includes a written admission to one or more of the significant violation(s) charged.
  - a. The appropriate parole institutional or supervision staff shall provide the PBPP-257N and the PBPP-72ICS Waiver to the offender. The appropriate parole institutional or supervision staff shall read the entire PBPP-72 ICS to the offender.
  - b. If the offender agrees to waive the Probable Cause Hearing, the offender will be given the opportunity to fill out any additional information in the designated section on the 72ICS.
  - c. The offender must sign the 72ICS.
  - d. The 72ICS shall be witnessed/signed and dated by the appropriate parole institutional or supervision staff.
  - e. The 72ICS should not be presented to the offender on the day of arrest to insure offender he is not under the influence at the time.
3. The signed waiver form shall be provided to the field Parole Supervisor for review and signature and returned to the supervising agent.
4. The supervising agent will prepare the “waiver packet” to include:
  - a. All applicable PBPP-257 documents (257N, 257T, 257H, 257C);
  - b. A copy of all release orders, including the PBPP- 10 and PBPP- 11;
  - c. A copy of all related warrants, including the PBPP- 141 or Interstate Warrant for Paroled Prisoner; and
  - d. All supporting documentation/evidence.

E. Waiver of Evidentiary Hearing – Custody Credit issues (PBPP-72 CRE)

1. An Evidentiary Hearing will generally be provided for offenders after the Board's Office of Chief Counsel determines that a hearing must be held to decide whether an offender is entitled to credit for the time the offender spent at a group residence as a condition of parole.
  - a. The purpose of the hearing is for the Board to determine whether the specific characteristics of the residence presented an environment so restrictive that the offender should receive credit or the time spent at the residence.
  - b. The Hearing Coordinator shall determine the date, time, and location of the hearing and notify the appropriate field staff. The hearing shall be scheduled within 30 days of the request.
2. If the Offender intends to waive the right to an Evidentiary Hearing to challenge the Board's decision denying credit for time spent in a group residence, the PBPP 72CRE is provided and reviewed with the offender.
  - a. The entire PBPP 72CRE is read to the offender by the appropriate parole institutional or supervision staff.
  - b. The offender signs the 72CRE.
  - c. The 72CRE is witnessed/signed and dated by the appropriate parole institutional or supervision staff.
3. The signed PBPP- 72CRE is sent to the Hearing Coordinator with any supporting documentation and Hearing Coordinator closes out the hearing. The Hearing Coordinator forwards the signed form to the Office of Chief Counsel.

#### VII. SUSPENSION DURING AN EMERGENCY

This procedure may be suspended during an emergency at the sole discretion of the Chairman.

#### VIII. RIGHTS UNDER THIS PROCEDURE

This procedure creates no rights under law.

#### IX. RELEASE OF INFORMATION AND DISTRIBUTION PROCEDURES

- A. This procedure does not contain information that impacts the security of the Board staff or parolees and may therefore be released to the public.
- B. This procedure is to be distributed to all Board staff.

#### X. CROSS REFERENCES

A. Statutes

1. Federal

Interstate Compact for the Supervision of Adult Offenders Act  
(61 Pa.C.S. §§ 7111 et seq)

2. State

a. Prisons and Parole Code (61 Pa.C.S. §§ 6101 et seq)

b. Board of Probation and Parole regulations (37 Pa.Code Part II)

B. Board Policies – none.

C. American Correctional Association Standards -

D. Management Directives – none.

E. Report of the Reentry Policy Council – none.