

## **Purpose**

To establish policy and procedure governing the administration of Carbon County's Pretrial Services Program.

## **Applicability**

To the Carbon County Court of Common Pleas, the Minor Judiciary, 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. ***Arrest:*** The apprehension, legal custody, seizure or restraint of an offender by a law enforcement official.
2. ***Bail:*** The security or other guarantee required and given for release of a person, conditioned upon a written undertaking, in the form of a bail bond, that the person will appear when required and comply with all conditions set forth in the bail bond.
3. ***Bail Authority:*** The district justice, magistrate, Philadelphia bail commissioner, or the judge with jurisdiction over the case who is authorized by law to set, modify, revoke or deny bail.
4. ***Bail Bond:*** A document executed by a defendant, and when applicable, one or more sureties, whereby, the defendant agrees that while at liberty after being released on bail, he or she will appear at all subsequent proceedings as required and comply with all the conditions of the bail bond.
5. ***Bail Report:*** A concise document provided to the issuing authority that includes socioeconomic data, prior criminal record, demographic data and other background information on the defendant.
6. ***Central Repository:*** The central location for the collection, compilation, maintenance and dissemination of criminal history record information.
7. ***Classificational Levels:*** The placement of offenders by a correctional system signifying differential care and handling of offenders by assigning a level of supervision according to the risk they may present to the community, the needs of the offender and the availability of resources in the community. This multi-dimensional process goes beyond management of the offenders for the convenience of the agency and involves determination of the degree of supervision necessary, as well as, the offender's resocialization requirements.
8. ***Clerk of Courts:*** The official in each judicial district who has the responsibility and function under state or local law to maintain the official criminal court file and docket, without regard to that person's official title.
9. ***Collateral Contact:*** Communication by telephone with the offender or communication in a manner with another person having regular contact with the offender, such as local law enforcement official or treatment specialist.
10. ***Common Pleas Court:*** Trial courts of original, general jurisdiction.
11. ***Commonwealth Law Enforcement Assistance Network (CLEAN):*** A computer system maintained by the Pennsylvania State Police to store information on offenses throughout the Commonwealth.
12. ***Community Supervision:*** Regular and systematic control and guidance provided to offenders, who are placed under the jurisdiction of the department on pretrial services supervision.
13. ***Conditions of Bail Release:*** A written listing of prescribed conditions, which the offender agrees to follow while under pretrial supervision.
14. ***Contraband:*** Any item that the offender is not permitted to possess under the conditions of supervision, including any item whose possession is forbidden by Federal, State or local law.

15. **Control and Surveillance:** The monitoring of offender behavior in the community, to ensure compliance with court-imposed sanctions of release and to promote law-abiding behavior.
16. **Criminal History Record Information:** Information collected by criminal justice agencies concerning individuals, and arising from the initiation of a criminal proceeding.
17. **Criminal Justice Agency:** Any court, including the minor judiciary, with criminal jurisdiction or any other governmental agency, or subunit thereof, created by statute or by the State or Federal constitutions, specifically authorized to perform as its principal function the administration of criminal justice, and which allocates a substantial portion of its annual budget to such function.
18. **Defendant:** The party against whom a civil or criminal action is brought.
19. **Detainer:** An internal administrative mechanism to assure that an inmate subject to an unexpired term of confinement will not be released from custody until the jurisdiction asserting violations of supervision has had an opportunity to act by taking the inmate into custody or by making a revocation determination.
20. **Disposition:** Information indicating that criminal proceedings have been concluded.
21. **Dissemination:** The oral or written transmission or disclosure of criminal history record information to individuals or agencies other than the criminal justice agency, which maintains the information.
22. **Exigent Circumstances:** Includes, but is not limited to, suspicion that contraband or other evidence of violations of the conditions of supervision might be destroyed or suspicion that a weapon might be used. Exigent circumstances always exist with respect to a vehicle.
23. **Issuing Authority:** Any public official having the power and authority of a magistrate, a Philadelphia bail commissioner, or a district justice.
24. **Major Violations:** Inappropriate behavior by the offender, which **does pose** a serious threat to himself, others, property or the community.
25. **Management Information Systems:** Automated or manually collected data and records utilized for planning, research and evaluation.
26. **Minor Violations:** Inappropriate behavior by the offender, which **does not pose** a serious threat to himself, others, property or the community.
27. **National Crime Information Center (NCIC):** A computerized system run by the Federal Bureau of Investigation in order to track offenses throughout the United States.
28. **New Criminal Offense Violation:** A violation of the conditions of release, which violation is for a new criminal arrest or conviction.
29. **Offenders:** Those individuals who have committed a criminal act and have been placed under the jurisdiction of the department for supervisory purposes.
30. **Offense Tracking Number (OTN):** A number given by a court to each specific case.
31. **Originating Agency Identifier (ORI):** A number given to each agency by the Pennsylvania State Police in order to track those agencies submitting information to the central repository.
32. **Personal Contact:** Face-to-face contact with the offender, either in a formal office setting or in the community.

33. **Personal Search:** A warrantless search of an offender's person, including, but not limited to, the offender's clothing and any personal property which is in the possession, within the reach or under the control of the offender.
34. **Praecipe:** An original writ commanding the defendant to do the act required. Also, an order addressed to the clerk of court, requesting the issuance of a particular writ.
35. **Pretrial Services Program:** A program designed to monitor the activity of criminal offenders released on bail status under certain court imposed conditions, pending final disposition of the criminal charges.
36. **Prima Facie:** Literally, "on its face". Evidence is said to be prima facia when, standing alone, it amounts to the degree of proof needed to make a particular finding.
37. **Property Search:** A warrantless search of real property, vehicle or personal property, which is in the possession or under the control of the offender.
38. **Real Property:** Any residence or business property of the offender, including all portions of property to which the offender has access.
39. **Release On Recognizance (ROR):** Release conditioned only upon the defendant's written agreement to appear when required and to comply with the conditions of the bail bond in Rule 526(A).
40. **Release on Nonmonetary Conditions:** Release conditioned upon the defendant's agreement to comply with any nonmonetary conditions, as set forth in Rule 527, which the bail authority determines are reasonably necessary to ensure the defendant's appearance and compliance with the conditions of the bail bond.
41. **Release on Unsecured Bail Bond:** Release conditioned upon the defendant's written agreement to be liable for a fixed sum of money if he or she fails to appear as required or fails to comply with the conditions of the bail bond. No money or other form of security is deposited.
42. **Release on Nominal Bail:** Release conditioned upon the defendant's depositing a nominal amount of cash which the bail authority determines is sufficient security for the defendant's release, such as \$1.00, and the agreement of a designated person, organization, or bail agency to act as surety for the defendant.
43. **Release on a Monetary Condition:** Release conditioned upon the defendant's compliance with a monetary condition imposed pursuant to Rule 528. The amount of the monetary condition shall not be greater than is necessary to reasonably ensure the defendant's appearance and compliance with the conditions of the bail bond.
44. **Security:** Shall include cash, certified check, money order, personal check or guaranteed arrest bond or bail bond certificate.
45. **Surety:** A person, who agrees to be responsible for another's debts or obligations.
46. **Technical Violation:** A violation of the conditions of release, which violation is other than a new criminal arrest or conviction.
47. **Warrant:** A legal document issued by the Court or the adult probation/parole department that authorizes a law enforcement agency or other legal authority to apprehend an offender and commit him to prison.
48. **Workload Formula:** An administrative strategy for the analysis of quantifiable objectives and time factors for an employee performing their functions over a specific time period. Employees have a relatively fixed amount of total time available to complete job tasks in an identifiable time frame.

### **Authority and Policy Statement**

**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 through the formal adoption by the Carbon County Court of Common Pleas through administrative court order.

**Policy Statement:** The Carbon County Adult Probation/Parole Department and Carbon County Court of Common Pleas recognizes that defendant's placed on bail must be held accountable to the conditions of release imposed by the issuing authority, whereby the active community supervision will ensure public safety and the appearance of the defendant at court hearings. Additionally, non-adversarial information shall be provided to the court for bail consideration and sentencing decisions.

**Principles and Approach to Pretrial Services:** Pretrial release programs do not release defendants, judges alone are responsible for setting and releasing individuals on bail. Pretrial programs are responsible for providing accurate information and assessments to the court or issuing authority that assist judges in an appropriate bail determination. Furthermore, defendants are presumed innocent and entitled to be treated as such at the point of pretrial intervention.

### **Pretrial Services Program**

**Goals and Objectives:** The Carbon County Pretrial Services Program is designed to accomplish the following:

1. To maximize the release of defendants on non-financial conditions by identifying those defendants most likely to appear in court.
2. To help facilitate judicial release decisions by providing the courts with factual information about the defendants in the timeliest manner possible.
3. To monitor released pretrial arrestees to ensure compliance with the conditions of release imposed by the court for the benefit of public safety.
4. To establish a process that would improve the release from detention appropriate pretrial detainees who may respond to an alternative form of supervision and treatment.
5. To identify, assess and refer drug/alcohol dependent offenders accused of non-violent offenses to appropriate community based treatment facilities.
6. To promote pretrial arrestee accountability through community supervision and treatment.
7. To provide non-adversarial information to the court for bail consideration and sentencing decisions.

**Duties and Powers of the Carbon County Pretrial Services Program:** Pursuant to 42 Pennsylvania Rules of Criminal Procedure, Rule 530, the Carbon County Court of Common Pleas, by local rule (*See Administrative Court Order No. 9-2004*), shall establish and designate the Carbon County Adult Probation/Parole Department as the agency responsible for the administration of the pretrial services project. The department shall be responsible for the following:

1. To gather information about defendants relevant to bail decisions.
2. To make recommendations to the bail authority concerning the types of release and the conditions of release on bail for individual defendants.
3. To supervise defendants when so designated by the bail authority.
4. To make reasonable rules and regulations to implement the bail agency's functions.

**Target Population:** Under the local rules of criminal procedure adopted by the Carbon County Court of Common Pleas, the following defendant's shall be automatically referred to the Carbon County Pretrial Services Program for supervision and monitoring:

1. Defendants or surety, who post the full amount of the monetary condition as imposed by the court, judge or issuing authority (*See 42 Pennsylvania Rules of Criminal Procedure, Rule 528*).
2. When the judge, court or issuing authority so orders, a sum of money not to exceed ten percent (10%) of the amount of bail set is posted by the defendant or surety (*See 42 Pennsylvania Rules of Criminal Procedure, Rule 528*).
3. When the judge, court or issuing authority imposes nonmonetary conditions of release on bail and reporting requirements are imposed for pretrial intervention (*See 42 Pennsylvania Rules of Criminal Procedure, Rule 526 and 527*).

**Ineligible Offenders:** The following defendants shall be declared ineligible for participation in the pretrial services program, unless otherwise court ordered:

1. Defendants afforded bail for indirect criminal contempt.
2. Fugitives from Justice.
3. Probation, Parole and intermediate punishment violators.
4. Bail posted by a licensed bondsman.
5. Defendants who post realty as bail.

**Referral Process:** When an offender posts bail, the offender and/or surety shall be provided a copy of the Notice to Appear correspondence by the issuing authority, the Clerk of Court's Office and/or prison officials. The defendant and surety shall report to the Carbon County Adult Probation/Parole Office on the next available working day (*See Page 30 of this Policy Statement*).

### **Workload Management**

**Goals and Objectives of Workload Management:** A workload approach to pretrial services management is designed to address the following:

1. To provide information and data for budget justification and support.
2. To enable an agency to adequately allocate its resources.
3. To enhance agency accountability.

**Pretrial Services Workload Formula:** A workload formula shall be developed and applied to the allocation of tasks to full-time pretrial service personnel. This formula shall be reviewed on an annual basis.

**Reporting:** Pretrial service personnel shall report directly to the Chief Adult Probation/Parole Officer or supervisor. The supervisor shall conduct caseload reviews from an administrative and case management perspective.

**Assignment of Work Tasks:** All work associated with pretrial services shall be allocated to the Pretrial Services Officer through a workload formula that shall consider the following factors:

1. Legal requirements of adult offenders.
2. Supervision levels based on a departmental classification system.

3. Geographic location of adult offenders for purposes of computing travel time.
4. Training, investigative and administrative tasks required.

**Identification of Workload Factors:** To develop an effective workload formula, the following factors shall be considered:

1. Identification of pretrial services/diversion duties and responsibilities.
2. Measurement of an assigned task to final completion.
3. Development of a classification system for pretrial service offenders.
4. Translation of task assignments into specific time factors that can be analyzed in a quantitative manner.

**Implementation:** The workload formula shall be implemented as follows:

1. The Pretrial Services Officer shall be assigned all pretrial diversion offenders, unless a conflict of interest exists. The employee will be responsible for the offender from initial intake to final disposition. Also, the employee will be responsible for all other functions associated with the operation of a pretrial services program. Adjustments or modifications to this formula can only be accomplished by the Chief Adult Probation/Parole Officer or the Court.

### **Conflict of Interest**

**Departmental Policy:** Any situation when a staff member has competing professional or personal obligations or personal or financial interests that would make it difficult for him or her to fulfill his or her duties fairly. A conflict of interest may occur under the following circumstances:

1. A staff member's private interest differs from his or her professional obligations to the court.
2. Professional actions or decisions occur that an independent observer might reasonably question.
3. A conflict depends upon situation and not the character or actions of the individual.
4. A family member, friend, associate or any other individual that is closely connected with an employee of the department.

**Duty to Disclose:** An officer that has a foreseeable conflict of interest with a potential offender must advise his or her immediate supervisor. The supervisor will investigate the conflict and if necessary, reassign the case. In those circumstances when an offender is closely related or associated with a departmental employee, then the court will be notified and the case referred to the Pennsylvania Board of Probation and Parole or a neighboring county for possible supervision.

**Gift Policy:** See Article 49 of the Common Pleas Court of Carbon County Personnel Policy and Procedure Manual for Court Employees.

**Disciplinary Process:** Any violation of this section may result in disciplinary action, including termination.

### **Intake Process**

**Initial Interview:** When a defendant is referred for pretrial services intervention, the following documentation shall be completed by the intake officer:

1. Offender facesheet.
2. Conditions of bail.

3. Surety responsibility form, if applicable.
4. Bail Information Sheet.
5. Release of information form, if applicable.
6. Photograph of the defendant.

**Offender Facesheet:** The intake officer shall gather all demographic information concerning the defendant and all other bail information using this departmental form.

**Conditions of Bail Release:** The intake officer shall review the standard conditions of bail release and any other special conditions imposed by the issuing authority or court (*See Pages 31 & 32 of this Policy Statement*).

**Purpose of Imposing Conditions:** Conditions of the pretrial services program shall serve three purposes:

1. To ensure the appearance of the offender as required by the bond.
2. To assist the offender during the pre-verdict phase.
3. To protect the safety and security of the community.

**Authority to Impose Conditions of Bail:** The issuing authority or court shall attach such reasonable conditions of bail, which are least restrictive in nature, and in accordance with *42 Pennsylvania Rules of Criminal Procedure, Rule 526, 527 and 528*.

**Modification of Bail Order:** The issuing authority or judge of common pleas may modify the bail order in accordance with *42 Pennsylvania Rules of Criminal Procedure, Rule 529*.

**Electronic Monitoring Condition:** Any defendant placed in the pretrial services program with a special condition of electronic monitoring imposed by the issuing authority or court shall comply with all rules and regulations of the electronic monitoring program, including payment of all daily monitoring fees as established by the court.

**Surety Responsibility Form:** The surety of the bail bond should execute this form in the presence of the defendant and the intake officer. However, if the surety is unavailable at the time of the initial intake, then the form shall be forwarded to the surety for completion (*See Page 33 of this policy statement*).

**Bail Information Sheet:** The intake officer shall gather specific information concerning the defendant's prior criminal history and health issues (*See Page 34 of this policy statement*).

**Notice to Appear and Monitoring:** Defendants shall be provided written notification by the issuing authority for all scheduled hearings. The pretrial services officer shall inform all program participants of all scheduled hearings at the time of initial intake interview. During the course of pretrial supervision, the assigned officer shall continue to monitor court-scheduled hearings and provide appropriate levels of notification to the defendant for appearance.

**Monitoring Court Appearance Rates:** In order to determine the effectiveness of the pretrial service program, the Chief Adult Probation/Parole Officer shall monitor and gather statistical information concerning court appearance rates for all program participants.

### **Classificational Levels**

**Method of Supervision:** There shall be three (3) levels of classification established by the agency. Assignment criteria for each classification level shall be developed and documented in the offender case record to ensure conformity and equity to all offenders. The department shall adopt the following classification levels:

1. **Intensive Supervision Level and Contact Requirements:** The pretrial services officer shall maintain four (4) face-to-face contacts and two (2) collateral contacts monthly with the offender. Various reasons may exist for this classification level, which may include, but are not limited to the following:
  - a. The instant offense was a crime against a person of a violent or sexual nature.
  - b. The offender has a severe history of mental/emotional disorders or displays chronic alcohol or drug abuse.
  - c. The offender has an extensive history of delinquent and criminal behavior.
  - d. The offender is delinquent and not conforming to the prescribed conditions of bail release.
  - e. Officer impressions of the offender based on prior contacts, experience, training or professionalism.
  - f. The most serious offense in the criminal complaint is a felony.
  
2. **Maximum Supervision Level and Contact Requirements:** The pretrial services officer shall maintain two (2) face-to-face contacts and two (2) collateral contacts monthly with the offender. Various reasons may exist for this classification level, which may include, but are not limited to the following:
  - a. The instant offense was against a person.
  - b. The offender has a moderate history of delinquent behavior.
  - c. The offender has a moderate history of mental/emotional disorders or alcohol/drug abuse.
  - d. The offender is delinquent and not conforming to the prescribed conditions of bail release.
  - e. Officer impressions of the offender based on prior contacts, experience, training or professionalism.
  - f. The most serious offense in the criminal complaint is a misdemeanor.
  - g. After a plea negotiation and signed stipulation, the felony offenses were reduced to misdemeanors.
  
3. **Close Supervision Level and Contact Requirements:** The pretrial services officer shall maintain one (1) face-to-face contact and one (1) collateral contact monthly with the offender. Various reasons may exist for this classification level, which may include, but are not limited to the following:
  - a. The instant offense was against a property rather than a person.
  - b. The offender is a first-time adult offender with no prior history of delinquent or criminal behavior.
  - c. The offender has no history of mental/emotional disorders or alcohol/drug abuse.
  - d. The offender is conforming to the prescribed conditions of release.
  - e. Officer impressions of the offender based on prior contacts, experience, training or professionalism.
  - f. The offender was placed on ROR or unsecured bond.

- g. After a plea negotiation and signed stipulation, the felony offenses were reduced to misdemeanors or the defendant was referred to the ARD Program.

***Administrative Supervision Level- Contact Requirements:*** There shall be four (4) levels of classification established for administrative cases. Assignment criteria for each classification level shall be developed and documented in the offender case record to ensure conformity and equity to all offenders. The department shall adopt the following administrative classificational levels:

1. ***Administrative Intensive Supervision Level and Contact Requirements:*** The pretrial services officer shall maintain four (4) personal contacts and two (2) collateral contacts monthly with the offender. Various reasons may exist for this classificational level, which may include, but are not limited to the following:
  - a. See this policy statement for intensive supervision level and contact requirements.
  - b. The defendant resides outside Carbon County, is incarcerated or has been admitted to an inpatient treatment facility.
  - c. Officer impressions of the offender based on prior contacts, experience, training or professionalism.
2. ***Administrative Maximum Supervision Level and Contact Requirements:*** The pretrial services officer shall maintain two (2) personal contacts and two (2) collateral contacts monthly with the offender. Various reasons may exist for this classificational level, which may include, but are not limited to the following:
  - a. See this policy statement for maximum supervision level and contact requirements.
  - b. The defendant resides outside Carbon County, is incarcerated or has been admitted to an inpatient treatment facility.
  - c. Officer impressions of the offender based on prior contacts, experience, training or professionalism.
3. ***Administrative Close:*** The pretrial services officer shall maintain one (1) personal contact and one (1) collateral contact monthly with the offender. Various reasons may exist for this classificational level, which may include, but are not limited to the following:
  - a. See this policy statement for close supervision level and contact requirements.
  - b. The defendant resides outside Carbon County, is incarcerated or has been admitted to an inpatient treatment facility.
  - c. Officer impressions of the offender based on prior contacts, experience, training or professionalism.

***Administrative Jail:*** The pretrial services officer shall maintain contact with the institution housing the defendant and verify a minimum release date.

***Administrative Reporting Schedules:*** When an offender resides outside the jurisdiction of the department and is not being supervised by another department, then the following types of administrative reporting schedules shall be acceptable:

1. ***Mail-in Reporting:*** An offender placed on this reporting schedule shall maintain contact with the assigned officer in accordance with departmental requirements. The assigned officer shall provide the offender with a sufficient amount of mail-in forms upon placement on this type of reporting schedule.
2. ***Phone-in reporting:*** An offender placed on this reporting schedule shall maintain contact with the assigned officer in accordance with departmental requirements.

### **Offender Contact Requirements**

**Documentation of Contacts:** The assigned officer shall document all personal and collateral contacts in the offender's case record.

**Office Contacts:** The department recognizes that certain circumstances may exist that prevents an officer from maintaining face-to-face contacts with an offender in the field. Therefore, special provisions exist for officers to schedule offenders for office appointments on a random basis. However, the department discourages officers from frequently relying on this method of supervision to replace community-based contacts since an after-hours work schedule is available for officers to contact offenders.

**Collateral Contacts- Law Enforcement Authorities:** The department mandates that officers maintain collateral contacts with local law enforcement authorities to enhance community supervision. This type of contact is an excellent source of information concerning the offender's adjustment in the community. The frequency of law enforcement collateral contacts shall be established based on the minimum requirements of the classification level assigned to the offender.

**Initial Field Contact:** The initial contact with the offender shall take place at the offender's residence within ten (10) scheduled field days from receipt of the case. The purpose of the initial field contact is to verify the residence, obtain a layout of the residence, verify all occupants of the residence, determine whether the possibility exists that weapons or illegal contraband could exist within the residence and determine whether the residence is a suitable environment for the offender's successful community adjustment.

### **Portable Breath Testers, Urine Collection and Drug Testing Procedure**

**Authority to Drug Test:** The Carbon County Court of Common Pleas has established, as a general condition of bail, that it shall be a violation of supervision to possess/control/consume/sell narcotics, dangerous drugs or other controlled substances without a valid prescription. Therefore, drug testing of offenders should be unannounced, unless otherwise Court ordered, or depending on individual needs as determined by the assigned officer. Scheduled urine screens with the Carbon-Monroe-Pike Commission are permissible under this policy statement.

### **Assessment and Screening**

**Assessment and Initial Interview:** During the initial intake phase, the officer shall interview the offender and gather information concerning the offender's present and past history of substance abuse. The officer shall also consider the following when assessing an offender's substance abuse history:

1. Risk/Needs Assessment
2. Bail Information Sheet or Bail Report
3. Presentence Investigation
4. Prior criminal history record
5. Police reports

**Referral Process:** During the assessment and screening phase, the assigned officer shall identify whether the offender has a substance abuse problem. A treatment plan shall be developed and the offender referred to the Carbon-Monroe-Pike Drug/Alcohol Commission for either urine screening or counseling, if court ordered.

### **Portable Breath Testers**

**Breathalyzers:** Offenders suspected of alcohol consumption in violation of their conditions of release shall be tested using any of the following methods:

1. Use of the agency breathalyzer.
2. Collection of a urine sample to be tested by a laboratory.

### **Offender Urine Collection & Testing Requirements**

**Collection of the Urine Sample:** In order to ensure that the sample has not been adulterated, the officer must observe the offender purge into the collection container. Furthermore, if collecting the sample at the offender's residence, the officer should conduct a thorough search of the collection area prior to securing the sample.

**Drug-Free Urine Samples:** An officer who observes an offender attempting to use drug-free urine for the purpose of evading or causing deceitful results in a test for the presence of drugs shall confiscate all items and refer the matter to appropriate law enforcement officials for criminal prosecution (*See 18 Pa. C.S.A. § 7509*).

### **Minimum Urine Collection Guidelines**

When it is determined that the offender has a substance abuse problem or the instant offense is drug-related, then the following minimum urine collection guidelines shall apply to all offenders placed under the supervision of the department:

1. **Intensive Supervision:** Offenders placed on this level of supervision shall have a minimum of four urine samples collected monthly.
2. **Maximum Supervision:** Offenders placed on this level of supervision shall have a minimum of two samples collected monthly.
3. **Close Supervision:** Offenders placed on this level of supervision shall have a minimum of one sample collected monthly.

**Administrative Cases:** Although this section of the policy statement is not compulsory, the department recognizes that offenders placed on this level of supervision and reside outside the jurisdiction of the department are difficult to contact. Therefore, when court ordered, the officer shall attempt to coordinate with a facility in the offender's jurisdiction to collect and tests urine samples.

**Random Urine Collection:** Offenders not suspected of substance abuse or are unfamiliar to the department or officer shall be subject to random urine screens, which means that the officer shall secure one sample every three months.

### **Response to Positive Urine Screens**

**Discussion:** Offenders under the supervision of the department must be held accountable when they test positive for illegal substances or alcohol. If offenders can violate the rules and regulations of release and fail to observe other requirements of supervision without any consequences, then none of the goals of community supervision, such as public protection, treatment and punishment can be achieved.

**Positive Urine Screen:** When an offender tests positive for an illegal substance, the officer shall consider the following sanctions:

1. Issue a written violation and complete an offender admission report.
2. Refer the offender for drug/alcohol treatment.
3. Increase the frequency of the offender urine schedule.
4. File a petition to revoke supervision.

**Termination from Urine Screens:** When an offender has successfully completed drug/alcohol treatment, then the offender may be terminated from a urine screen schedule. Further collection of random urine samples shall be at the discretion of the officer.

### **Other Violation Process**

***Failure To Report After Placement in Program:*** An offender, so ordered by the court, to report to the Carbon County Adult Probation/Parole Office for participation in the Pretrial Services Program and fails to do so, shall be subject to the following procedure:

1. The Pretrial Services Officer shall send certified and regular mailings to the offender's last known address scheduling an intake appointment,
2. Failure by the defendant to report for the intake appointment shall result in the issuance of a warrant for the offender's arrest and the filing of a Petition to Revoke Bail.

***Investigation of Technical Violations:*** The assigned officer shall investigate all technical violations of the prescribed conditions of supervision within five working days. All witnesses, victims, police officers or interested parties involved with the alleged violations shall be contacted and interviewed by the officer. All relevant documentation shall be obtained and recorded in the offender's case record. Written violations reports shall be signed by the offender within ten working days after initial contact with the offender and submitted to the Chief Adult Probation/Parole Officer for review and approval.

***Investigation of New Criminal Offense Violation:*** When an offender is arrested for new criminal charges, the assigned officer shall obtain the criminal complaint and affidavit of probable cause from the arresting agency. Typically, a bail revocation hearing shall be scheduled after a *Primia Facia* case has been established by the Minor Judiciary.

***Levels of Review:*** The department, the Court or issuing authority shall prescribe the levels of review and decision making process for violations of the conditions of release as follows:

1. ***First Level:*** At this level, when infrequent or isolated minor violations of supervision occur, then the following initial violation process shall be utilized:
  - a. ***Verbal Reprimand:*** The assigned field officer can resolve infrequent or isolated minor violations of supervision with direct consultation with the offender. All verbal reprimands shall be documented in the offender case record.
2. ***Second Level:*** At this level, when continued minor violations of supervision occur or a major violation occurs, then the following violation process shall be utilized:
  - a. ***Written Reprimand:*** The assigned field officer can resolve repeated minor violations or a major violation of supervision with direct consultation with the offender through a written violation report. All violation reports shall be placed in the offender case record, a copy provided to the offender and the original submitted to the Chief for review.
3. ***Third Level:*** At this level, when frequent and repeated minor violations or major violations of supervision occur, then the following violation process shall be utilized:
  - a. ***Administrative Conference:*** Frequent and repeated minor or major violations of supervision shall result with direct consultation with the Chief Adult Probation/Parole Officer, the assigned officer and the offender. The original administrative conference report shall be retained in the offender's case record with a copy furnished to the offender.
4. ***Fourth Level:*** At this level, when frequent and repeated minor or major violations of supervision occurs, and the offender's has not conformed to the conditions of release and has not made an adequate adjustment in the community, then the following violation process shall be utilized:
  - a. ***Arrest Warrant:*** Repeated violations of supervision for minor or major violations will result in the issuance of an arrest warrant pursuant to this policy statement.

- b.        *Revocation Petition:*** Repeated violations of supervision for minor or major violations will result in the filing of a revocation petition with the Clerk of Courts Office or notification with the appropriate Magisterial District.

***Progression of Review:*** Generally, progressive levels of review shall not be required in situations where the offender's actions or violations of supervision pose a serious threat to himself, property, others or the community.

***Minor Violations of Supervision:*** The following is a list of minor violations of supervision:

1.        Failure to report to the assigned pretrial services officer as directed.
2.        Change of residence without knowledge of the pretrial services officer.
3.        New arrest for a summary offense.
4.        Leaving the Commonwealth of Pennsylvania.
5.        Failure to report to a treatment agency for counseling or urine testing.
6.        Any other violation, which does not pose a serious threat to the offender, property, others or the community.

***Major Violations of Supervision:*** The following is a list of major violations of supervision:

1.        New arrest for Misdemeanor or Felony offenses.
2.        Possession of controlled substances or drug paraphernalia.
3.        Positive urine screen.
4.        Failure to appear for court scheduled hearing.
5.        Alcohol possession or consumption, when applicable.
6.        Intimidation or retaliation against witnesses or victims.
7.        Any other violation, which poses a serious threat to the offender, property, others or the community.
8.        Violation of any specific condition imposed on the offender by the court or issuing authority.
9.        Relocating from the approved residence and the offender is considered an absconder.
10.       Repeated minor and major violations.
11.       Failure to permit officer access to residence
12.       Possession of weapons, if applicable.

***Officer Recommendations:*** Officers completing and presenting written violation reports to the Chief Adult Probation/Parole Officer shall include appropriate recommendations for corrective action or case disposition.

***Annual Review:*** The Court and the department shall conduct an annual assessment of all categorized violations of supervision.

### **Investigation of Detected Program Violations**

The assigned officer or on-call officer shall investigate all violations of the pretrial services program immediately after detection. All relevant information and documentation concerning violations shall be obtained with all persons involved being interviewed, if applicable. Upon determination of the specific violation, the officer shall follow the violation process as described in this policy statement.

### **Investigation of Program Violations (After Normal Business Hours)**

Response to program violations after normal business hours shall occur as follows:

1. ***On-Call Schedule:*** The Chief Adult Probation/Parole Officer shall prepare and post an on-call schedule. All Adult Probation/Parole Officers will be scheduled and rotated on a weekly basis and shall be responsible for the following:
  - a. The on-call officer must wear the digitized pager at all times. Failure to respond to a page will result in appropriate disciplinary action.
  - b. The on-call officer will be responsible for the pager. If the pager is damaged or lost, the cost of the pager may be assessed to the officer if negligence is determined.
  - c. Modifications to the on-call schedule are permitted. Prior arrangements shall be made with the Chief to ensure proper coverage.
  
2. ***Home Electronic Monitoring Violations:*** In the event that an electronic monitoring violation occurs, the following procedures shall be utilized:
  - a. The central monitoring station has been provided a procedure to notify the Carbon County Communications Center for program violations.
  - b. The Carbon County Communications Center shall be provided all officer pager numbers and personal telephone numbers.
  - c. An intermediate punishment program manual will be provided to all officers as a reference guide. All telephone numbers will be available within the manual.
  - d. When the pretrial services on-call officer is notified of a program violation, the officer shall respond to the page immediately. If the violation is for home electronic monitoring, the officer shall contact the central monitoring station to determine the nature of the violation. If the monitoring center cannot correct the problem, then the officer shall contact the offender to resolve the problem. If the problem cannot be rectified over the telephone, then, the on-call officer must respond to the residence to investigate the violation. However, before conducting the field investigation, the officer shall contact the back-up on-call officer for authorization and then contact the general supervision on-call officer for possible assistance. The pretrial services on-call officer shall not conduct a field investigation alone and without proper authorization from a supervisor.

***Supervisor Unavailable After Hours:*** When the primary on-call officer receives an after-hours page concerning a program violation and the secondary on-call officer or other supervisor cannot be contacted, then the primary on-call officer shall rely on experience, judgment and this policy statement when conducting a field investigation or detaining an offender. Authorization shall be implied under these circumstances.

***Violations at Minor Judiciary Level:*** If an offender placed under pretrial services violates any conditions of the program, and the defendant has not had a preliminary hearing, then the officer shall notify the appropriate magistrate and inform the court of the nature of the violations.

## **Search and Seizure**

***Authority to Conduct Search and Seizure:*** As a standard condition of the pretrial services program, all adult probation/parole officers are in a supervisory relationship with their offenders. The purpose of this supervision is to assist the offenders in their rehabilitation and to protect the community. Therefore, pretrial offenders shall be subject to searches of their property, person or vehicle at the request of the officer.

***Reasonable Suspicion Standard:*** An adult probation/parole officer may conduct a search if there is reasonable suspicion to believe that the offender possesses contraband or other evidence of violations of the conditions of supervision. The following factors, where applicable, may be taken into account:

1. The observations of the officer.
2. Information provided by others.
3. The activities of the offender.
4. Information provided by the offender.
5. The experience of the officers with the offender.
6. The experience of the officers in similar circumstances.
7. The prior criminal and supervisory history of the offender.
8. The need to verify compliance with the conditions of supervision.

***Other Circumstances for Search:*** An officer may conduct a search under the following circumstances:

1. When an offender is transported or taken into custody;
2. A property search may be conducted by any officer if there is reasonable suspicion to believe that the real or other property in the possession of or under the control of the offender contains contraband or other evidence of violations of the conditions of supervision.

***Supervisor Approval:*** Prior approval from a supervisor to conduct a property search shall be obtained absent exigent circumstances. No prior approval shall be required for a personal search. Exigent circumstances shall include, but not limited to:

1. Officer safety.
2. Strong suspicion that the contraband might be destroyed.
3. The offender may be in possession of a weapon.
4. The property is a vehicle.
5. A supervisor is unavailable for approval.

***Written Report:*** A report of every property search conducted without supervisor approval shall be prepared by the officer and filed in the offender's record. The exigent circumstances shall be stated in the report.

## **Arrest Process**

***Authority to Arrest Offenders in a Pretrial Services Program:*** Pursuant to the requirements of 42 Pennsylvania Rules of Criminal Procedure, Rule 536, the Carbon County Adult Probation/Parole Office is the recognized bail agency for the

Common Pleas Court and shall have the authority to arrest offenders in violation of the conditions of bail ((See Administrative Court Order No. 17-2001),

**Use of Force Model:** See Administrative Court Order 20 – 2003.

**Factors Determining Arrest of an Offender:** The following factors should be considered by the officer when considering to arrest a pretrial service offender:

1. The risk the offender poses to the community.
2. The offender was arrested for a new criminal offense.
3. The offender has continued to use illegal substances.
4. The offender has repeatedly committed minor and/or major violations.
5. The offender has absconded from supervision.
6. The offender has engaged in conduct, which threatened the safety and well being of the community and others.
7. The offender has not followed through on his/her treatment plan.
8. The offender possessed or controlled weapons or firearms.
9. The offender had contact with the victim, witnesses or other family members of the victim.
10. Other factors, in the opinion of the officer, that poses a threat to the community.

### **Arrest Planning**

**Planned Field Arrest:** Prior to effectuating any arrest, the arrest team shall consult with his/her immediate supervisor and consider the following:

1. The offender's propensity for violence.
2. The offender's criminal history, including the instant offense on supervision.
3. Availability of law enforcement personnel for assistance.
4. Lay-out of dwelling, including number of residents or significant others, whom may be present.
5. Task assignments to officers participating in the arrest.
6. There shall be no less than four officers present for a planned arrest.

**Planned Office Arrest:** When offenders are arrested in the department, the following shall be considered when making an office arrest:

1. The offender shall be arrested inside the office setting, and not in the hallway.
2. All agency personnel present shall be notified by the assigned officer that the offender is going to be arrested.
3. The Sheriff's Department shall be notified of any arrest, regardless of the availability of deputy sheriff's.

4. Typically, the Sheriff's Department shall transport the offender to prison, however, if Deputy Sheriff's are unavailable, then two adult probation officers shall transport the offender to prison.
5. Conduct a systematic search of the offender prior to leaving the office.

**Field Arrest:** When offenders are arrested in the field, the following procedure shall be considered:

1. Consult with an immediate supervisor in order to properly plan the arrest.
2. Notify the local police department that an arrest is being made in their jurisdiction and request assistance, if available.
3. See Arrest Planning of the policy statement.

**Request for Law Enforcement Assistance:** County adult probation/parole officers may lawfully request assistance of local law enforcement personnel other than another adult probation officer, to arrest an offender for technical violations without a warrant or court order {See *Commonwealth v Lyons*, 555 A.2d 920, 382 Pa.Super 438, 1989 and 61 P.S. § 309.1}. Absence of adult probation officer at time local law enforcement personnel effectuated warrantless arrest for technical violation did not render arrest illegal where arrest was made pursuant to adult probation officer's request {See 16 P.S. § 1216; 61 P.S. § 309.1; 42 Pa.C.S.A. § 8952 and 42 Pa.C.S.A. § 8953}.

**Sheriff's Department Jurisdiction:** Deputy Sheriff's have express authority to assist adult probation officers in effecting warrantless arrest for violators, even though outside their own jurisdiction {See *Commonwealth v Lyons*, 555 A.2d 920, 382 Pa.Super 438, 1989 and 61 P.S. § 1216; 61 P.S. § 309.1; 42 Pa.C.S.A. § 8952 and 42 Pa.C.S.A. § 8953}.

**Petition to Revoke Bail:** When a determination is made that the defendant is no longer amenable to supervision, then a Petition to Revoke Bail shall be completed and filed with the Clerk of Courts Office (See Page 35 of this Policy Statement).

**Warrant for Arrest:** When a determination is made that the defendant is no longer amenable to supervision and considered a risk to the community, then a warrant for arrest shall be executed (See Page 35 of this Policy Statement).

**Detainers:** When an offender is incarcerated on unrelated criminal offenses that occurred while on bail supervision, then a detainer may be lodged against the defendant (See Page 36 of this Policy Statement).

**Supervisor Approval:** All Petitions to Revoke Bail and Warrant for Arrest must be reviewed and approved by a supervisor prior to submission to the court.

**Critical Incident Report:** See Administrative Court Order 20 – 2003.

### **Bail Reports**

**Primary Purpose:** The primary purpose of the bail report is:

1. To provide the issuing authority or court with timely, relevant and accurate information concerning the offender,
2. To collect information necessary for making a bail determination.

**New Admissions:** The pretrial officer shall contact the Carbon County Prison daily for all new prison admissions and obtain all identifying information from prison administration on the inmate.

**Timetables for Completion:** The pretrial services officer shall conduct a timely interview with the defendant at the earliest time possible after the arrest and commitment to prison. Ideally, the officer should conduct the initial interview within twenty-four (24) hours of detention on weekdays and seventy-two (72) hours of detention on weekends.

**Universal Screening:** Except in those cases where the court has no jurisdiction to effect release, all defendants in custody shall be interviewed, regardless of the nature of the instant offense. The following exceptions shall apply:

1. Indirect criminal contempt (PFA Violators).
2. Bench Warrants for Failure to Appear or Domestic Relations.
3. Probation/Parole violators.
4. Fugitives From Justice.

**Agency Resources and Assignment of Reports:** The agency has created a specialized unit that processes and completes all bail reports through the pretrial services division. The Chief shall assign all bail reports to the pretrial services officer. However, whenever time constraints prohibit, or resources are limited, the Chief or other staff personnel may assist in the preparation of these reports. Also, universal-screening practices may be adjusted to maximize the impact of pretrial intervention when workloads may prohibit such screening procedures.

**Necessary Documentation From Issuing Authority or Magistrate:** When an offender is incarcerated and a bail interview is required, the pretrial services officer shall obtain a copy of the criminal complaint, affidavit of probable cause and the bail piece from the appropriate Magistrate.

**Criminal History Records:** Once the pretrial services officer obtains the identifying information from prison officials, the officer shall immediately notify the Carbon County Communications Center to obtain a criminal history on the offender through the Commonwealth Law Enforcement Assistance Network (CLEAN) as follows:

1. Complete a request for criminal history form as developed by the 911 Communications Center and submit the form to the center with the department's Originating Agency Identifier (ORI).
2. Once the agency is operational with the Justice Network (JNET), then the officer will be able to generate his or her own criminal history for Pennsylvania.
3. However, until operational, if the offender has an out-of-state criminal history, then the officer shall request from the 911 Communications Center a criminal history through National Crime Information Center (NCIC).

**Initial Interview and Collection of Information:** The pretrial services officer shall conduct a structured interview with the defendant, either face-to-face or by video conferencing. The officer shall gather information from the defendant using the following areas of discussion:

1. Criminal history information
2. Employment history
3. Marital information
4. Financial information
5. Medical/Health Information
6. Military Information
7. Family History
8. Community and Neighborhood Information
9. Educational Information

10. Identifying Information

**Questions Concerning the Alleged Incident:** Pursuant to the requirements of *42 Pennsylvania Rules of Criminal Procedure, Rule 530 (B)*, the representative of the adult probation/parole office who obtains information from the defendant shall both orally and in writing, advise the offender that anything said may be used against the defendant. The interview process shall not include any questions or discussions concerning the alleged incident. Such questions may impede the program's ability to conduct impartial inquiry.

**Training:** The Chief shall determine appropriate levels of training in the preparation of investigative reports, which shall include specialized training involving interviewing skills and techniques or report writing.

**Interview of the Defendant:** The pretrial services officer shall interview the defendant in accordance with this policy statement. The writer of the report must plan the interview before it actually begins. This approach will make the interview more effective, efficient and structured, which should reduce the risk of requiring an additional interview. Before the interview begins, the investigator should inform the defendant of the nature and purpose of the interview and the report. During the interview, the investigator should develop an interview sequence, which would make the offender more willing to communicate. The sequence should be a statement that introduces the topic, questions that elicit the information and probes that clarify or elaborate on the information obtained from the question. The investigator shall record all information obtained from the defendant.

**Video Conferencing:** The interviewer shall coordinate with prison officials to conduct the interview using video conferencing.

**Content of the Bail Report:** The following information shall be gathered and included in the body of the report:

**1. Identifying Information (Cover Sheet):**

- a. Date of Report, Name, Aliases, address, age, date of birth and social security number
- b. Sex, Race and Citizenship
- c. Education and Marital status
- d. FBI, SID and OTN Numbers
- e. Docket Number, Criminal Offenses, Gradation, Statutory Citation and Custody Status
- f. Name of Judge, Bail Amount, Offense, Arrest and Commitment Dates
- g. Detainers or other pending charges, Co-defendants
- h. Height, Weight, Eye Color, Hair Color, Marks, Scars or Tattoos
- i. Prior record history summary

**2. Criminal History:**

- a. All prior juvenile arrests or adult arrests shall be verified in writing. Exceptions shall be permitted for telephonic verification when time constraints prohibit the acquisition of written documentation.
- b. Obtain criminal records from rap sheets from state and federal repositories, District Attorney's File, Clerk of Courts Office, other probation offices, local police departments, local magistrates, previous presentence reports, and internal management information systems.

- c. List of previous juvenile arrest/adjudications (information must include docket number, offense date, place of arrest, arresting agency, offense, disposition date, sentence date and disposition).
- d. List of previous adult convictions (information must include docket number, offense date, place of arrest, arresting agency, offense, disposition date, sentence date and disposition).
- e. Military arrests (information must include, docket number, offense date, place of arrest, arresting agency, offense, disposition date, sentence date and disposition).
- f. Previous probation and parole supervision (information must include revocations and failure to appear history).
- g. Detainers or pending charges presently lodged against the defendant.

**3. *Family History:***

- a. Name, address, age and telephone number of biological parents or stepparents.
- b. Name, address, age and telephone number of all siblings or stepsiblings.
- c. Early developmental influences, such as physical, mental or sexual abuse which may have a significant impact on the defendant's present behavior or personality.
- d. Attitudes of the defendant towards his relationship with his family, including discipline, affection or rejection.
- e. Whom defendant was reared, if other than parents.
- f. Relationships with all family members and extent of family solidarity.
- g. Interview with adult family members, who reside with the defendant, concerning defendant's suitability to reside at the residence, if released from prison.
- h. Other significant information provided by the defendant.

**4. *Marital Status:***

- a. Present marital status, including common law (include date, place, name, address, age, and telephone number of spouse or paramour).
- b. List name, age and address of all children produced by the defendant, including the name of the other biological parent.
- c. Previous marriages (including date, place, name of previous spouse). If divorced, cite reasons for the separation.
- d. Domestic violence history, including the filing of a protection from abuse order, (only when the instant offense involves a victim of domestic violence).
- e. Interview with spouse or adult children, if they reside with the defendant.
- f. Other significant information provided by the defendant.

**5. *Home and Neighborhood:***

- a. Description of home or residence and physical verification of same, when offender resides in Carbon County. When a defendant resides outside Carbon County, then the investigator must verify the residence telephonically.
- b. List all prior residences, length of residency and with whom the defendant resided.
- c. Description of defendant's ties to the area, if any (including family or friends).
- d. Other significant information provided by the defendant.

**6. Health:**

- a. Defendant's general medical condition or health problems, current or previous.
- b. Drug and alcohol related history (including frequency of use; age when first started experimentation; prior treatment; prior criminal activity related to drug/alcohol problems).
- c. Mental Health related history (including social adjustment; prior mental health treatment; reasons for admission; discharge diagnosis).
- d. Assaultive Conduct (including any prior convictions or arrests for assaultive behavior, impressions of the investigator as to the risk the offender poses to the community).
- e. Sexual Conduct (including any prior convictions or arrests for sexual assaultive behavior, impressions of the investigator as to the risk the offender poses to the community).
- f. Other significant information provided by the defendant.

**7. Employment:**

- a. List current employer (information must include name, address, position, wages, and dates of employment).
- b. Interview current employer for verification purposes (information must include, name, address, position, wages, dates of employment and risk of losing position).
- c. If the defendant objects to the investigator interviewing their employer, then the investigator shall not conduct the interview, but include that information in the body of the report.
- d. Only include a list of previous employers for a period of five years (information must include, name, address, position, address, wages, dates of employment and reason for leaving).
- e. List all skills, interests and abilities.
- f. List attendance at vocational or technical schools and certificates.
- g. List other sources of income (including disability, retirement, public assistance).
- h. Other significant information provided by the defendant.

**8. Education:**

- a. Highest grade achieved.
- b. Post high school education.

- c. Age left school and reason.
- d. Other significant information provided by the defendant.

**9. *Military Record:***

- a. Branch of military service, serial number and dates of enlistment and discharge.
- b. Highest grade or rank achieved.
- c. Type of discharge.
- d. Other significant information provided by the defendant.

**10. *Financial Status:***

- a. Assets: Statement of financial assets and general standard of living (Houses, vehicles, property, accounts, investments, stocks, bonds, etc.)
- b. Financial obligations (Including mortgage, household expenses, child support, court costs).
- c. Other significant information provided by the defendant.

**11. *Sources of Information:***

- a. Cite all sources of information.

**12. *Official Version (Affidavit of Probable Cause):***

- a. A copy of the criminal complaint shall be included in the body of the report.

**13. *Supervision Plan:***

- a. In all cases, the interviewer shall identify problematic areas with the offender and recommend special conditions to the issuing authority or judge for inclusion in the bail piece.

**14. *Signature Page:***

- a. Signature of investigator and date.
- b. Signature of approval by Chief or supervisor and date.

**15. *Assessment Tool:***

- a. An assessment tool has been developed by the department and shall be completed on every offender and included in the body of the bail report.

**Report Formats:** All information shall be prepared using report formats adopted by the court and the agency.

- 1. *Bail Report Format:*** This format focuses on a topic outline and prepared in a narrative form, outlining key factors.

**Report Writing:** The report shall be prepared in a clear, thorough and concise manner, writing in the active voice. The investigator shall distinctly label what are opinions, conclusions and facts and cite and identify the source, with all

information being verified. The investigator shall use wording that everyone understands and describe people, things and events in operational terms.

***Uncooperative Defendant:*** During the interview phase, if a defendant fails to cooperate with the investigator, then the investigator shall notify the issuing authority that the defendant has failed to cooperate during the interview process.

***Verification of Information:*** The defendant shall be informed that the interview is designed to obtain information concerning bail consideration and that all information gathered will be verified. The investigator shall verify the following information:

1. Prior Criminal Record History
2. Defendant's Address
3. Family ties to the area (interview adult occupants of the residence).
4. Employment or schooling (interview employer or school officials, when applicable).

***Purpose of Verification:*** The rationale for verification is based on the following:

1. It allows the interviewer an opportunity to confirm the accuracy of the information gathered.
2. It may serve as a notification to family or friends of the arrest.
3. It may provide useful information to the court concerning serious health problems or drug/alcohol dependency problems that may require immediate attention by the court of prison personnel.
4. It adds credibility to the interview information.

***Address Verification:*** The investigator shall verify the offender's residence using the following standards:

1. When an offender resides in Carbon County, the officer must physically inspect and verify the residence to determine whether the offender can reside there if released from custody.
2. The officer must attempt to gain entrance and interview a resident, however, if the officer cannot gain entrance, then this information shall be included in the body of the bail report.
3. Telephonic interview with a resident is acceptable if the officer cannot gain access to the residence.
4. When an offender resides outside of Carbon County, then telephonic verification is required, however, if the officer cannot contact a resident, then this information shall be included in the body of the bail report.
5. If the offender resides alone, then the officer must contact the landlord or family member. If the officer cannot contact the landlord or family member, then this information shall be included in the body of the bail report.
6. The officer shall only include the defendant's prior addresses within the past three (3) years.

***Objectivity:*** The investigator shall remain objective when preparing the report. The writer shall avoid and eliminate previous experiences, stereotypes, prejudices and biases when completing the report.

***Documentation:*** During the investigative phase, the investigator shall document all information and maintain accurate records.

**Review of the Report:** Prior to submission of the report to the appropriate issuing authority, the Chief or supervisor shall review all bail reports for investigative conduct, report preparation, content and accuracy.

**Submission of the Report:** The completed bail report shall be submitted to the following parties in advance of the scheduled preliminary hearing:

1. The issuing authority (Magistrate).
2. The District Attorney's Office.
3. Defense Counsel or defendant, if unrepresented.

**Confidentiality of Bail Report:** Pursuant to the requirements of *42 Pennsylvania Rules of Criminal Procedure, Rule 530(C)*, all bail reports shall be declared confidential and not of public record.

**Confidentiality During the Investigative Process:** The issue of confidentiality shall extend beyond the courtroom and shall permeate the entire investigative process. From initial receipt, to final disposition, the investigator shall take the necessary safeguards to ensure that the process shall remain confidential and that no information shall be disclosed, unless in accordance with this policy section.

**Disclosure to Other Interested Parties:** Pursuant to the requirements of *42 Pennsylvania Rules of Criminal Procedure, Rule 530(C)*, the bail report shall be disclosed to the following interested parties:

1. Defense Counsel and/or the defendant, if unrepresented,
2. The issuing authority or judge setting the bail,
3. The attorney for the Commonwealth,
4. Probation Department preparing a presentence investigation,
5. Other interested parties, provided the defendant has signed a release of information form indicating such disclosure.

### **Criminal History Procedure**

**Criminal Justice Agencies:** The Carbon County Adult Probation/Parole Department is recognized as a criminal justice agency in the Commonwealth of Pennsylvania (*See 18 Pa.C.S. § 9102*).

**Criminal History Records Information Security, Access and Training:** All criminal history record information compiled on a criminal defendant shall be stored in the appropriate offender case folder. All offender case folders shall be stored in a secure area within the department, such as, locked filed cabinets. All agency personnel shall have access to this information and shall receive appropriate levels of training concerning this policy statement.

**Right of Access and Review:** Any individual or his legal representative has the right to review, challenge, correct and appeal the accuracy and completeness of his criminal history record information. Any individual or legal representative requesting to review his or her criminal history record information shall submit proper identification to the department for the review. Any individual or legal representative that challenges the accuracy of the criminal history record information must specify which portion of the record is incorrect and specify what the corrected version should be. The burden is on the defendant to prove any inaccuracies. The appellate courts have ruled "...information concerning prior convictions in the report is presumed to be valid, which presumption can only be rebutted by the defense, and need not be supported by evidence from the Commonwealth unless and until a challenge is voiced" [*See 18 Pa.C.S. §9151 and Commonwealth v. Charles, 339 Pa. Super. 284, 296, 488 A.2d 1126, 1132 (1985)*]. However, the Carbon County Adult Probation/Parole Department agency shall not provide any individual or his legal representative with any criminal history documentation supporting the

offender's criminal history record information. The individual shall be referred to the Pennsylvania State Police to secure and complete a "Request for Criminal Record Check", which fee shall be paid by the offender (*See 18 Pa.C.S.A. § 9152*).

***Compiling Criminal History Record Information:*** Whenever the pretrial services officer initiates an investigation into the offender's criminal background, the investigator shall:

1. Obtain a FBI and Pennsylvania criminal rap sheet (through NCIC and CLEAN) from the Carbon County Communications Center by providing the agency with the department's ORI number, which can be obtained from the Chief Adult Probation/Parole Officer. The investigator shall provide the communications center with the following information on the defendant:
  - a. Offender's last, first and middle name, if available.
  - b. Date of Birth.
  - c. Social Security Number.
2. Run own criminal history once JNET connectivity is established.
3. Review the District Attorney's Office file on the offender for possible criminal history record information.
4. Review the department's management information systems for possible criminal history record information contained in an offender's case folder.
5. Review juvenile court records.
6. Interview the defendant concerning any prior juvenile or adult arrests, convictions or adjudications.

***Juvenile Record:*** Whenever the investigator initiates an investigation into the calculation of the offender's criminal background, the investigator shall:

1. Review local juvenile court records.
2. If the offender discloses a juvenile record in another jurisdiction, then the investigator shall contact the appropriate jurisdiction for juvenile arrest records.
3. Interview the defendant concerning any prior juvenile or adult arrests, convictions or adjudications.

***Verification of Criminal History Record Information:*** The investigator shall obtain and verify all prior adult criminal convictions and juvenile arrests/adjudications, when time constraints permit, as follows:

1. Obtain written documentation from the jurisdiction requesting the following information:
  - a. Arresting agency and location
  - b. Date of the offense
  - c. Criminal charges with gradation, OTN number and Docket Number
  - d. Date of disposition (e.g. guilty plea, found guilty)
  - e. Date of sentence and disposition type (probation, incarceration)
  - f. Order of Court (guilty plea, sentencing)

- g. Previous presentence investigations
2. The department recognizes, that in some instances, time constraints will prohibit the acquisition of written documentation; therefore, the pretrial investigator can verify the above-mentioned information using telephonic means.
3. Facsimile transmissions of documentation are acceptable.

***Incomplete Prior Records:*** The investigator shall not record and utilize any criminal history record information that cannot be verified through written or oral methods, unless the defendant discloses such information and does not contest the accuracy of the record.

***Dissemination of Criminal History Record Information to Non-Criminal Justice Agencies:*** All inquiries from non-criminal justice agencies shall be referred to the Carbon County Clerk of Courts Office.

***Telephonic Requests for Criminal History Record Information:*** When a telephonic inquiry is made by a criminal justice agency for criminal history record information, and the source of the inquiry is unfamiliar to the department, then a written request, on agency letterhead, must be submitted to the department before any information shall be disseminated.

***Secondary Dissemination of Criminal History Records (Rap Sheets):*** Any criminal history records (rap sheets) received by the department through a formal inquiry from the Carbon County Communications Center is prohibited from being secondarily disclosed to any criminal justice or non-criminal justice agency.

***Training:*** The Chief Adult Probation/Parole Officer shall provide appropriate levels of training concerning this policy section.

***Misuse of Criminal History Records:*** Any departmental employee who violates this policy statement and who obtains a criminal history record from the Carbon County Communications Center or through JNET, other than for work-related purposes, shall be subject to disciplinary action, including termination.

***Destruction of Criminal History Records:*** All criminal history records, if printed through JNET, shall be shredded after use and not stored in the offender's folder.

***Dissemination Log:*** When the officer provides a copy of a criminal history record to another criminal justice agency, then a dissemination log must be completed and attached to the offender's folder. The log shall contain the date, agency requesting the information, the offender's name and case number and the person who released the information.

### **Nominal Bail Requirements**

***Minimum Bail Amount Requirements:*** Whenever the issuing authority establishes nominal bail, the following minimum bail amount shall be used to determine participation in the Carbon County Pretrial Services Program.

1. ***Minimum Bail Amount Requirement:*** Whenever an offender is afforded bail in the sum of \$2,500.00 or less (\$250.00/cash percentage or less), then the offender will not be considered for pretrial service intervention, unless otherwise court ordered.

### **Case Records**

***Offender Case Record Information:*** Once all intake paperwork is completed and received by agency clerical staff, then the following case record information shall be prepared and completed for filing and distribution:

1. ***Offender Face Sheet:*** All sections of the offender face sheet shall be completed and distributed to the pretrial services officer, along with the digital photograph of the offender.
2. ***Case Record Folders:*** All case record folders opened by the department shall be assigned an identification file number. This number shall be created based on a numerical sequential catalog system. Clerical staff shall maintain a record of the assigned case record folder numbers for easy identification and retention. All active folders shall be placed in the active file cabinets in alphabetical order.

3. **Case Record Folder Labels:** Colored coded labels will be attached to every folder. The label information shall include the offenders name, the assigned identification file number and the docket number, if available. Colors assigned to the case record folders are as follows:

- a. ARD Offenders: Pink label
- b. Parole Offenders: Yellow label
- c. Probation Offenders: Blue label
- d. Intermediate Punishment: Green Label
- e. Pretrial Services: White Label

**Distribution of Case Folder Documents:** Clerical staff will be responsible for all copies and the distribution of case folder documentation to the pretrial services officer and other court related agencies.

**Security of Case Records:** All case records not being utilized by agency personnel shall be maintained in a secure location. Active case records shall be directly supervised and controlled by the assigned officer.

**Privacy of Case Folders:** Information contained in the offender case folder is strictly prohibited from disclosure to third parties, unless the offender signs a "Consent to Obtain and Release Information Form" stating what specific information is to be disclosed. Agency personnel are exempt from this policy, however, any employee witnessed removing or disclosing case record information without proper authorization and breaching offender confidentiality shall be subject to disciplinary action, including termination.

1. **Exceptions to this Section:** The following entity will have unlimited access to the offender case folder:

- a. Carbon County Court of Common Pleas
- b. Carbon County District Attorney's Office

**Limited Access:** The following agencies shall have limited access to the offender case folder:

- 1. The Carbon County Children and Youth Services.
- 2. Other probation/parole agencies.
- 3. Military personnel conducting background investigations.
- 4. Law Enforcement Agencies.
- 5. Defense counsel.
- 6. Other court-related offices.

**Confidential Information:** Agencies that have limited access will not be entitled to review any treatment documentation, such as mental health or drug/alcohol reports.

**Record Review:** The Chief Adult Probation/Parole Officer shall review the case record maintenance procedure on an annual basis.

**Discharged Offenders:** When a case record has been terminated, agency clerical staff shall inspect and purge the offender case folder from all duplicated documents. Records of discharged offenders shall be maintained in accordance with

procedures adopted by the Court, the agency and the Archives Department. All inactive case folders shall be removed from the office and retained in the Archives Department for microfilming. Destruction of all inactive case folders shall be in accordance with policy and procedure adopted by the Courts, the Archive's Department or statute.

### **Termination Criteria**

**Termination Criteria:** The following criteria shall be utilized to determine when an offender shall be terminated from the program:

1. Final disposition of the criminal charges (when the offender was sentenced to ARD, probation, parole, intermediate punishment, fine, probation without verdict or partial or total confinement).
2. Charges were dismissed, withdrawn or Nol Prossed.
3. Bail was revoked and the offender was remanded to prison.
4. A Rule 586 was negotiated (*See 42 Pa. Rules of Criminal Procedure Rule 586*).
5. The offender was sentenced on another matter and is currently under supervision by the department.
6. Bail reduction to ROR or Unsecured Bond, unless otherwise court ordered.
7. The defendant failed to appear for a court appearance.

### **Petitions To Reduce Bail**

**Petitions to Reduce Bail:** If referred by the court for investigation, the pretrial services officer shall be given at least twenty-four (24) hours notice of presentation of a petition by the defendant to reduce bail in all criminal matters. Defense counsel and the District Attorney shall make an effort to agree on an appropriate amount of bail and any special conditions. If an agreement cannot be reached on the petition, the Court shall schedule a hearing.

**Investigation of the Petition To Reduce Bail:** The pretrial services officer shall interview and obtain the position of the assigned District Attorney on bail reduction. If the District Attorney opposes the petition, then the pretrial services officer shall interview the defendant and verify the contents of the petition. A bail recommendation shall be prepared, which shall include any special conditions. The Chief shall review the recommendation and forward the recommendation to the Court. The pretrial services officer may be required to testify at any subsequent bail reduction hearings.

**Time Constraints for Investigation:** When the pretrial services officer receives a petition for bail reduction, the officer must complete his investigation and submit a recommendation to the court no later than five (5) working days from receipt of the petition. A supervisor can only make exceptions to this requirement.

### **Management Information Systems**

**Database Management:** The Chief Adult Probation/Parole Officer shall maintain caseload statistical information in a database system for all defendants placed in the pretrial services program, as well as, maintain a roster of all bail reports completed by the pretrial services officer.

### **Performance Standards**

**Pretrial Services Performance Standards:** The pretrial services officer shall adhere to all performance standards established by the department pursuant to the supervision of all pretrial offenders placed under the jurisdiction of the department and pursuant to the completion and submission of the bail report.

### **Disciplinary Process**

**Violations of this Policy Statement:** Any violations of this policy statement could result in disciplinary action, including termination (*See Article 41 of the Common Pleas of Carbon County Personnel Policy and Procedure Manual for Court Employees*).

**SURETY AND DEFENDANT RESPONSIBILITIES: NOTICE TO APPEAR**

Under the local rules of criminal procedure adopted by the Carbon County Court of Common Pleas, pursuant to the requirements of *42 Pennsylvania. Rules of Criminal Procedure, Rule 526, 527 and 528*, you have posted the full amount of bail or ten percent (10%) cash bail of the total amount of bail set by the issuing authority. As a specific requirement of this bail bond, the surety and the defendant are required to appear at the Carbon County Adult Probation/Parole Department, 1st Floor Courthouse Building, Jim Thorpe, Pennsylvania, on the next available working day. Business hours are 8:30 a.m. to 4:30 p.m., Monday through Friday.

As surety on this bail bond, you and the defendant have an absolute responsibility to report to the department for the proper completion of all essential documentation concerning the defendant's and surety's responsibilities for the bail bond. There are standard conditions of bail and other standard forms that must be completed by the defendant and surety. Failure to comply with these instructions may result in the forfeiture of the full sum of the bail bond and the issuance of a warrant for the defendant's arrest and commitment to the Carbon County Correctional Facility.

If there are any questions concerning these instructions, please contact the Carbon County Adult Probation/Parole Department at (570) 325-4226.

Sincerely,

Ronald S. Kokinda  
Chief Adult Probation/Parole Officer

**CARBON COUNTY COURT OF COMMON PLEAS  
ADULT PROBATION/PAROLE DEPARTMENT  
PRETRIAL SERVICES PROGRAM  
JIM THORPE, PENNSYLVANIA 18229  
OFFICE: (570) 325-4226    EMERGENCY: (570) 325-9123  
BUSINESS HOURS: 8:30 A.M. to 4:30 P.M.**

**"CONDITIONS OF BAIL SUPERVISION"**

**NAME:** \_\_\_\_\_ **CASE NUMBER(S):** \_\_\_\_\_

In this judicial district as provided by local rule of court, the judge or issuing authority has ordered your participation in the Carbon County Pretrial Services Program effective \_\_\_\_\_. You will be under the supervision of the Carbon County Adult Probation/Parole Department, Pretrial Services Division, until such time as you are legally discharged by the court or until final disposition of your criminal proceedings. During this period of supervision, certain conditions of bail have been imposed pursuant to the requirements of *42 Pennsylvania Rules of Criminal Procedure, Rule 526, 527 and 528*. Also, during this period of supervision, the department has the authority, in the event of any of the following violation(s) of the conditions of your bail release, issue a warrant for your arrest and remand you to prison pending a bail revocation hearing pursuant to the requirements of *42 Pennsylvania Rules of Criminal Procedure, Rule 536*. If the court determines at the revocation hearing that you violated the conditions of bail, the court may forfeit your bail money and remand you to prison pending final disposition of the charges.

**YOU SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS:**

1. You shall appear before the issuing authority or court at all times required until full and final disposition of the criminal proceedings.
2. Your address of \_\_\_\_\_ is your approved residence. You must give written notice to your assigned pretrial services officer of any change of address within forty-eight (48) hours of the date of such change.
3. You shall report in person or writing and permit your pretrial services officer to visit you at your residence, place of employment or any other specified location.
4. You will refrain from the violation of all Municipal, County, State and Federal criminal statutes, as well as provisions of the Vehicle Code and the Liquor Code. You must notify your pretrial services officer of any arrest or citation within seventy-two (72) hours of occurrence.
5. You will abstain from the unlawful possession, or sale of, narcotics, drug paraphernalia and dangerous drugs, and abstain from the use of controlled substances within the meaning of the Controlled Substance, Drug, Device and Cosmetic Act, without a valid prescription. Also, you will submit to random urinalysis screening as requested by your pretrial services officer.
6. You will remain in the Commonwealth of Pennsylvania unless your pretrial services officer prior to such travel has granted permission.
7. You will report to any treatment agency recommended by the court, issuing authority or your pretrial services officer and follow all directives and recommendations made by the treatment facility.
8. You shall not have any contact with victims, witnesses or their family members, unless otherwise court ordered.

9. You will submit to searches of your property, residence or person when requested by your pretrial services officer when there is reasonable suspicion to believe that you have violated the terms and conditions of the bail bond.
10. You shall comply with any specific requirement or special conditions of release, which may be reasonably imposed by the issuing authority of court:

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**VIOLATION PROCESS**

Upon a breach of a condition of bail, the department has the authority to issue a warrant for your arrest and remand you to prison pending a bail revocation hearing pursuant to *42 Pennsylvania Rules of Criminal Procedure, Rule 536*. At the hearing, the issuing authority or court may declare the bond forfeited and make a record thereof. Upon such declaration, written notice of such forfeiture shall be given to the surety, or when there is no surety, such notice shall be provided to the defendant. Also, the issuing authority or court may remand you to prison pending final disposition of the criminal proceedings.

**OFFENDER GRIEVANCE PROCEDURE**

A client grievance procedure has been developed to assist you if you believe you have a legitimate complaint concerning an administrative decision, action, policy or regulation of the department. If you believe that you have a valid complaint concerning your supervision while on bail, you must attempt to resolve the situation with your assigned officer. If your attempt to resolve the situation is unsuccessful, then you must submit a written request within ten (10) days to the Chief for review. Your complaint will be processed by the Chief Adult Probation/Parole Officer within ten (10) days of receipt. The Chief may rule on your complaint with or without the benefit of a formal hearing. If a hearing is held, it would be convenient to all parties involved. The decision of the Chief shall be final.

**ACKNOWLEDGEMENT**

I, hereby acknowledge that I have read, or have been read to me, the aforementioned conditions of my supervision. I fully understand all conditions of bail and agree to follow and comply with all directives of the department, the court, the issuing authority and my assigned officer. Finally, I fully understand the penalties and consequences involved should I, in any manner, violate the conditions of bail.

**OFFENDER'S SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**WITNESS:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**SURETY:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**SURETY RESPONSIBILITIES**

As surety on this bail bond, I have read and fully understand the following:

1. If the defendant fails to appear at any court hearing, I as surety can be held responsible and forfeit the full amount of bail set.
2. Certain conditions are placed on the defendant at the time of bail release. These conditions are mandatory and any violation could result in bail revocation. If bail is revoked by the appropriate authority, the defendant could be returned to prison and all bail money posted will be retained by the county.
3. I will report any change in the defendant's status, address, telephone number, employment or court hearings to the Carbon County Adult Probation/Parole Department immediately.
4. In the event that a defendant is in non-compliance status with the conditions of bail release, I understand that I cannot withdraw the defendant's bail. It is the responsibility of the Carbon County Adult Probation/Parole Department to petition the court for bail revocation.

<b>Defendant's Signature</b>	<b>Date</b>
<b>Surety's Signature</b>	<b>Date</b>
<b>Witness's Signature</b>	<b>Date</b>

**Bail Information Sheet**

**Offender's Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

1. Have you ever been arrested as a juvenile ?     Yes     No

If yes, for what? \_\_\_\_\_

2. Have you ever been arrested as an adult ?     Yes     No

If yes, for what? \_\_\_\_\_

3. Do you have any alcohol problems?     None     Occasional Usage     Frequent Usage

Date of Last Use: \_\_\_\_\_

Frequency of Use: \_\_\_\_\_

4. Do you have any drug problems?     None     Occasional Usage     Frequent Usage

Substances Used: \_\_\_\_\_

Date of Last Use: \_\_\_\_\_

Frequency of Use: \_\_\_\_\_

5. Do you have any mental health problems?     Yes     No

6. Have you ever failed to appear for any prior court appearances?     Yes     No

\_\_\_\_\_  
**Adult Probation Officer Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Offender's Signature**

\_\_\_\_\_  
**Date**



**WARRANT TO COMMIT AND DETAIN**

***PRE-TRIAL SERVICES***

To the Sheriff, Superintendent, Keeper or Warden of the Prison or House of Correction, or any Officer of the Courts of the Commonwealth, Municipal Court, Police Department, Constable, etc. - *GREETINGS*:

By virtue of the authority given to me by this Court of Common Pleas of Carbon County as the Bail Authority for the County of Carbon and as authorized under the ***Pennsylvania Rules of Criminal Procedure, Rule 536***, you are hereby authorized and directed to commit and detain for violations of bail:

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***Offender's Name***

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***Term Number(s)***

until his/her case shall be heard or there shall be an Order by the appropriate authority to release him/her.

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***Adult Probation/Parole Officer***

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***Supervisor's Signature***

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***Date***