

<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 3.03.05</b></p>	<p><b>Replaces 10.6 4/23/03, 05/29/15 Bulletins: 10/26/16</b></p>
<p><b>Chapter Title CASE RECORDS, DECISIONAL PROCESSING</b></p>		<p><b>Date of Issue 05/21/15</b></p>
<p><b>Subject HEARING PROCESS REVOCATION HEARING</b></p>		<p><b>Effective Date 11/01/16 PUBLIC</b></p>

I. AUTHORITY

The chairman of the board is granted the authority to “[d]irect the operations, management and administration of the board” and to “[p]erform all the duties and functions of chairperson, including organizing, staffing, controlling, directing and administering the work of the staff.” 61 Pa.C.S. § 6112 (a)(1) & (a)(4).

II. PURPOSE

This procedure outlines the process in which a revocation hearing is to be held. A revocation hearing can only be held when a parolee has been convicted in a court-of-record of a new offense that occurred while on parole, or when delinquent on parole.

III. APPLICABILITY

This procedure applies to all board staff.

IV. DEFINITIONS

Documentary Evidence - Any paper document which is presented and allowed as evidence at a hearing, as distinguished from oral testimony. The opposing attorney may object to the evidence being admitted. The document must be validated by other evidence from a witness that the document is genuine and relevant i.e.: "laying a foundation."

Other definitions are located in Procedure 03.03.01.

V. POLICY

It shall be the policy of the board to hold and conduct due process hearings in accordance with established regulations and case law.

VI. PROCEDURE

A. Securing the Certification of Conviction

1. When the agent of record becomes aware of the parolee’s conviction, the agent is responsible for securing a certified copy of the conviction or obtaining a copy of the

court order signed by the presiding judge as soon as practical and should be initiated within ten (10) business days of notification of the conviction.

Parole supervision staff shall also update the Criminal Arrest Report (PBPP-257C) and send a copy of this report to institutional parole staff as soon as practical.

2. If the conviction occurred outside of the assigned district but within the commonwealth, the supervising district shall request parole supervision staff in the district of arrest to obtain the necessary conviction paperwork. A request for certified copies of conviction should be sent via email to the appropriate field office's BA mailbox for example, PM, BA Allentown.
3. When a copy of the court document is received by mail, parole staff should date stamp it upon receipt in the office.
4. Delay in Receiving the Certified Copy of Conviction

If the certification of conviction is unavailable, parole supervision staff shall document their attempts and progress to obtain this paperwork from the court of record in the Supervision History Report (PBPP-257H).

B. Parolee was not detained pending disposition of criminal charges

If a parolee has not been detained pending disposition of criminal charges, and receives a new sentence of non-confinement, a sentence of confinement, remains unsentenced, or is granted immediate release, parole supervision staff and the district director/designee must make a recommendation about the continuation of the parolee on parole.

1. Recommendation to Continue on Parole

If parole supervision staff and the district director/designee recommend that the parolee be continued on parole, then a request shall be sent to the office of the board secretary within ten (10) business days of official verification of the conviction, for presentation to the board. The following information must be scan/emailed to PM, OBS Case Analysis:

- a. Criminal Arrest Report (PBPP-257C) with recommendation;
- b. Supervision History (PBPP-257H);
- c. A copy of the official version (Criminal Complaint/Affidavit);
- d. Copy of the court disposition.

2. Decision to Confine

- a. If parole supervision staff and the district director/designee decide that the parolee should be returned to prison as a convicted parole violator, the parolee shall be placed in custody as soon as practical and steps taken to schedule a

revocation hearing. For additional information regarding detention requirements, reference Procedure 4.03.03 Arrest, Detention and Place of Confinement.

- b. The parole agent will obtain a signed Waiver/Request for Hearing/Counsel (PBPP-72) to indicate whether the parolee is willing to waive the panel hearing. If no PBPP-72 is signed waiving the hearing then a panel hearing must be scheduled.

### C. Determine Timeliness

Parole supervision staff shall make an initial determination of whether a revocation hearing is timely and when necessary, consult with the Office of Chief Counsel (OCC) at PM, Legal Resource Account. Additionally, if it is concluded that a revocation hearing is untimely, parole supervision staff shall not attempt to present a Waiver of Revocation Hearing/Admission form (PBPP-72C) to the parolee.

#### 1. Requesting a legal opinion

The question of whether a revocation hearing is untimely is a fact-specific determination. The OCC can provide a legal opinion on the matter; however, OCC cannot make the final decision on whether the hearing is untimely. To render this opinion, the OCC will need the following information:

- a. Date of official verification of conviction,
- b. Date of first return to a state correctional institution (SCI) after parole,
- c. Date of official verification of return to the SCI (if any),
- d. Date of conviction,
- e. Hearing continuances (i.e. dates requested, who requested, how long was it continued for),
- f. Dates of any panel waivers/requests,
- g. Date parole violator was made available to the board for extradition (from federal or other state),
- h. Date parole supervision staff became aware of the conviction,
- i. Efforts made to obtain official verification of conviction,
- j. Dates of any board detainers and releases from those detainers,
- k. Dates of any transfers to and from the SCI via writ (i.e. the DOC "Inmate Moves" report), and
- l. Any explanations for the delay.

2. If it is determined that the hearing is untimely, then a request shall be sent to the office of the board secretary requesting the board to note the conviction. The following information must be scan/mailed to PM, OBS Case Analysis:
  - a. Criminal Arrest Report (PBPP-257C) with recommendation;
  - b. Supervision History (PBPP-257H);
  - c. A copy of the official version (Criminal Complaint/Affidavit);
  - d. Copy of the court disposition.

D. Waiver of Revocation Hearing – When the agent of record becomes aware of a parolee's conviction in the court of record, the agent shall interview the parolee to determine whether the parolee wishes to waive the revocation hearing via a PBPP 72C. If a hearing is waived, the agent shall submit a waiver packet to the Hearing Coordinator in accordance with procedure 03.03.07.

#### E. Scheduling

##### 1. Parolee Decision: Panel or Non-Panel Hearing

A signed Waiver/Request for Hearing/Counsel (PBPP-72) should be obtained when possible to indicate whether an offender is willing to waive the panel hearing.

- a. The parolee has a right to have his/her revocation hearing held before a panel of two decision-makers that consists of either:
  - 1) Two board members, or
  - 2) One board member and a hearing examiner.
- b. The parolee may waive his/her right to a panel hearing and request that the proceeding be held before a hearing examiner only.
- c. When the parolee is undecided or has refused to sign the PBPP-72, parole supervision staff shall schedule a panel hearing.

##### 2. Parolee's Place of Confinement

For additional information regarding detention requirements, reference Procedure 4.03.03 Arrest, Detention and Place of Confinement.

###### a. Parolee Confined at State Correctional Institution

The institutional parole staff shall contact the parolee within five (5) business days from receiving notification from the parole supervision staff of the parolee's transfer to the institution. At that time, a determination shall be made as to whether or not the parolee elects to have a revocation hearing before a panel or before a hearing examiner, and whether he/she wishes to have counsel present at the hearing.

- 1) The institutional parole staff member must then:
  - a) Complete the appropriate sections of Waiver/Request for Hearing/Counsel (PBPP-72), securing the parolees signature; and
  - b) Send copies to the appropriate field office and, when a panel hearing is requested, to the institutional parole supervisor.
- 2) If the parolee chooses not to sign the Waiver/Request for Hearing/Counsel (PBPP-72), this must be noted on the form. The form must be signed and dated by the board's staff member, and forwarded to the hearing coordinator to schedule a panel hearing, with a copy to the appropriate district office.

b. Parolee Confined in a County Prison

Within five (5) business days of becoming aware that the parolee has been convicted in a court of record, the supervising parole agent shall visit the parolee. The agent shall determine whether or not the parolee elects to have a panel revocation hearing or a revocation hearing before a hearing examiner, and whether the parolee wishes to be represented by counsel.

- 1) If the parolee waives a panel hearing and/or counsel, the agent must complete the appropriate sections of Waiver/Request for Hearing/Counsel (PBPP-72), securing the parolee's signature.
- 2) If the parolee chooses not to sign the Waiver/ Request for Hearing/Counsel (PBPP 72), the agent must note this decision, sign and date the form, and forward it to the hearing coordinator for scheduling.
- 3) The parole agent must immediately inform his/her supervisor of the results of the parolee visit.

c. Parolee not Confined in a Pennsylvania State Correctional Facility or Pennsylvania County Prison

This applies to a parolee who has not been confined at the time of conviction or a parolee that has been returned to Pennsylvania from a federal facility or another jurisdiction in which he/she was supervised, apprehended or served a new sentence. Within 10 days of learning that the offender has been returned to Pennsylvania he/she shall schedule the hearing in HIP. The hearing should be scheduled as soon as practical, but not later than 120 days from the time the offender returns to DOC Custody.

1) District Office Cases (Apprehended convicted parole violators)

Parole supervision staff shall attempt to obtain a signed Waiver/Request for Hearing/Counsel (PBPP-72) and a (PBPP 72C) that indicates whether an

offender is waiving and admitting the conviction or requesting a panel hearing. A hearing request shall be entered into HIP within two (2) business days of the parolee's return to Pennsylvania.

2) Central Office Cases (Interstate Compact cases)

Interstate parole staff attempt to obtain a signed Waiver/Request for Hearing/Counsel (PBPP-72) and a (PBPP 72C) that indicates whether an offender is waiving and admitting the conviction or requesting a panel hearing. A hearing request shall be entered into HIP within two (2) business days of the parolee's return to Pennsylvania.

3. Hearing Request

Within ten (10) business days of receiving the verification of a conviction, parole supervision staff shall enter a hearing request in HIP. The hearing should be held as soon as possible but no later than 120 calendar days from the date of conviction;

Exceptions to this scheduling requirement are as follows:

- a. Returns to Pennsylvania from another jurisdiction or federal facility.
- b. A parolee confined in a county correctional institution who has waived the right to a panel revocation hearing by a panel shall be deemed to be within the jurisdiction of the Pennsylvania Department of Corrections as of the date of the waiver.

VII. Review of the Notice of Charges and Hearing (PBPP-257N)

1. Parole supervision staff shall review the PBPP-257N to ensure that:

- a. Any criminal charges that were withdrawn or dismissed or reduced to a summary offense are removed from the PBPP-257N.
- b. The date, time and location of the scheduled revocation hearing are reflected on the PBPP-257N.
- c. The details of the conviction(s) including:
  - 1) The date of the court hearing, including the justice or judge's name, docket number or OTN number and jurisdiction as shown on the sentencing order.
  - 2) The specific charge(s) of which the parolee is found guilty or pled nolo contendere.
  - 3) The sentence or penalties imposed.
- d. If applicable, the technical violations charged including the precise condition(s) alleged to have been violated contains the full and fair disclosure of the evidence concerning each violation, including any parolee statements.

- e. The document must reflect any changes made in the date and time of the revocation hearing pursuant to Procedure 3.03.06 Continuances.

## 2. Notification to the Offender of Hearing Rights

The parolee's rights are listed on the Offender Rights at Board Hearings (PBPP-257OR). The parolee should also be verbally advised of these rights by the staff member serving the PBPP-257N. The parolee must also be advised that there is no penalty for requesting counsel. In addition, the following shall be explained to the offender:

- a. The board has scheduled a revocation hearing to determine whether the offender should have his/her parole revoked and whether he/she should be recommitted as a convicted parole violator because of the conviction(s) charged. The details of the conviction(s) are listed on the Notice of Charges and Hearing (PBPP-257N);

If applicable, that the board has scheduled a combination violation/ revocation hearing to determine whether the offender should also be recommitted as a technical parole violator because of violation(s) charged. The specific conditions governing parole that the offender is alleged to have violated are listed on the Notice of Charges and Hearing (PBPP-257N);

- b. The PBPP-257N serves as notice of the exact date, time and location of the proceeding;
- c. Of the offender's right to be heard by a panel;
- d. Of the offender's right to speak, to have voluntary witnesses appear on their behalf, cross examine adverse witnesses and to present affidavits and other evidence at the revocation hearing;
- e. Of the right to retain counsel and if unable to afford counsel, the right to representation by free counsel and the name and address of the public defender of the county of confinement;
- f. Of the right to request a hearing continuance for good cause. The board will send notice of its determination either to the offender, or if represented at the hearing, to their counsel.

## 3. Distribution of PBPP-257N

Parole supervision staff shall insert the date, time and location of the revocation hearing on the Notice of Charges and Hearing (PBPP-257N). At least two (2) business days prior to the hearing date, the PBPP-257N shall be served to the offender and he/she shall be requested to sign and date two (2) original copies. It shall be explained to the offender that his/her signature is only an acknowledgement of service and not an admission of guilt. If the offender refuses to sign the PBPP-257N, parole supervision staff will note the refusal on the Notice of Charges and Hearing (PBPP-257N) and make all parties aware of this refusal at the revocation hearing.

The Notice of Charges and Hearing (PBPP-257N) shall be distributed as follows:

- a. An original to the offender (when he/she signs);
- b. A copy to offender's counsel or to the public defender of the county of confinement (at the time of the hearing);
- c. An original is maintained in the field offender case file (FOCF).

#### VIII. Preparing for the Non-Panel Violation Hearing

##### 1. Scheduling

Within three (3) business days of receiving the hearing request, the hearing coordinator will schedule the revocation hearing and notify all parties through the hearing interview planner (HIP) application. The hearing coordinator shall enter the date, time and location set for the hearing in HIP.

##### a. Videoconference Testimony

When possible, parole supervision staff shall obtain permission from the hearing examiner three (3) business days prior to the hearing date and advise the hearing coordinator of the decision. Videoconference testimony shall be allowed by the hearing examiner when he/she finds there is good cause.

##### b. Hearing Packet

Parole supervision staff must provide a hearing packet to the hearing examiner and to the offender or to their counsel. The following material is contained in a hearing packet:

- 1) All Criminal Arrest Reports (PBPP-257C) and criminal complaints or affidavits of Probable Cause.
- 2) If applicable, Technical Arrest Reports (PBPP-257T) and the ICAOS "Offender Violation Report."
- 3) Supervision History (PBPP-257H) covering the entire period of supervision.
- 4) Notice of Charges and Hearing (PBPP-257N).
- 5) Offender Rights at Board Hearings (PBPP-257OR).
- 6) A copy of the Waiver/Request for Hearing/Counsel (PBPP-72).
- 7) All applicable Orders to Release on Parole/Reparole (PBPP-10) and Conditions Governing Parole/Reparole (PBPP-11).
- 8) Copies of all related Board warrants.
- 9) Any prior Requests for Continuation of Hearing (PBPP-29).

10) All subpoenas for state witnesses.

c. Evidence Preparation

Parole supervision staff (or stand-in institutional parole staff) must be prepared to provide direct testimony, present copies of all evidence such as written documents substantiate the conviction(s), and if applicable, any alleged violation(s) and including prior parolee statements and written statements from witness(s).

For the purposes of disposition only, the most current confidential Integrated Case Summary Application report (ICSA) or if applicable, Institutional Parole Summary (PBPP-245A) should be provided to the hearing examiner.

2. Conducting the Non-Panel Violation Hearing

a. Hearing Examiner's Responsibilities

- 1) It is the responsibility of the hearing examiner to be a neutral, detached, fair, and impartial hearing body. This means that the hearing examiner cannot coach parole supervision staff during the evidentiary phase, nor can he/she elicit evidence beyond that which parole supervision staff or defense present. The hearing examiner can, however, ask questions for clarification.
- 2) The hearing examiner must conduct the hearing in a clear and concise manner.
- 3) The hearing examiner is responsible for ensuring that the revocation hearing is audio recorded in accordance with board procedures.
- 4) Where practicable, if the revocation hearing includes technical parole violation(s), it will be conducted by a hearing examiner other than the one who heard testimony at the preliminary hearing.
- 5) The hearing examiner must recognize that witnesses are sometimes the victims of the parolee and that every attempt should be made to make the victim as comfortable as possible given the limited space often available for these hearings.
- 6) The hearing examiner shall enter the decision in the HIP application and upload the audio recording of the hearing into the hearing audio file within 10 business days. The recordings are maintained by the Hearing Division.

b. Hearing Outline

The following is a general outline of the hearing. The hearing examiner may vary the procedure somewhat, but parole supervision staff can expect that all elements noted below will occur during the hearing.

- 1) Introduction - the hearing examiner will note the following on the record:

- a) The parolee's name and parole number.
  - b) The names of everyone present.
  - c) The date, location and type of hearing.
- 2) The hearing examiner will advise the parolee of the following:
- a) The right to a panel hearing.
  - b) The right to counsel including:
    - i. The right to appointed counsel if he/she cannot afford counsel of their own choice.
    - ii. It is his/her responsibility to secure counsel, not the board or its representatives.
    - iii. There is no penalty for requesting counsel, though there may be a continuance if counsel is not present.
    - iv. His/her responsibilities should he/she choose to represent him/herself.
  - c) The right to not speak about the alleged violations unless he/she so wishes.
- 3) The hearing examiner will have the parolee complete, reaffirm or re-execute the "Waivers of Panel Hearing" and "Representation by Counsel" (PBPP-72), as appropriate.
- a) If the parolee exercises his/her right to a panel hearing, the hearing examiner will stop the hearing and follow the procedures established for scheduling a panel revocation hearing. There is no right to reject a panel hearing once the panel has convened and is ready to conduct the hearing.
  - b) If the parolee had previously waived counsel and now requests an attorney, the hearing examiner may issue a continuance in accordance with established procedure. The offender should be given the opportunity to request a continuance until counsel is present. The hearing examiner will take official notice of the parolee's current offense, including:
    - i. The total sentence, including the minimum and maximum expiration dates.
    - ii. The date of original parole and any subsequent recommitment or revocations of parole, if available.
- 4) Each witness shall be sworn-in by the hearing examiner prior to testifying.

- 5) Any objections of a preliminary nature, such as timeliness, may be heard during the introduction portion of the hearing. A hearing examiner may rule on any evidentiary issue alone. A hearing examiner may only rule on a motion to dismiss in a panel hearing when the board member agrees with the decision. In a non-panel hearing, the hearing examiner may hold the ruling in abeyance and vote on the motion in the hearing report so the reviewing board member can agree or disagree upon review. All rulings should be preserved in writing on the hearing report for the reviewing board member.
- 6) The parolee has the right to be present at the hearing unless he/she expressly elects not to appear, refuses to appear or behaves disruptively.
  - a) If the parolee elects not to appear or refuses to attend the hearing, the person to whom he/she stated these wishes must appear and testify as to the parolee's intent. The hearing will then be conducted without the parolee being present.
  - b) If the parolee leaves the hearing, the circumstances will be noted on the record and the hearing may proceed in absentia.
  - c) If the parolee behaves disruptively, as a last resort, the hearing examiner may request the assistance of prison personnel to remove the parolee from the room and proceed in absentia.

c. Presenting the State Evidence

- 1) Documentary evidence and reports may be utilized, provided the decision-maker is satisfied as to their authenticity, relevancy, accuracy and reliability.
- 2) The details of the conviction(s), as listed in the Notice of Charges and Hearing (PBPP-257N), will be read by the hearing examiner or parole supervision staff and any parolee admission(s) will be noted.

If applicable, the technical violation(s) charged, as listed in the Notice of Charges and Hearing (PBPP-257N) are also read into the record. Any parolee admission(s) will be noted.

- 3) Parole supervision staff will present personal testimony pertinent to each conviction and present a certified copy of the conviction or a copy of the court order signed by the presiding judge. Supervision staff may also enter documentary evidence, including but not limited to, criminal complaints, affidavits of probable cause or police arrest reports which may be helpful for disposition.
- 4) Parole supervision staff will present and directly question any state witness.
- 5) The defense has the right to cross-examine each witness, including parole supervision staff, but must limit the questioning to the evidence elicited during the direct testimony.

- 6) Parole supervision staff may present any re-direct evidence, if they have requested to do so before cross-examination or release of a state witness.
  - 7) The hearing flow may be varied, as needed.
  - 8) Parole supervision staff has a right to comment about any objections raised by the defense and should be able to give a cogent reply as to why an objection should not be sustained.
- d. Presenting the Defense Evidence
- 1) The defense will present any direct testimony from the parolee or his/her witnesses.
  - 2) Any cross examination that is done must be conducted via questioning the testifying witness. In most cases, cross examination is limited to testimony elicited on direct examination. Parole supervision staff is responsible for raising any objections about defense testimony, including hearsay issues.
- e. Conclusion
- 1) The hearing examiner will note the conclusion of the evidentiary phase.
  - 2) The hearing will proceed with the dispositional phase (summary of adjustment and mitigating or aggravating circumstances).
  - 3) Each party may make a closing statement, with parole supervision staff going first.
  - 4) The hearing examiner will note the documents admitted as evidence and conclude the hearing.
- f. Preparing the Non-Panel Revocation Hearing Report
- 1) The hearing examiner will complete the Hearing Report (PBPP-344) within ten (10) business days and forward it to central office for review by the board.
  - 2) The Hearing Report (PBPP-344) will include the following:
    - a) Criminal convictions and if applicable, the technical violations established by a preponderance of the evidence and the evidence upon which the hearing examiner relied.
    - b) The hearing examiner's recommendation and the reason(s) for the recommendation.
    - c) Any recommendation for the parolee's treatment programs while confined and special conditions for reparole.
    - d) If a violator is reparaoled, the hearing examiner shall set conditions for release.

- a. Once the board member reviews the Hearing Report (PBPP-344), he/she must make a decision concerning recommitment. If the board member agrees with the hearing examiner's recommendation, a board action will be issued. If the panel members disagree as to the revocation decision, the hearing officer's vote is eliminated and the report will be forwarded to central office and reviewed by two other board members, with the vote decided by majority
- 3) If the board member disagrees, the report must be forwarded to a second board member for further deliberation.

## IX. The Panel Violation Hearing

### 1. Scheduling

- a. Parole supervision staff forwards a signed copy of the Request for Panel Hearing (PBPP-72) to the hearing coordinator.
- b. Upon receipt of the Request for Panel Hearing (PBPP-72), the hearing coordinator shall:
  - 1) Review the board schedule and consult with the institutional parole supervisor at the SCI where the panel hearing will be held.
  - 2) In the HIP application, schedule a date, time and location for the hearing.
  - 3) The hearing coordinator will then monitor the status of the hearing until it is held.
- c. When the parolee is confined at a state correctional institution (SCI) or contracted county jail (CCJ), parole supervision staff will update the PBPP-257N to include the date, time and location of the scheduled panel revocation hearing.
- d. When the parolee is confined in a county prison or parole violator center (PVC), parole supervision staff will complete a PBPP-257N and forward it to the institutional parole office in the SCI closest to the county prison and request that the institutional parole staff schedule the hearing in the HIP application.

### 2. Preparing for the Panel Violation Hearing

- a. Parole supervision staff is responsible for providing two (2) sets of the same materials for a panel hearing as described in section B - Preparing for a Non-Panel Violation Hearing.
- b. The parole supervisor is responsible for preparing a panel summary report, which is included in the packet of information provided to the panel at the time of the hearing.

### 3. Panel Member Responsibilities

- b. The panel must serve as a fair and impartial hearing body.

- c. The hearing examiner will ensure that the proceeding is audio-recorded.
- d. The panel will complete a Hearing Report (PBPP-344) which will contain the signature of both parties.
- e. If the panel members agree, the hearing report is complete and will be forwarded to central office for issuance of a formal board action (PBPP-15).
- f. If the panel members disagree as to the revocation decision, the hearing officer's vote is eliminated and the report will be forwarded to central office and reviewed by two other board members, with the vote decided by majority
- g. The institutional parole staff is responsible for ensuring that the Hearing Report (PBPP-344) is forwarded to the office of the board secretary, division of case analysis in central office for further disposition.
- h. When practical, the hearing report will be completed at the conclusion of the hearing and submitted to central office. The completed hearing report is due within ten (10) business days. The hearing examiner is also responsible for uploading the audio recording and closing the hearing in HIP within ten (10) business days.

#### **4. Panel Revocation Hearings Conducted by Video Conference**

**In addition to the requirements set forth within this procedure, panel revocation hearings conducted by video conference shall be conducted in accordance with the procedure for panel violation hearings conducted by video conference as set forth in Procedure 3.03.04 at VI, D, 4.**

#### **X. Hearing Outcomes**

##### **1. Continue on Parole No Preponderance Established**

- a. This decision requires the signature of at least two decision-makers (two board members or one board member and one hearing examiner).
- b. The parolee must be released from confinement as soon as possible but not later than four (4) business days of the board decision. This decision initially may be communicated telephonically to the district director/deputy district director or designee. A written board action (PBPP-15) will follow.

##### **2. Note Conviction Continue on Parole Preponderance Established**

- a. In this case, the presenting staff member has proven at least one violation. However, the board (two board members or one board member and one hearing examiner) has elected to not recommit the parolee to prison due to extenuating circumstances, such as treatment availability, medical issues, or the nature of the violation.
- b. Upon receipt of the board action, the district director/deputy district director or designee will ensure that the warrant is removed unless other technical or

criminal matters are pending. The warrant must be removed as soon as possible but not later than four (4) business days.

3. Recommit to an SCI/CCJ

The offender can be recommitted to an SCI/CCJ for a prescribed period of time and reviewed and/or reparaoled at the discretion of the board. The reviewing decision maker must follow the applicable recommitment guideline ranges and if recommitting outside of the range, must indicate a reason for the record.

For additional information reference Procedure 3.02.07 Board Actions.

4. Recommit as a CPV to serve unexpired term due to the offender's request to serve his/her maximum expiration of sentence

This option should only be exercised if the offender has signed a Request to Serve the Maximum Expiration of Current Sentence (PBPP-17).

XI. Board Actions (BA)

1. The board decision will be recorded on a Notice of Board Decision (PBPP-15) and mailed to the offender and to their counsel, if any. Released to print email notices are also sent to the PM, BA resource accounts at the assigned PBPP office and institutional parole office.
2. The PBPP-15 must include the parolee's name, identifying inmate and PBPP numbers, the date the decision was recorded and for hard copies only, the date the board's decision was mailed to the offender.
3. If the board decision is to recommit the parolee, the Notice of Board Decision (PBPP15) will contain the following:
  - a. The specific criminal offense(s) established by a preponderance of the evidence.
  - b. The evidence relied upon to determine preponderance.
  - c. The back time imposed for the criminal offense(s).
  - d. The reasons for recommitment.
  - e. A tentative review date for reparole, if applicable.
  - f. The longest maximum term expiration date of the sentences on which the parolee is being recommitted, if all technical and outstanding criminal matters have been resolved.
  - g. Any program requirements during service of the back time.
  - h. Any special conditions governing reparole, if applicable.

- i. A request for administrative relief form, and
- j. The names and addresses of the public defenders' offices

## XII. SUSPENSION DURING AN EMERGENCY

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

## XIII. 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 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

United States Constitution  
411 U.S. 778, 93S.Ct.1756. 36 L. Ed. 2d 656 (1973)  
408 U.S. 471, 92S.Ct.2593, 33 L. Ed.2d 484 (1972)

#### 2. State

- a. Pennsylvania State Constitution
- b. 455 Pa. 8, 314A.2d 842 (1973)
- c. 37 § 71.4
- d. 37 § 71.5
- e. 61 Pa.C.S. § 6112
- f. 61 Pa.C.S. § 6138(a)
- g. 18 P.S. § 11.103
- h. 18 P.S. § 11.201(3)
- i. 18 P.S. § 11.302

### B. Board Policies

Board Meeting Minutes February 18, 1969  
Board Meeting Minutes February 4, 1975  
Board Meeting Minutes September 20, 1976  
Board Meeting Minutes February 28, 1977  
Board Meeting Minutes May 8, 1978  
Board Meeting Minutes December 17, 1979  
Board Meeting Minutes February 23, 1981  
Board Meeting Minutes April 5, 1982  
Board Meeting Minutes May 6, 1985  
Board Meeting Minutes January 27, 1986  
Board Meeting Minutes June 16, 1986  
Board Meeting Minutes April 11, 1988  
Board Meeting Minutes May 9, 1988  
Board Meeting Minutes August 8, 1988  
Board Meeting Minutes December 5, 1988  
Board Meeting Minutes January 8, 1990  
Board Meeting Minutes June 17, 1991  
Board Meeting Minutes May 18, 1992  
Board Meeting Minutes July 20, 1992  
Board Meeting Minutes September 13, 1993  
Board Meeting Minutes January 21, 2009  
Board Meeting Minutes July 14, 2010  
Board Meeting May 14, 2014

3.03.06

3.03.07

3.03.13

4.03.03

4.03.10

C. American Correctional Association Standards

4-APPFS-2B-03

4-APPFS-2B-11

D. Management Directives - None

E. Report of the Reentry Policy Council - None