



COMMONWEALTH of PENNSYLVANIA

**Board of Probation and Parole**

November 19, 1998

1101 S. Front Street  
Suite 5400  
Harrisburg, PA 17104-  
2520

Local Government Commission  
ATTN: Virgil F. Puskarich  
Executive Director  
Senate Box 203078  
Main Capitol Building  
Harrisburg, PA 17120-3078

Dear Mr. Puskarich:

This acknowledges receipt of your letter dated September 22, 1998.

In response to Senator Robbins' request, attached is a report outlining the duties and responsibilities of county probation officers and state parole agents. The report is separated into four sections -- supervision of offenders, investigations, arrests and hearings. The authorizing statutes and applicable legislative acts are delineated in the introduction of each section.

Should you have any questions concerning this report, please contact me at (717) 787-8133 or 783-9215.

Very truly yours,

FOR THE BOARD

A handwritten signature in cursive script that reads "Colleen M. Fickel".

Colleen M. Fickel  
Parole Manager

attachment  
cc: Mistery Reiber and Robinson  
Ms. Wilken



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**Supervision of Offenders:**

- 48 Stat. 909, 4 U.S.C. Sec. 112 (Crime Control Act of 1934)
- Legislative Act 404, September 21 (1937) (Interstate Compact for the Supervision of Parolees and Probationers)
- Legislative Act 323, August 6, 1941, P.L.861, added P.L.1230, December 27, 1965 (The Parole Act)
- 61 P.S. §§ 331.16.2 (a) (7), 17.1 (a)
- 61 P.S. § 331.23 (Rules and regulations for conduct and supervision of paroled persons)
- 61 P.S. § 331.33 (Supervision of persons paroled in other states)
- 37 PA Code, Section 65.1
- Act 97 of 1989 (Random Drug Screening Tests and Billings)
- Act 35 of 1991 (Supervision Fees)
- Act 14 of 1995 (DNA Collection)
- Act 24 of 1995 (Megan's Law Registration)
- Act 27 of 1995 (Crime Victims' Compensation Fund -- \$30 fee)
- Act 66 of 1998 (Give notice of parole release to sentencing courts for creation of restitution plan)
- Act 84 of 1998 (Inmate Restitution and Information Exchange Bill)

**Community supervision tools include:**

- Face-to-face offender contacts (residence, parole office, treatment facility, etc.)
- Collateral contacts (law enforcement, employers, treatment providers, family members, etc.)
- Development of employment plans, vocational training, GED schooling, etc.
- Travel restrictions
- Urinalysis testing (monitor for use of controlled substances and alcohol)
- Electronic monitoring equipment
- Establishing curfews
- Surveillance of offenders
- Treatment referrals (drug and alcohol, mental health, sexual deviance, anger management, etc.)
- Imposition of mandatory and special conditions of supervision
- Fingerprinting interstate offenders (prints are submitted to PSP for inclusion in AFIS files)
- Monitoring payment schedules (court-ordered fines, costs, and restitution balances)
- Monitoring monthly supervision fee compliance

## Investigations:

- 61 P.S. § 331.16.2 (a) (7), 17.1 (b) (Presentence Investigations)
- 61 P.S. § 331.19 (Investigation of offense circumstances and character/history of prisoners)
- 61 P.S. § 331.34.1 (Pardon Board investigation procedures)
- PA Constitution, Article IV, Section 9 (1874) amended 1967, 1980, 1997 (Pardon Board investigations)

The various types of investigations conducted by probation officers and parole agents include:

- Pre-parole investigations (Determine appropriateness of proposed parole plan)
- Pre-transfer investigations (Determine appropriateness of newly proposed supervision plan)
- Pardon Board investigations (Includes full pardon requests, commutation of sentences, and death warrant signings by the Governor)
- Classification Summaries (Compilation of diagnostic and treatment needs)
- Arrests (Secure criminal complaints and determine the status/disposition of charges)
- Technical Violations (Secure evidence to substantiate violation of parole or probation agreement)
- Special Investigations (For other states, i.e.: status of a PA arrest, supervision history, background investigation)
- Death Certificate verifications

## Arrests:

- Legislative Act 323, August 6, 1941, P.L.861, § 27 (Grants parole agents peace officer status)
- Act 277, August 6, 1963 (Grants probation officers peace officer status)
- Commonwealth v. Kaminsky, PA. Sup., 214 A.2d 251 (1965) (Constitutionality of the Compact)
- Commonwealth v. Brown, 361 A.2d 846 (1976) (Warrantless searches of parolees)
- Commonwealth v. Deolin, 440 A.2d 562 (1982) (Warrantless searches of probationers)
- Davis v. Commonwealth, PA Bd of Probation and Parole, PA., 498 A.2d 6 (1985) (Waiver of Extradition Procedures)
- Pennsylvania Board of Probation and Parole v. Keith M. Scott \_\_\_ U.S. \_\_\_, 118 S.Ct. 2014 (1998) (Search/Seizure)
- 61 P.S. § 331.21b (Deputization of persons for return of violators)
- 61 P.S. § 331.27a (Searches by state parole agents)
- 61 P.S. § 331.27b (Searches by county probation and parole officers)

Probation officers and parole agents arrest offenders for technical violations of the conditions stated within their supervised release agreement. In the interest of public safety, offenders may also be detained pending the disposition of open criminal charges. Intermediate sanctions are often used to reinforce the conditions of supervised community release. Sanctioning is a method employed to avoid the immediate arrest and recommitment of an offender to a prison setting. The following are examples of sanctions used in the supervision process to modify the negative behavior of offenders.

- Level I Administrative Conference with the unit Parole Supervisor
- Level II Administrative Conference with the Deputy District Director or District Director.
- Imposition of special instructions or supervision conditions
- Increase the level of supervision to include stricter reporting requirements
- Increase the frequency of urinalysis testing
- Placement into either an inpatient or outpatient treatment program
- Placement into a Department of Corrections community contract facility
- Curfews, home detention, and electronic monitoring
- No voluntary residential changes
- No travel permission except for employment purposes
- Detain the offender on a 48 hour warrant pending further investigation of the alleged act(s).

## Hearings:

- The United States Constitution, Amendments V and XIV
- *Morrissey v. Brewer*, 408 U.S. 471 (1972)
- *Commonwealth ex rel Rambeau v. Rundle*, 455 Pa. 8, A.2d 842 (1973)
- *Gagnon v. Scarpelli*, 411 U.S. 778 (1973)
- *Commonwealth v. Kates*, 305 A.2d 701 (1973)
- 61 P.S. § 314
- *Georgevich v. Court of Common Pleas of Allegheny County*, 507 A.2d 812 (1986)
- 42 PA C.S. §§ 9763 and 9773 (1996 amendment to include intermediate punishment sentences)
- §§ 21 and 21.1, Legislative Act 323, August 6, 1941, P.L.8161 as amended, 61 P.S. §§ 331.21 and 331.2a
- 37 PA Code, §§ 71.1 - 75.4
- 234 Rule 1409 (Criminal Procedure Rule re: *Gagnon II* Hearings, Crimes Code of PA)

The United States Supreme Court has held that the conditional liberty of parole release falls under the due process clause of the Fifth and Fourteenth Amendments to the U.S. Constitution (*Morrissey v. Brewer*, 408 U.S. 471, 1972). After *Morrissey*, in *Gagnon v. Scarpelli*, 411 U.S. 778, 1973, the Supreme Court held that the same standards required in parole revocation hearings were applicable to probation revocation hearings.

Like any constitutional right, offenders may waive their right to a preliminary revocation hearing as guaranteed by *Morrissey* and *Gagnon*. As a matter of policy, parolees and probationers who wish to waive a preliminary hearing are requested to sign a form acknowledging the violation of parole or probation. The signed acknowledgment by the offender is viewed as an admission to the cited violation(s).

Parole agents perform prosecutorial and witness roles at hearings delineated below.

The various types of hearings conducted for parolees and probationers are as follows:

- Preliminary Hearing (Establishing probable cause; violation of parole)
- *Gagnon I* Hearing (Sentencing court establishes probable cause for violation of probation)
- Probable Cause Hearing (Applicable to Interstate Compact cases)
- Violation Hearing (Conducted by a Hearing Examiner; violation of parole)
- Panel Violation Hearing (Conducted by a Hearing Examiner and a Board Member; violation of parole)
- *Gagnon II* Hearing (Conducted by the sentencing court; violation of probation)
- Detention Hearing (Assess parolee's risk to the community or self if continued on parole pending disposition of new criminal charges.)
- Detention Hearing - *Gagnon I* (Probationer incurred new conviction or a prima facie case has been established at the criminal preliminary hearing.)
- Revocation Hearing - *Gagnon II* (Conducted by the sentencing court)
- Revocation Hearing (Conducted by a Hearing Examiner; parolee obtained a new conviction for an offense that occurred while on parole supervision.)
- Panel Revocation Hearing (Conducted by a Hearing Examiner and a Board Member; parolee has been convicted of a new offense while on parole supervision.)