

THE COURTS

Title 210—APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES [210 PA. CODE CH. 65]

Amendments to the Superior Court Internal Operating Procedures

The Superior Court of Pennsylvania has adopted amendments to its Internal Operating Procedures. These amendments are reflected in the Superior Court Internal Operating Procedures with amendments to 210 Pa. Code 65.1 et seq.

These changes were approved on December 24, 2003, effective immediately.

ERNEST GENNACCARO,
*Chief Staff Attorney to the
Superior Court of Pennsylvania*

Annex A

TITLE 210. APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

CHAPTER 65. INTERNAL OPERATING PROCEDURES OF THE SUPERIOR COURT

ADMINISTRATIVE OFFICES AND STAFF

§ 65.5. Panels.

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B. [A panel shall ordinarily consist of two commissioned judges and one senior judge or specially assigned judge who has been designated to serve on the Superior Court. The President Judge, in his discretion, may in unusual or extraordinary circumstances designate two senior judges or specially assigned judges to serve on a panel. As a member of the panel, a senior judge or specially assigned judge is vested with the same power and authority as that possessed by a commissioned Superior Court Judge.

C.] The President Judge shall appoint the panels, assign cases to the panels, and designate the time, date, and place in which the panels shall sit.

[D.] C. * * *

[E.] D. * * *

[F.] E. * * *

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MOTIONS PRACTICE

§ 65.21. Motions Subject to Single Judge Disposition.

A. Except as otherwise provided in § 65.22, a single judge of this Court, whether commissioned or specially assigned, may entertain and may grant or deny any request for relief which under the Rules of Appellate Procedure may properly be sought. **A party may file an answer to an application, Pa. R.A.P. 123(b); a speaking application shall be verified unless the interest of justice requires action without it, Pa. R.A.P. 123(c); oral argument will not be permitted unless**

otherwise ordered by the Court, Pa. R.A.P. 123(d). The action of a single judge may be reviewed by the Court.

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B. All petitions for extension of time shall be referred by the Prothonotary to the motions judge. Such petitions should be acted upon as soon as possible unless the motion judge feels an answer is necessary. Petitions for extension shall be granted only on cause shown and in any event the filing of the brief is required, particularly in criminal cases, even though the right to argue is lost. Central Legal Staff shall be notified of the filing of the motion and the disposition. However, if the petition for extension is accompanied by a substantive motion, such as a motion to quash, remand, or withdraw, Central Legal Staff shall review the motion in an expeditious manner pursuant to the procedures set forth in Section 65.21(C) herein. Notwithstanding any contrary procedure set forth above, all petitions for extension in cases which have been identified as family law fast track cases, upon receipt by the Prothonotary, shall be sent to Central Legal Staff for processing. All such petitions for extension in family law fast track cases shall be presented to a motions judge for disposition within three days of receipt of the petition by Central Legal Staff. **Whenever an order is entered granting a petition for extension of time, and the order provides that no further extensions will be granted, any subsequent petition for extension of time shall be referred by the Prothonotary to the judge who issued the original order.**

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[Pa.B. Doc. No. 04-86. Filed for public inspection January 16, 2004, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CARBON COUNTY

Adoption of Preparole Investigations and Parole Policy; No. 139 MI 03

Administrative Order No. 23-2003

And Now, this 31st day of December, 2003, it is hereby Ordered and Decreed that, effective thirty (30) days after publication in the *Pennsylvania Bulletin*, that the Carbon County Court of Common Pleas hereby *Adopts* a Preparole Investigations and Parole Policy applicable to the Court of Common Pleas and all members of the Carbon County Adult Probation Department and Carbon County Correctional Facility.

The Carbon County District Court Administrator is Ordered and Directed to do the following:

1. File seven (7) certified copies of this Administrative Order with the Administrative Office of Pennsylvania Courts.

2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one (1) certified copy with the Pennsylvania Criminal Procedural Rules Committee.

4. Forward one (1) copy for publication in the *Carbon County Law Journal*.

5. Forward one (1) copy to the Carbon County Law Library.

6. Keep continuously available for public inspection copies of the Order and Policy in the Clerk of Court's Office.

By the Court

RICHARD W. WEBB,
President Judge

Purpose:

To establish policy and procedure governing the release of prisoners from a correctional facility after attaining their minimum sentence to an approved parole plan, which plan addresses the safety and security of the public and the rehabilitative needs of the offender.

Applicability:

To the Carbon County Court of Common Pleas, the Carbon County Adult Probation/Parole Department and the Carbon County Correctional Facility.

Definitions:

As utilized in this document, the following definitions shall apply:

1. *Constructive Parole:* A grant of parole whereby an offender is released from confinement on one sentence, but remains confined while serving another sentence.

2. *County Parole:* A parole granted by a common pleas court under 61 P.S. § 314 and 61 P.S. § 331.26 on a sentence with a maximum term of less than two years.

3. *County Sentence:* A sentence of imprisonment for a maximum term of less than two years where the sentencing court retains parole jurisdiction (See 61 P.S. § 331.26).

4. *Firearm:* Any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive, or the frame or receiver of any such weapon (See 18 Pa.C.S.A. § 908). Any pistol or revolver with a barrel length less than fifteen inches, any shotgun with a barrel length less than sixteen inches, or any pistol, revolver, rifle or shotgun with an overall length of less than twenty-six inches. The barrel length of the firearm shall be determined by measuring from the muzzle of the barrel to the face of the closed action, bolt or cylinder; whichever is applicable (See 18 Pa.C.S.A. § 6102).

5. *Furlough:* The partial release of incarcerated inmates to the community for a legitimate purpose and for a specified time period.

6. *General Conditions of Release:* Standard terms and requirements of release established by the Carbon County Court of Common Pleas that are applicable to all offenders under the jurisdiction of the court.

7. *Good Time Credits:* A program within the correctional setting which allows prisoners who are sentenced to a maximum sentence of less than two years to earn credits towards their minimum sentence.

8. *Good Time Minimum Release Date:* The earliest date that an inmate is eligible for parole. This date is the minimum release date minus all good time credits earned by the defendant.

9. *Parole:* A penological measure for the disciplinary treatment of offenders who seem capable of rehabilitation outside of prison walls that allows the offender to be released from prison, under supervision and conditions imposed by the court, prior to completion of service of the maximum term of the offender's sentence.

10. *Parolee:* An offender who has been granted parole either by the common pleas court or by the Parole Board and who has been actually released from confinement on the sentence from which parole was granted.

11. *Partial Confinement:* In light of all circumstances, and when facilities are available, probation would be inappropriate, but it further appears that a sentence of total confinement would not be required, an inmate may spend his sentence of incarceration on weekends or in a work release program.

12. *Pre-Parole Investigator:* An adult probation/parole officer responsible for the gathering, verification and submission of all pre-parole materials to the court.

13. *Pre-parole Investigation/Plan:* A concise, investigative report that is provided to the sentencing court which details and verifies significant information concerning the offender's parole program.

14. *Prohibitive Offensive Weapons:* Any bomb, grenade, machine gun, sawed off shotgun with a barrel less than eighteen inches, firearm specifically made or specially adapted for concealment or silent discharge, any black-jack, sandbag, metal knuckles, dagger, knife, razor or cutting instrument, the blade of which is exposed in an automatic way by switch, push-button, spring mechanism, or otherwise, or other implement for the infliction of serious bodily injury which serves no common lawful purpose (See 18 Pa.C.S.A. § 908).

15. *Rescission:* The revocation of a grant of parole based upon an offender's conduct occurring prior to release on parole, which conduct is unknown to the sentencing court at the time parole was granted; the revocation of a grant of parole before it is executed by the offender's actual release from incarceration.

16. *Setback:* A period of time beyond the original minimum release date that an offender's actual release from confinement on parole is delayed.

17. *Special Parole:* A parole granted by the sentencing court that is supervised by the Pennsylvania Board of Probation and Parole.

18. *Special Condition of Parole:* A specific and individualized term of parole imposed upon an offender by the sentencing authority, which is in addition to the general conditions of release.

19. *Victim:* A person against whom a crime has been committed, other than an alleged offender, who, as a direct result of the crime, suffers physical or mental injury, death or the loss of earnings. The term also includes the parent or legal guardian of a minor who has been victimized by crime, except where the parent or legal guardian is the alleged offender (See 71 P.S. § 180-7 and 71 P.S. § 180-9.1).

20. *Weapon:* An instrument of offensive or defensive combat; something to fight with.

21. *Work Release:* A community-based program whereby incarcerated inmates work in the community and return to the correctional facility during off work hours.

Authority:

This policy statement has been developed pursuant to and in accordance with statutory requirements, local rules established by the Carbon County Adult Probation/Parole Department and the formal adoption by the Carbon County Court of Common Pleas through administrative court order.

The granting, denying and revocation of parole for county offenders rests under the jurisdiction of the Carbon County Court of Common Pleas when the maximum sentence imposed is less than two years. The Carbon County Adult Probation/Parole Department operates as an instrument between the correctional facility and the judiciary and is responsible for investigating, verifying and recommending all pre-parole plans.

Policy Statement:

The parole system provides several benefits to the criminal justice system, including the provision of adequate supervision of the offender to become a useful member of society and the diversion of appropriate offenders from prison.

In providing these benefits to the criminal justice system, the Carbon County Adult Probation/Parole Department shall first and foremost seek to protect the safety of the public. In addition, the department shall assist released offenders in their successful reintegration into society.

Pre-Parole Investigations:

County Parole: Paroles granted by the common pleas courts under the authority of 61 P. S. § 314 on sentences with maximum terms of less than two years. Prisoners serving county parole remain under the direct custody of the common pleas court.

Parole Release Decision-Making Process: In Pennsylvania, the sole determining factor as to which entity will be making that parole decision is the length of the offender's maximum sentence (See *Commonwealth v. Phillips*, 258 Pa.Super. 109, 392 A.2d 708 (1978)).

Timing of the Pre-Parole Plan: The Carbon County Adult Probation/Parole Department shall initiate a pre-parole investigation within thirty to sixty days of the offender reaching their good time minimum release date.

Calculation of Minimum Release Date and Maximum Sentences: When the court imposes a sentence of partial confinement (See 42 Pa.C.S.A. § 9724 and 42 Pa.C.S.A. § 9755) or total confinement (See 42 Pa.C.S.A. § 9725 and 42 Pa.C.S.A. § 9756), the Chief Adult Probation/Parole Officer in conjunction with the prison administration, shall calculate a good time minimum release date and a maximum expiration date (See 42 Pa.C.S.A. § 9757, relating to consecutive sentences of total confinement for multiple offenses and 42 Pa.C.S.A. § 9761, relating to computation and order of service of sentences).

Roster of Defendants Sentenced to Partial or Total Confinement: The Carbon County Adult Probation/Parole Department shall maintain a current roster of all defendants sentenced to a term of imprisonment, when the paroling jurisdiction rests with the Carbon County Court of Common Pleas. This report shall include the defendant's name, maximum expiration date, classification status, docket number, minimum release date and the criminal charge. A copy of the report shall be provided to the Carbon County Correctional Facility.

Interview and Verification Process:

Gathering of Pre-Parole Information: The pre-parole investigator shall interview the defendant and any other individuals identified as necessary in order to gather and verify the following information:

1. Obtain the defendant's proposed residence and telephone number and a list of all occupants within the household.
2. Field-visit the proposed residence and interview the head of household/owner, spouse or paramour to confirm that the defendant is permitted to reside at the residence. If the defendant resides out-of-the-area, then conduct a telephone interview with the head of household/owner, spouse or paramour of the residence to confirm that the defendant is permitted to reside at the residence.
3. Inspect the residence to ensure that no weapons or drug activity is apparent, which will ensure that the proposed residence is suitable for the offender.
4. If the head of household/owner is renting, then the pre-parole investigator shall interview the landlord to determine if the offender may reside at the residence.
5. When applicable, interview the employer to determine suitability of employment to ensure no third-party liability.
6. Interview prison officials to determine offender's adjustment while incarcerated or if any detainees or prison infractions are lodged against the offender.
7. Determine compliance with the order of sentence.
8. If the defendant lives alone and rents, interview the landlord.
9. If the defendant lives alone and owns the residence, then confirm with the Recorder of Deeds Office.

Approval of Proposed Plan by the Pre-Parole Investigator:

Approved Pre-Parole Plans: A parole plan outlines the offender's lifestyle upon release from prison. The pre-parole investigator shall be responsible for the verification and approval of all pre-parole plans before submission to the court. Upon verification of the pre-parole plan, the investigator shall recommend parole to the court under the following circumstances:

1. The offender possesses a suitable residence that would be conducive to the rehabilitative needs of the offender.
2. The offender has no prison misconducts.
3. Prison officials confirm that the offender made an adequate adjustment in the correctional setting.
4. The offender has complied with the order of sentence.
5. The offender is not considered a serious risk to engage in further criminal activity if released and would be a good candidate for parole.
6. There is no opposition expressed by the Commonwealth or the victim.
7. The defendant is not serving another sentence of partial or total confinement.

Intake Process: When the defendant has been recommended for parole, an intake shall be completed prior to the defendant's release from prison.

Relocation of Offender from Approved Parole Plan: Any offender who leaves an approved residence or treatment program without the prior consent and permission of his

parole officer or the court shall be subject to the immediate issuance of an arrest warrant for parole violations.

Disapproval of the Proposed Plan by the Pre-Parole Investigator:

Unacceptable Residences: The following shall be considered unacceptable residences:

1. Residence with suspected drug activity.
2. Residence with non-family members on supervision.
3. Residence with weapons in the household, which are prohibited, as described in this policy statement.
4. Residence with minor children, if the offender is convicted of a sex offense involving a minor, unless otherwise court ordered.
5. Residence with occupants that have a propensity to engage in criminal activity or who have extensive criminal records.
6. Any other factors as determined by the court or adult probation/parole department, which would compromise the safety and security of the public or would not contribute to the rehabilitative needs of the offender.

Responsibility of the Pre-Parole Investigator and Defendant:

Pre-Parole Information: Once the pre-parole investigator has verified all information then the following paperwork shall be submitted to the court:

1. An Order of Court granting or denying parole.
2. A memorandum signed by the pre-parole investigator with specific reasons for the parole recommendation.

Reporting Requirement of Offender: When an offender is released from confinement, the offender must report to the Carbon County Adult Probation/Parole Department and the Carbon County Bureau of Collections within seventy-two hours of release.

Reasonable Delays: During the pre-parole investigative phase, legitimate reasons for permitting an offender a delay enroute to an approved parole plan can develop, such as, visiting a family member, recovering clothing or tools or taking care of a legal matter. The pre-parole investigator is in the best position to assess and investigate all delays and advise the court with an appropriate recommendation.

Employment Requirements:

Lack of Employment: The rejection of a pre-parole plan for a prospective parolee shall not be based solely on a lack of employment. However, prisoners should provide the pre-parole investigator with a "reasonable assurance" that employment will be sought.

Special Condition of Employment: During the pre-parole investigative phase, the pre-parole investigator shall determine if an inmate is "employable" and consider a special condition to obtain employment within a specific time period after his release on parole. However, if the prisoner has limited job skills or a limited work history, then the pre-parole investigator shall consider a special condition, such as, a job search, job training or job readiness program.

Other Financial Assistance: When prisoners have other sources of income available, such as a pension, disability, etc., that will adequately support himself and his legal dependents, then the pre-parole investigator shall make a favorable recommendation to the court for a grant of

parole, absent any other factors which may preclude the offender's grant of parole by the court.

Rescission, Denial and Setback of Parole:

Rescission of Parole: The action by the Court of granting parole still does not vest the offender with any recognized liberty interest in the grant of parole. Until that grant of parole is executed by the defendant's actual release from confinement on parole, the grant of parole remains an expectancy and may be rescinded by the court without providing the offender with prior notice or a due process hearing (See *Jago v. Van Curren*, 454 U.S. 14, 70 L.Ed.2d 13 (1981)), a parole board need not provide an offender with the procedural due process rights of a hearing and counsel prior to rescinding a parole order where the offender had not yet been released from prison). A parole rescission differs from a revocation, in that a rescission is based upon information or facts, which arose prior to the offender's release on parole. Under certain circumstances, the pre-parole investigator shall recommend to the sentencing court that the Order of Court granting parole of the offender shall be rescinded or modified, when the pre-parole investigator or the sentencing court was unaware of any of the following:

1. The offender committed a prison infraction.
2. The previously approved parole plan is not conducive to the rehabilitative needs of the offender.
3. The offender has committed another criminal offense while incarcerated.
4. The offender has contacted, threatened or intimidated a witness or victim while incarcerated.
5. The offender has not made an adequate adjustment while incarcerated.
6. The offender has not complied with the Order of Sentence.
7. Any other factors as determined by the court or adult probation/parole department, which, would compromise the safety and security of the public or would not contribute to the rehabilitative needs of the offender.

Denial or Setback of Parole: Under the following circumstances, the pre-parole investigator shall not recommend parole to the sentencing authority:

1. The offender does not possess a suitable residence or is homeless.
2. The residence is not conducive to the rehabilitative needs of the offender.
3. The offender has prison misconducts.
4. Opposition has been expressed by the prosecution or the victim.
5. The offender has threatened or intimidated a witness or victim while incarcerated.
6. The offender has not adequately adjusted while in the correctional setting.
7. The offender poses a serious threat to the safety and security of the community.
8. The offender is most likely to engage in further criminal activity.
9. The offender has not complied with the order of sentence.
10. Prison officials do not recommend the offender for parole.

11. The offender appeared at prison to commence his sentence under the influence of alcohol or drugs.

12. See Administrative Court Order 14-2003 (Guidelines for Defendants Serving Weekend Sentences), which outlines the circumstances under which parole is denied.

13. Any other factors, as determined by the court or adult probation/parole department, which, would compromise public safety or interfere with the rehabilitative needs of the offender.

Petition for Parole: Anytime parole is not granted, regardless of the circumstances, the defendant must file a petition for parole with the court, whereupon a hearing will be scheduled. Once the original pre-parole plan is rejected, the pre-parole investigator shall not initiate another pre-parole investigation, unless otherwise directed by the court.

Opposition Process:

Parole Opposition Forms: The pre-parole investigator shall forward a parole opposition form to the District Attorney's Office, within a reasonable time frame, prior to the offender's good time minimum release date (See Page 15 of this policy statement). However, when an offender was committed to prison for probation, parole or intermediate punishment violations, then the pre-parole investigator is not required to forward a parole opposition form to the District Attorney's Office. Also, parole opposition forms are not required for offenders who qualify for automatic parole release.

Opposition Expressed by Prosecution: In those instances, when opposition is expressed by the prosecution, the pre-parole investigator shall examine the reasons outlined on the form and make an appropriate paroling recommendation to the court. If parole is denied based on the opposition expressed by the prosecution, then the offender must petition the court for a parole hearing. The prosecuting officer expressing opposition will be subpoenaed to testify.

Opposition Expressed by the Victim: In those instances, when opposition is expressed by the victim, the pre-parole investigator shall examine the reasons outlined on the form and make an appropriate paroling recommendation to the court. If parole is denied based on the opposition expressed by the victim, then the offender must petition the court for a parole hearing. The victim expressing the opposition will be subpoenaed to testify.

Automatic Parole:

Automatic Parole: Under certain circumstances, no pre-parole investigation will be required and the defendant shall be automatically released from prison after attaining his/her minimum release date, provided the defendant has complied with the order of court and has not received any prison misconducts.

Automatic Parole Guidelines: Under the following circumstances, when the court sentences a defendant to partial or total confinement, the Warden of the Carbon County Correctional Facility is hereby authorized to automatically release the defendant on parole upon reaching his/her minimum sentence, unless otherwise court ordered:

1. Any defendant serving a minimum sentence of ninety days or less pursuant to Driving Under the Influence of Alcohol or Controlled Substances (See Administrative Court Order 25-2001).
2. Any defendant serving a weekend sentence.

3. Any defendant serving a minimum sentence of ninety days or less for non-DUI offenses.

Prohibition of Parole for Summary Offenses:

Sentence of Total Confinement: The court may impose a sentence to imprisonment without the right to parole under 42 Pa.C.S.A. § 9756(c) when:

1. A summary offense is charged.
2. A sentence is imposed for nonpayment of fines or costs, or both, in which case the sentence shall specify the number of days to be served.
3. The maximum term or terms of imprisonment imposed on one or more indictments to run consecutively or concurrently total less than thirty days.

Good Time Credit Program:

Calculation of Good Time Credits: The Carbon County Correctional Facility shall administer the good time credit program. This program is designed for all inmates sentenced to the county facility and under the paroling jurisdiction of the court of common pleas. Prisoners earn credits off their minimum sentence for demonstrating good behavior during the service of their minimum sentence (See Page 16 of this policy statement).

Revocation of Good Time Credits: Prisoners may have their good time credits revoked by an administrative action of the prison disciplinary board for any prison infraction. In those instances, the prison administration will notify the pre-parole investigator that the inmate's good time credits have been revoked. At that time, the inmate's minimum release date shall be adjusted.

Ineligible Inmates: The following inmates are ineligible for the good time credit program:

1. Offenders sentenced to mandatory minimum sentences, such as DUI offenders.
2. Offenders serving flat sentences, such as summary offenses.
3. Offenders recommitted to prison for probation, intermediate punishment or parole violations.
4. Offenders serving state sentences in the county facility.
5. Offenders serving weekend sentences.

Firearms and Other Prohibitive Offensive Weapons:

Ownership and Possession of Firearms: Offenders under the supervision of the common pleas courts have restrictions placed upon their ownership or possession of firearms (See 18 Pa.C.S.A. § 6105).

Possession of a Firearm by Defendant: The general conditions of release adopted by the Carbon County Court of Common Pleas prohibit any offender under an order of probation, intermediate punishment, or parole to possess any firearm, rifle, deadly weapon or prohibitive offensive weapon, in their residence, on their person or in their vehicle (See 42 Pa.C.S.A. § 9754(c)(7), 42 Pa.C.S.A. § 9755(d) and 42 Pa.C.S.A. § 9763(b)(9)).

Constructive Possession: An offender does not have to be in actual possession of a firearm in order to violate parole or probation; constructive possession is sufficient to satisfy an order of revocation.

Other Prohibited Offensive Weapons: Other than firearms, offenders under an order of probation, intermediate punishment or parole supervision can be prohibited from possessing weapons generally. Such a prohibition could be imposed by the common pleas courts pursuant to 42

Pa.C.S.A. § 9754(c)(7), 42 Pa.C.S.A. § 9755(d) and 42 Pa.C.S.A. § 9763(b)(9) and upon probationers under 42 Pa.C.S.A. § 9754(c)(7). The Commonwealth Court has defined "weapon" in the context of probation and parole as being "an instrument of offensive or defensive combat; something to fight with" (See *Knuckles v. Pennsylvania Board of Probation and Parole*, 111 Pa.Cmwlth. 487, 491-492, 533 A.2d 1156, 1158 (9187); *Michael v. Pennsylvania Board of Probation and Parole*, 85 Pa.Cmwlth. 173, 175, 481 A.2d 711, 712 (1984)). Therefore, whether a specific object constitutes a weapon for purposes of a violation depends upon the circumstances in which the object is possessed. Where there exists some legitimate purpose for the object in question, it will not be considered as a weapon and cannot serve as a basis for revocation of probation or parole.

Prohibitive Offensive Weapons: See 18 Pa.C.S.A. § 908.

Appeal for Relief From Enforcement of the Firearm/Weapon Restriction: In order for a defendant to be exempt from the firearm or weapon restriction, a petition must be filed by the defendant with the court, seeking removal of the condition.

Firearms and/or Weapons Permitted in Household: The pre-parole investigator and all adult probation/parole officers shall use the following criteria to determine whether firearms and/or other weapons are permitted in the residence:

1. The defendant resides with his parents and the firearms/weapons are locked in a safe, gun cabinet or other secure area within the residence, where the defendant has no access. Gun cabinets with a glass front are not permitted, unless it is housed in a secure area, which the defendant has no access to.
2. The offense of conviction did not involve a weapon and was not an assaultive criminal offense.
3. The head of household/owner must sign an agreement with the department indicating that the offender will not be permitted to have any access to the firearms or weapons in the residence (See Page 17 of this policy statement).

Firearms and/or Weapons Not Permitted in Household: The pre-parole investigator shall use the following criteria to determine whether weapons are not permitted in the residence:

1. The defendant is the primary owner of the property.
2. The instant offense involved the use of a weapon and was an assaultive criminal offense.
3. The offender resides with their spouse or paramour.
4. All prohibitive offensive weapons as defined in 18 Pa.C.S.A. § 908.
5. See 18 Pa.C.S.A. § 6105.

Removal of Firearms/Weapons From Household: Prior to the release of the offender, any firearms or weapons not permitted in the household, as described in this policy statement, shall be removed immediately from the residence or any dwellings on the property. These firearms and/or weapons shall be moved to another location or given to a third party. If the firearms/weapons are not removed in accordance with this policy statement, then the firearms/weapons shall be confiscated and parole violations initiated against the parolee.

Antique or Replica Firearms: Any antique or replica firearm, even if inoperable is considered a firearm and shall be subject to compliance with this policy statement

(See 18 Pa.C.S.A. § 6118 and *Commonwealth v. Berta*, 356 Pa.Super. 403, 514 A.2d 921 (1986)).

Conditions of Release:

Authority to Impose Conditions Under an Order of Probation, Intermediate Punishment or Parole: The court shall attach such reasonable conditions of release, as it deems necessary to insure and assist the defendant in leading a law-abiding life style. The power of the common pleas court to impose conditions upon offenders is quite broad and the only limitation on that power is that the conditions imposed be directed toward the offender's rehabilitation (See 42 Pa.C.S.A. § 9754; 42 Pa.C.S.A. § 9755(d); 61 Pa.C.S.A. § 314 and *Commonwealth v. Crosby*, 390 Pa.Super. 140, 568 A.2d 233 (1990); *Commonwealth v. Hermanson*, 674 A.2d 281, 449 Pa.Super. 443, Super. (1996)).

Purpose of Imposing Conditions: Conditions of release shall serve two purposes:

1. To protect the safety and security of the community.
2. To assist with the offender's rehabilitation and reintegration into society as a law-abiding citizen.

General Conditions of Release: All offenders placed on probation or parole shall be subject to the standard conditions of release established by the court and the adult probation/parole department.

Special Conditions of Parole: During the pre-parole investigative phase, the pre-parole investigator shall evaluate the offender's needs and determine appropriate special conditions of release to be incorporated in the offender's parole plan and included on the order of court granting parole.

Written Notification of Conditions of Release: Written conditions of parole shall be provided to the parolee at the time of intake. Conditions shall be stated clearly, simply and in a positive manner. Offenders having difficulty understanding the conditions of release shall have them explained by the intake officer. The offender shall acknowledge, in writing, receipt and an understanding of the conditions by their signature. A signed copy of the conditions shall be provided to the defendant.

Offender's Obligation to Acquaint Self with Conditions of Release: All offenders shall either read or have read to them the conditions of release. However, an offender has an obligation to acquaint himself/herself with the terms and conditions of release (See *Sigafoos v. Pennsylvania v. Board of Probation and Parole*, 94 Pa.Cmwlth. 54, 503 A.2d 1076 (1986) and *Benefiel v. Pennsylvania Board of Probation and Parole*, 57 Pa.Cmwlth. 401, 426 A.2d 242 (1981)).

Modification of Conditions of Release: The sentencing court has the authority to alter, delete, or add conditions during the period of probation or parole (See 42 Pa.C.S.A. § 9771(a); 61 P.S. § 331.23 and *Commonwealth v. Johnson*, 250 Pa.Super. 431, 378 A.2d 1013 (1977)). Any modifications to the conditions of release shall be accomplished through an order of court entered by the sentencing court, a copy of which shall be provided to the defendant.

Other Types of Parole:

Time Served Sentence: A sentence of time served imposed by the court shall be considered a paroling action. Therefore, no pre-parole investigation shall be conducted, unless otherwise court ordered.

Special Parole: This type of parole is authorized by Section 17 of the 1941 Parole Act (See 61 P.S. § 331.17)

and allows the Parole Board to supervise any person placed on parole by the common pleas court, where the maximum sentence is less than two years, where the court directs by special order that parole supervision be performed by the Pennsylvania Board of Probation and Parole. A request for special probation/parole supervision form (PBPP 325) must be completed and submitted to the Parole Board. The court shall use the following criteria:

1. The offender is currently under the supervision of the Pennsylvania Board of Probation and Parole and dual supervision would be inefficient.
2. A conflict of interest exists in the supervision of the offender.
3. Other factors, which may require the Pennsylvania Board of Probation and Parole to assume supervision.

Constructive Parole: This occurs when an offender is released on parole from one sentence, but is not released from confinement and instead commences serving a second unrelated sentence.

Victim Notification:

Responsibility of Carbon County Correctional Facility: The Carbon County Prison shall administer the victim notification program. Prison officials shall notify all victims registered in the "victim notification program" once an order of court is entered granting parole (See 18 P. S. § 11.214).

Partial Release Programs:

Program Types: Carbon County provides three types of partial release programs: weekend sentences, work release and institutional furloughs. Prison officials administer these programs unless otherwise specified by court order. The Carbon County Adult Probation/Parole Department shall support and embrace these programs to ease the transition from confinement to parole. The department shall comply with all program regulations and requirements established by prison officials.

Investigative Requests for the Court: On occasion, the court will direct that the department investigate the eligibility of a defendant to participate in a partial release program. The department shall verify the contents of the petition, review the prison requirements concerning partial release programs and obtain a recommendation from prison officials. The department shall gather this information and make an appropriate recommendation to the court.

Advancement of Parole Date or Early Release Standards: Occasionally, circumstances will require that the prisoner's parole date be advanced due to exigent circumstances. Therefore, the following criteria shall be used to advance an inmate's "good-time minimum release" date:

1. Hardship cases, such as, serious medical or terminal illnesses, imminent death or death of an immediate family member.

2. Exceptional merit or performance demonstrated by the inmate while incarcerated.
3. Admission to an in-patient treatment facility, such as, drug/alcohol or mental health.
4. Educational or vocational opportunities.
5. Performance of speaking engagements at local schools or other community functions.
6. Other factors, which as determined by the court, deserves an advancement of the "good time minimum release" date.

Probation, Intermediate Punishment, Parole Violators: Offenders recommitted to prison for violations of supervision shall be eligible for partial release programs, when authorized by the court.

Parole Opposition Form

DATE:

RE: COMMONWEALTH VS

TO: DISTRICT ATTORNEY'S OFFICE

Dear Sir/Madam:

Please be advised that the above captioned defendant is eligible for County parole on _____. As part of the preparole investigative process, your input as the prosecuting officer or victim is necessary to determine whether you oppose the parole of the defendant. Therefore, please complete the following:

Opposed Not Opposed

Reasons:

Date: _____ Signature: _____

Title: _____

Please note that if you express opposition to parole, our agency will consider your reasons when making a parole recommendation to the Court. If it is decided that parole should be denied based on your opposition, then a parole hearing will be scheduled before the Court and you will be subpoenaed to present testimony as to your reasons for the parole opposition.

This form must be submitted to our agency within fourteen (14) days of receipt. Failure to return this form will result in an assumption that there is no opposition to the defendant's parole. If there are any questions concerning this matter, please contact our office.

Sincerely,

Ronald S. Kokinda
Chief Adult Probation/Parole Officer

GOOD TIME COMPUTATION CHART

(Only for consecutive months served)

SENTENCE IN MONTHS	ACTUAL DAYS SERVED	GOOD TIME EARNED	TOTAL ACTUAL DAYS	TOTAL AVERAGE DAYS
1 MONTH	26 days	4.33 days	30.33 days	30.41 days
2 MONTHS	52 days	8.66 days	60.66 days	60.82 days
3 MONTHS	78 days	13 days	91 days	91.23 days

<i>SENTENCE IN MONTHS</i>	<i>ACTUAL DAYS SERVED</i>	<i>GOOD TIME EARNED</i>	<i>TOTAL ACTUAL DAYS</i>	<i>TOTAL AVERAGE DAYS</i>
4 MONTHS	104 days	17.33 days	121.33 days	121.64 days
5 MONTHS	130 days	21.66 days	151.66 days	152.05 days
6 MONTHS	156 days	26 days	182 days	182.46 days
7 MONTHS	182 days	30.33 days	212.33 days	212.87 days
8 MONTHS	209 days	34.83 days	243.83 days	243.28 days
9 MONTHS	235 days	39.16 days	274.16 days	273.69 days
10 MONTHS	261 days	43.5 days	304.5 days	304.1 days
11 MONTHS	287 days	47.83 days	334.83 days	334.51 days
12 MONTHS	312 days	52 days	364 days	364.92 days

CARBON COUNTY ADULT PROBATION/PAROLE DEPARTMENT

Firearms/Weapons Agreement

I, _____, hereby agree and acknowledge that I will ensure that all firearms and/or weapons in my possession will be locked in a gun cabinet, safe or other secure area within the residence or on the property; and that the defendant shall not have any access to that location.

Furthermore, I understand that it shall be my responsibility to ensure that the defendant does not gain access to that location or possess any of the firearms and/or weapons as listed below.

Any violation of this agreement may result in the confiscation of the firearms and/or weapons; and the arrest of the defendant for violations of supervision.

Firearms/Weapons Verification List

As directed, please list all firearms and/or weapons located in the residence or on your property. It shall be your responsibility to notify the department of any changes to this list, including any additions or deletions:

	Make	Caliber	Serial Number
1)	_____	_____	_____
2)	_____	_____	_____
3)	_____	_____	_____
4)	_____	_____	_____
5)	_____	_____	_____
6)	_____	_____	_____
7)	_____	_____	_____
8)	_____	_____	_____
9)	_____	_____	_____
10)	_____	_____	_____

Please list any additional firearms, ammunition and/or weapons on the back of this form, if necessary.

By signing this form I acknowledge that I have a responsibility to maintain the security of all firearms, ammunition and weapons from access by the defendant.

Signature of Firearms Owner

Signature of Defendant

Adult Probation/Parole Officer

Chief Adult Probation/Parole Officer

Date

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that by Order of the Supreme Court of Pennsylvania issued December 29, 2003, Thomas Louie is disbarred from the practice of law in this Commonwealth, to be effective January 28, 2004. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Executive Director and Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 04-88. Filed for public inspection January 16, 2004, 9:00 a.m.]
