



POLICY
Commonwealth of Pennsylvania • Department of Corrections

Policy Subject: SUPERVISION, REENTRY: ARRESTS OF AND HEARINGS FOR INCOMING OTHER STATES' OFFENDERS		Policy Number: 12.4.05.07
Date of Issue: August 2, 2021	Authority: John E. Wetzel Signature on File	Effective Date: August 9, 2021

I. AUTHORITY

The Authority of the Secretary of Corrections to direct the operation of the Department of Corrections is established by Sections 201, 206, 506, and 901-B of the Administrative Code of 1929, 71 P.S. §§61, 66, 186, and 310-1, Act of April 9, 1929, P.L. 177, No. 175, as amended. 80 Stat. § 608; 4 U.S.C. Sec. § 112 (Compacts between States for cooperation in prevention of crime; consent of Congress)

61 Pa. C.S.A. § 7102 (Interstate Compact for the Supervision of Adult Offenders)

61 Pa. C.S.A. § 7122 (Supervision of persons paroled in other states)

II. PURPOSE

This chapter serves as a supplement to Chapter **12.4.03 Arrest Process**, Chapter **12.3.03 Hearing Process**, and sets forth the procedures to be followed by supervision staff and interstate staff in the arrest, detention, and preliminary/probable cause hearings for other states' offenders supervised through the interstate compact.

III. APPLICABILITY

This policy is applicable to supervision staff involved in the supervision of other states' offenders and interstate staff who perform liaison and administrative duties with the sending states.

IV. DEFINITIONS

Refer to Policy **12.4.05.01, Glossary**.

V. POLICY

For the protection of the community, it is permissible to arrest and detain other states' offenders under supervision prior to the receipt of the sending state's warrant, sentencing court's bench warrant or the sending state's decision relative to pursuit of the violation. District director/designees shall use their discretion and order the arrest and detention of other states' offenders when an offender is deemed to be a public safety risk and particularly in situations that suggest violence or the potential for violence. When another state's offender has exclusively new criminal charges (no technical violations), district director/designees are requested to carefully screen the case before lodging a **PB-141, Warrant to Commit and Detain**.

All requests from a sending state for a probable cause hearing shall be honored and held in accordance with ICAOS rules 5.103-1 and 5.108 for compact transferred offenders in Pennsylvania under the jurisdiction of the agency. Supervision staff shall submit the required reports and schedule hearings as described in Chapter **12.3.03 Hearing Process** and Policy **12.4.05.05, Incoming Other States Cases Transferred through the Interstate Compact**.

VI. PROCEDURES

A. Other States' Offenders with Pending Pennsylvania Criminal Charges

1. Supervision staff responsibilities

- a. Submit a Progress Report (PR) in Interstate Compact Offender Tracking System (ICOTS).
- b. The PR shall include, but not be limited to, a copy of the criminal complaint, offender's next scheduled court date, bail information and status (if available), custody status, and location.
- c. If a **PB-141** is issued as a result of the new criminal charges, follow Policy **12.3.03.03, Detention Hearing** and schedule the detention hearing.

NOTE: Other states' offenders may waive the detention hearing if a valid **PB-72, Waiver/Request for Hearing/Counsel** is executed.

- d. The disposition of criminal charges must be followed and reported in the **PB-81C, Criminal Arrest Tracking**. For additional information reference Policy **12.4.01.14, Investigating Violations, Response Sanctions; Arrests and Supervision Responsibility** as well as **12.4.05.05**.

2. Interstate staff responsibilities

The completed **PB-343, Preliminary/Detention Hearing Report** is routed to Interstate via the electronic reentrant record (ERR). ERR in this case generates a corresponding email to the Interstate Services resource account (ra-interstate@pa.gov) referencing the hearing.

- a. Review the hearing report for completion, Hearing Examiner's signature, and recommendation.
- b. Merge the **PB-343** with the hearing packet within ERR to create a unified PDF version for submission to the sending state in ICOTS.
- c. Send a compact action request (CAR) in ICOTS marked "Supervision Updates/Request." The CAR attachment shall contain the unified PDF of the merged reports.
- d. The CAR shall include the following language advising the sending state of the type of hearing held/waived: *"A Detention Hearing is held to determine whether an offender should be detained on a PA Warrant to Commit and Detain pending the disposition of new criminal charges. By virtue of PA statute and ICAOS rules, supervision staff have the authority to arrest and detain other states' offenders. The Warrant to Commit and Detain is issued based on adequate evidence of serious and/or repetitive violations of terms and conditions of supervision, commission of a new criminal offense, or the risk to public safety posed by the offender's continued presence in the community. Attached are the results of the hearing and/or the offender's agreement to waive this hearing. PA will track the disposition of the criminal charges and advise the sending state."*
- e. Enters relevant case notes in ERR.

NOTE: A CAR Reply may be received from the sending state directing Pennsylvania to continue the offender under supervision while tracking the disposition of the new criminal charges. Supervision staff shall contact an interstate services manager for further case handling directions to lift the **PB-141**.

B. Other States' Offenders Detained for Behavior Requiring Retaking¹

Other states' offenders detained on **PB-141** and subject to retaking for violating conditions of supervision shall be afforded the opportunity for a Probable Cause Hearing. The sending state relies on the results of the hearing or waiver with admission to substantiate the alleged behavior requiring retaking and proceed with revocation, if applicable.

¹ 4-APPFS-2B-05

1. Supervision staff shall:

- a. notify a sending state of an act or pattern of behavior requiring retaking within 30 calendar days of discovery or determination by submitting a Violation Report (VR) in ICOTS. For additional information regarding the VR, refer to Policy **12.4.05.05**;

NOTE: Behavior requiring retaking is defined by the compact as “...an act or pattern of non-compliance with conditions of supervision that could not be successfully addressed through the use of documented corrective action or graduated responses and would result in a request for revocation in the receiving state.” A VR for behavior requiring retaking shall only be submitted after all resources have been utilized to address the behavior and progressive sanctions have been imposed and previously documented via PR.

- b. schedule the due process hearing in accordance with Policy **12.3.03.02**, **Preliminary/Probable Cause Hearing** and ICAOS Rule 5.108-Probable Cause Hearing in Receiving State; and

NOTE: Other states’ offenders may waive the Preliminary/Probable Cause Hearing by executing a valid **PB-72ICS, Waiver of Probable Cause Hearing and Admission** and admitting to one or more of the violations of the terms or conditions of supervision per ICAOS Rule 5.108-Probable Cause Hearing in Receiving State. For additional information reference Policy **12.3.03.07 Hearing Waivers and Admissions**.

- c. the completed **PB-343** is routed to Interstate via ERR which generates a corresponding email to the Interstate Services Division resource account (ra-interstate@pa.gov) referencing the hearing.

2. Interstate staff shall:

- a. review the hearing report for completion, Hearing Examiner’s signature, and recommendation;
- b. merge the **PB-343** with the hearing packet in ERR to create a unified PDF version for submission to the sending state in ICOTS;
- c. send an Addendum to Violation Report (AVR) in ICOTS containing the unified PDF of the merged reports. A control shall be established in ERR to track receipt of the sending state’s Response to AVR; and
- d. enter relevant case notes in ERR.

NOTE: The sending state is required to submit a Response to AVR no later than ten business days following transmission of the AVR. The ICOTS email notification for this activity is received by supervision staff and interstate staff simultaneously.

The sending state shall either indicate a warrant has been requested/issued or direct the offender's return via a Request for Reporting Instructions (RFRI). For additional information regarding the sending state's response to VR refer to Policy **12.4.05.05**.

VII. SUSPENSION DURING AN EMERGENCY

This policy may be suspended during an emergency at the sole discretion of the Secretary of the Department of Corrections.

VIII. RIGHTS UNDER THIS POLICY

This policy creates no rights under law.

IX. RELEASE OF INFORMATION AND DISTRIBUTION OF POLICY

- A.** This policy contains no information that impacts the security of agency staff or reentrants and, therefore, may be released to the public.
- B.** This policy is to be distributed to all agency staff.

X. CROSS REFERENCES

A. Superseded

This Policy replaces the previous versions listed below:

No. 7.5 eff. 1/28/02 and 12/15/05, 6/02/09, 12/28/12, 6/22/15

B. Statutes

1. Federal

United States Constitution
80 Stat. § 608; 4 U.S.C. § 112
Gagnon v. Scarpelli, 411 U.S. 778, 93S.Ct.1756. 36 L. Ed. 2d 656 (1973)
Morrissey v. Brewer, 408 U.S. 471, 92S.Ct.2593, 33 L. Ed.2d 484 (1972)

2. State

Pennsylvania State Constitution
61 Pa.C.S. § 6112 (a)(1) & (a)(4)
61 Pa. C.S.A. § 7102
61 Pa. C.S.A. § 7122

C. Agency Policies

12.3.03.02

12.3.03.03

12.3.03.07

12.4.01.14

12.4.05.01

12.4.05.05

D. American Correctional Association

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E. Management Directives – None

F. Report of the Reentry Policy Council – None