

THE COURTS

Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. IX]

Order Adopting Amendment to Rule 902(12) and Comment Revision; No. 327 Supreme Court Rules; Doc. No. 1

Order

Per Curiam:

Now, this 23rd day of February 2004, upon the recommendation of the Committee on Rules of Evidence, this proposal along with a Final Report to be published with this Order:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule of Evidence 902(12) and the revision of Comment is hereby amended in the following form.

This *Order* shall be processed immediately in accordance with Pa.R.J.A. 103(b), and shall be effective May 1, 2004.

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE IX. AUTHENTICATION AND IDENTIFICATION

Rule 902. Self-Authentication.

Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

* * * * *

(12) Certified foreign records of regularly conducted activity. **[In a civil case, the]** The original or a duplicate of a foreign record of regularly conducted activity that would be admissible under Rule 803(6) if accompanied by a written declaration by its custodian or other qualified person certifying that the record—

* * * * *

Comment

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Paragraphs (11) and (12), which were added in 2001, permit the authentication of domestic and foreign records of regularly conducted activity by certification. This is new to Pennsylvania law for records of regularly conducted activity, but is consistent with Pa.R.E. 902(2), (3), and (4) which permit authentication of various kinds of public documents and records by certification. **[These paragraphs are similar to F.R.E. 902(11) and (12) that were adopted effective December 1, 2000. The language of Pa.R.E. 902(11) differs from F.R.E. 902(11) in that it refers to Pa.R.C.P. 76 rather than to Federal law. The amendment is intended to implement the amendment to Pa.R.E. 803(6).] Pa.R.E. 902(11) is similar to F.R.E. 902(11). The language of Pa.R.E. 902(11) differs from F.R.E. 902(11) in that it refers to Pa.R.C.P. 76 rather than**

to federal law. Pa.R.E. 902(12) differs from F.R.E. 902(12) in that the words “in a civil case” are deleted. The words “in a civil case” appear in F.R.E. 902(12) because certification of foreign business records in federal criminal cases is allowed by 18 U.S.C. § 3505. Pennsylvania has no comparable statute. Instead, Pa.R.E. 902(12), as amended, allows certification of foreign business records in Pennsylvania criminal cases, as well as civil cases. The addition of paragraphs (11) and (12) is intended to implement the amendment of Pa.R.E. 803(6).

* * * * *

FINAL REPORT

Amendment of Pa.R.E. 902(12) and Comment Revision

On February 17, 2004, upon the recommendation of the Committee on Rules of Evidence, the Supreme Court adopted the changes to Pa.R.E. 902(12) and comment effective May 1, 2004. These changes are made to correct an anomaly in the Rule. In its present form, in a criminal case, a foreign business record cannot be qualified by certification. A custodian or otherwise qualified witness must be produced. However, in a civil case, a foreign business record may be qualified as such by certification. In both civil and criminal cases, a domestic business record may be qualified by certification. The amended rule and comment revision correct this anomaly in the Rule and permit qualification of foreign business records in criminal cases by certification.

[Pa.B. Doc. No. 04-418. Filed for public inspection March 12, 2004, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 1]

Procedures When Bench Warrant is Issued

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt new Pa.R.Crim.P. 150 (Bench Warrants) that will provide the procedures to be followed when a bench warrant is issued. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Report should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

The text of the proposed new rule precedes the Report.

We request that interested persons submit suggestions, comments, or objections concerning this proposal in writing to the Committee through counsel.

Anne T. Panfil, Chief Staff Counsel
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 Criminal Procedural Rules Committee
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no later than Wednesday, April 7, 2004.

By the Criminal Procedural Rules Committee

JOHN J. DRISCOLL,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART E. Miscellaneous Warrants

Rule 150. Bench Warrants.

(A) In a court case when a bench warrant is issued, the case is to proceed in accordance with the following procedures.

(1) When a defendant or witness is arrested pursuant to a bench warrant, he or she shall be taken without unnecessary delay for a hearing on the bench warrant. The hearing shall be conducted by the judicial officer who issued the bench warrant, or, if the judicial officer is unavailable, another judicial officer designated by the president judge or by the president judge's designee to conduct bench warrant hearings.

(2) In the discretion of the judicial officer, the bench warrant hearing may be conducted using two-way simultaneous audio-visual communication.

(3) If the bench warrant hearing cannot be conducted promptly after the arrest:

(a) the defendant or witness shall be lodged in the county jail pending the hearing;

(b) the authority in charge of the county jail promptly shall notify the court that the individual is being held pursuant to the bench warrant; and

(c) the bench warrant hearing shall be conducted without unnecessary delay. Under no circumstances shall the individual be detained without a bench warrant hearing

(i) longer than 72 hours when the bench warrant is executed in the judicial district of issuance, or,

(ii) longer than 144 hours when the bench warrant is executed outside the judicial district of issuance. When the subject of the bench warrant is in custody on another matter in the judicial district in which the bench warrant is executed, the 144-hour time limit begins to run upon notice to the judicial district of issuance that the proceeding for which the individual is in custody is concluded.

(4) At the conclusion of the bench warrant hearing following the disposition of the matter, the judicial officer immediately shall vacate the bench warrant and order that notice of the vacated warrant promptly be given to all computer networks into which the bench warrant has been entered.

(5) If a bench warrant hearing is not held within the time limits in paragraph (A)(3)(c),

(a) the bench warrant shall expire by operation of law, and the individual promptly shall be released from custody; and

(b) notice of the expired warrant promptly shall be given to all computer networks into which the bench warrant has been entered.

(B) As used in this rule, "judicial officer" is limited to the district justice or judge who issued the bench warrant, or the district justice or judge designated by the president judge or the president judge's designee to conduct bench warrant hearings when the issuing district justice or judge is unavailable.

Comment

This rule addresses only the procedures to be followed after a bench warrant is issued, and does not apply to execution of bench warrants outside the Commonwealth, which are governed by the extradition procedures in 42 Pa.C.S. § 9101 et seq., or to warrants issued in connection with probation or parole proceedings.

Paragraph (A)(2) permits the bench warrant hearing to be conducted using two-way simultaneous audio-visual communication, which is a form of advanced communication technology. See Rule 103. Utilizing this technology will aid the court in complying with this rule, and in ensuring individuals arrested on bench warrants are not detained unnecessarily.

Pursuant to paragraph (A)(3)(c)(ii), when the subject of the bench warrant is being held in another case in the judicial district in which the bench warrant is executed, an official in that judicial district promptly upon the conclusion of the proceeding for which the individual is in custody must notify the judicial district of issuance that the proceeding is concluded, and the bench warrant hearing must be conducted as soon as possible.

Once a bench warrant is executed and the defendant is taken into custody, the bench warrant no longer is valid, and paragraphs (A)(4) and (A)(5)(b) ensure the warrant is removed from the all computer networks into which the warrant has been entered.

To ensure compliance with the prompt bench warrant hearing requirement, the president judge or the president judge's designee is required to designate a district justice to cover for unavailable district justices or a judge to cover for unavailable judges. The designated judicial officers will conduct bench warrant hearings only when the judicial officer will be unavailable to conduct the bench warrant hearing within the time requirements of this rule. See also Rule 132 for the temporary assignment of district justices. It is expected that the practice in some judicial districts of a judge who knows he or she will be unavailable asking another judge to handle his or her cases during the judge's absence would continue.

Paragraph (A)(4) requires the judicial officer to vacate the bench warrant at the conclusion of the bench warrant hearing. The current practice in some judicial districts of having the clerk of courts cancel the bench warrant on the computer system upon receipt of a return of service is consistent with this paragraph, as long as the clerk of courts promptly provides notice of the return of service to the issuing judge.

It is incumbent upon the court to monitor the time individuals are detained pending their bench warrant hearing and to ensure compliance with the immediate release requirements of paragraph (A)(5) when the detained individual has not had a bench warrant hearing within the time limits of this rule.

For the procedures concerning violation of the conditions of bail, see Chapter 5 Part B.

As used in this rule, "court" includes district justice courts.

For the arrest warrants that initiate proceedings in court cases, see Chapter 5, Part B(3)(a), Rules 513, 514, 515, 516, 517, and 518. For the arrest warrants that initiate proceedings in summary cases, see Chapter 4, Part D(1), Rules 430 and 431.

Official Note: Adopted _____, 2004, effective _____, 2004.

Committee Explanatory Reports:

Report explaining proposed new Rule 150 providing procedures for bench warrants published at 34 Pa.B. 1429 (March 13, 2004).

REPORT

Proposed New Pa.R.Crim.P. 150

PROCEDURES WHEN BENCH WARRANT IS ISSUED

I. INTRODUCTION

The Criminal Procedural Rules Committee is proposing new Pa.R.Crim.P. 150 (Bench Warrants), which sets forth the procedures to be followed when a bench warrant is issued. This rule was developed (1) as the result of the Committee's review of the bench warrant and arrest warrant forms being developed for use by the Common Pleas Criminal Court Case Management System (CPCMS) and consideration of some questions from the CPCMS staff concerning bench warrants and whether there should be a time limit on how long a defendant may be confined after being arrested on the bench warrant before being brought before a judge for a bench warrant hearing, and (2) from the members' own experiences representing clients who have been the subject of bench warrants. The members opined that bench warrant practice is one area of criminal practice that is fraught with abuses, particularly with regard to the time the arrested individual spends in custody pending a bench warrant hearing. They have found that frequently the judge who issues the bench warrant is not given notice that the individual has been arrested on that bench warrant, there does not appear to be a procedure for scheduling the bench warrant hearing, and if there is a scheduling procedure, rarely does it provide for a prompt hearing. The members also noted the lack of a statewide bench warrant rule has led to many local rules for bench warrants.¹

The Committee researched other states' rules and statutes to see whether there are any "model" bench warrant rules and what provisions these rules or statutes include. We found very few rules or statutes governing bench warrants specifically, with most only providing procedures for arrest warrants in general. The Committee also reviewed Pennsylvania's Rules of Procedure and found that only Pa.R.C.P. 1910.13-1 (Failure or Refusal to Appear Pursuant to Order of Court. Bench Warrant) sets forth procedures following the issuance of a bench warrant.²

¹ In many of these cases, in implementing the local rules, the judicial districts have not complied with Rule 105 (Local Rules) making the local rules difficult to find and monitor.

² Rule 1910.13-1 provides, *inter alia*,

(c) Upon appearance in court by a party on the matter underlying the bench warrant, the bench warrant shall be vacated forthwith and the notice shall be given to all computer networks into which the bench warrant has been entered.

(d) The bench warrant shall direct that if the court is unavailable at the time of the party's arrest, the party shall be lodged in the county jail until such time as court is opened for business. The authority in charge of the county jail must promptly notify the sheriff's office and the director of the domestic

relations section that defendant is being held pursuant to the bench warrant. Under no circumstances shall the party remain in the county jail longer than seventy-two hours prior to hearing.

- apply both to defendants and witnesses, including investigating grand jury witnesses
- make it clear that district justices would proceed under this new rule only when handling court cases, otherwise they would proceed under the summary case arrest warrant rules, Rules 430 and 431
- ensure the court receives notice when an individual is arrested on a bench warrant
- require that the district justice or judge who issued the bench warrant is the judicial officer before whom the defendant or witness should be taken when arrested
- provide a procedure for coverage when these "issuing authorities" are unavailable, and that should be accomplished by the president judge designating another district justice or judge to provide coverage
- make it clear only another district justice may cover for a district justice and only another judge may cover for a judge
- require that individuals arrested on a bench warrant must be brought before the issuing district justice or judge or designated district justice or judge as soon as reasonably possible following the arrest and in no case may the arrested individual be detained longer than 72 hours without a hearing, or 144 hours when the bench warrant is executed outside the judicial district from where it was issued
- encourage the use of advanced communication technology for the bench warrant hearing, a tool that will be helpful in ensuring prompt bench warrant hearings
- provide that the bench warrant be vacated at the conclusion of the bench warrant hearing and removed from the computer systems
- not address when bench warrants may be issued³

With these points in mind, the Committee developed new Pa.R.Crim.P. 150 (Bench Warrants) as more fully explained below.

II. DISCUSSION

A. Placement

The Committee is proposing the new bench warrant rule go in the general provisions section of the rules, Chapter 1, since the rule will apply to bench warrants issued by (1) the common pleas court in court cases and (2) the minor judiciary when handling a court case. In order to accommodate warrants in this Chapter, the Committee is proposing that a new subsection, Part E, be created. This new subsection would be titled "Miscellaneous Warrants." The Committee reasoned the new section should not be limited to bench warrants, but should be broad enough in scope to address procedures related to other types of warrants that are not for instituting

³ In discussing this issue, the members noted there are so many instances when the judiciary issue bench warrants that it would be impossible to adequately address this in a rule. At the same time, some members expressed concerns that in some cases, bench warrants are being issued in inappropriate situations. Ultimately, after concluding that with the time limits being built into the new rule, judges will pay more attention to when they issue bench warrants, the Committee agreed the new rule should cover only the procedures once a bench warrant has been issued.

proceedings,⁴ if such other rule procedures become necessary or desirable. The new bench warrant rule would be the first rule in this new subsection, numbered Rule 150.

B. *New Pa.R.Crim.P. 150*

1. *Scope*

New Rule 150 applies to warrants that do not institute proceedings, denoted "bench warrants," and sets forth the procedures to follow after a bench warrant is issued. In addition, the rule applies to bench warrants issued for a defendant in a case and for witnesses, including investigating grand jury witnesses. The rule, however, does not apply to bench warrants executed outside the Commonwealth, which are covered by the extradition procedures in 42 Pa.C.S. § 9101 et seq., or to warrants issued in probation and parole proceedings.

2. *Terminology*

The Committee discussed, in the context of a bench warrant proceeding, how to refer to the district justices and judges who would issue bench warrants and preside at bench warrant hearings. We considered and rejected using "issuing authority," because this term has a long history in the rules as being applicable to the judicial officer who issues process to institute proceedings or for search warrants or to preside over summary proceedings. Because some members expressed concern about the potential confusion using "issuing authority" in this context would have, the Committee agreed instead to use "judicial officer" to encompass the presiding district justice or judge who issued the bench warrant or the district justice or judge designated by the president judge to conduct the bench warrant hearings when the presiding district justice or judge are unavailable. The use of "judicial officer" in Rule 150 is explained in paragraph (B).

3. *Paragraph (A)*

Paragraph (A)(1) requires that the individual arrested on a bench warrant be taken without unnecessary delay for a bench warrant hearing before the judicial officer who issued the bench warrant. To ensure there are prompt bench warrant hearings, paragraph (A)(1) also includes the requirement that the president judge, or the president judge's designee, designate a "replacement" judicial officer to conduct the hearing if the issuing judicial officer is unavailable. The fifth paragraph of the Comment elaborates on these requirements, making it clear that the "replacement" judicial officer only presides when the presiding judicial officer is unavailable. This paragraph also favorably acknowledges the practice in some judicial districts of permitting a judge who will be unavailable to make arrangements with another judge to handle his or her cases while the judge is unavailable.

Paragraph (A)(2) provides for the use of "two-way simultaneous audio-visual communication" to conduct the bench warrant hearing as another means of ensuring prompt bench warrant hearings. This provision addresses the availability of the judicial officer, including an investigating grand jury supervising judge, as well as the situation in which an individual is arrested on a bench warrant in another county. The correlative Comment provision explains the two-way simultaneous audio-visual communication is a form of "advanced communication technology" as defined in Rule 103.

Paragraph (A)(3) addresses the procedures when no judicial officer is available to conduct the bench warrant

hearing "promptly after the arrest," and is similar to the notice provisions in Civil Rule 1910.13-1(d). In the case when the judicial officer is unavailable, (1) the arrested individual must be lodged in the county jail pending the hearing, paragraph (A)(3)(a); (2) the authority in charge of the jail promptly must notify the court of the arrest and detention, paragraph (A)(3)(b); and (3) the hearing must be held without unnecessary delay and under no circumstances may the individual be detained without a bench warrant hearing longer than 72 hours after an arrest within the county of issuance, paragraph (A)(3)(c)(i). The Committee discussed at length the time limitation to impose for the detention of individuals arrested on bench warrants held without a bench warrant hearing. Recognizing the scheduling demands in the judicial districts, as well as the fact that the 72-hour time limit in Pa.R.C.P. 1910.13-1(d) has not created an undue burden on the judicial districts, the Committee agreed this time limit is reasonable.

A more complicated issue concerned the situation when the individual is arrested outside the judicial district of issuance. The members expressed concern that the 72-hour time limit was unrealistic when, given the difficulties in some cases of retrieving an individual from another judicial district, particularly when the judicial district of arrest is a great distance away from the judicial district of issuance. Ultimately, the Committee concluded a 144-hour outside time limit was reasonable, providing sufficient time for the judicial district of issuance to make arrangements for the individual's return without unnecessarily prolonging the individual's detention. The Committee also discussed at length a related issue concerning when the time limit would begin to run when the individual arrested on the bench warrant is in custody on another matter in the judicial district in which the bench warrant was executed. The members agreed the disposition of the matter pending in the other judicial district would take precedence over the bench warrant so the time limit for detention on the bench warrant should not run until the other matter is concluded. Paragraph (A)(3)(c)(ii) sets forth the 144-hour time limit and provides in cases in which there is a pending case, the 144-hour time limit does not begin to run until notice of the conclusion of the pending proceeding is provided to the judicial district of issuance. The timing and the importance of proceeding as soon as possible after the conclusion of the pending case are further explained in the third paragraph of the Comment.

Paragraph (A)(4) is taken from Civil Rule 1910.13-1(c), and requires that the bench warrant is to be vacated at the conclusion of the bench warrant hearing following the disposition of the matter. The Committee agreed a comparable provision in the Criminal Rules' bench warrant rules that requires the judicial officer to dispose of the bench warrant proceeding as well as vacate the warrant makes sense in view of the ongoing problems concerning adequate warrant controls and ensuring defunct warrants are removed from the national computer systems. This requirement will ensure the warrant is removed from all computer networks into which the bench warrant has been entered to prevent the individual from being re-arrested on the invalid warrant. The Comment reiterates that once the bench warrant is executed and the individual is taken into custody, the bench warrant is no longer valid. In addition, the Comment recognizes the existing practice in some judicial districts of having the clerk of courts cancel the bench warrant on the court's computer system when he or she receives a return of service, but cautions in these circumstances, the clerk

⁴ The procedures for instituting criminal proceedings by arrest warrant are governed by Rules 430 and 431 in summary cases and Rules 513-518 in court cases.

promptly must provide notice of the return of service to the judge who issued the warrant.

Another issue the Committee had some difficulty with concerned what should occur when the time limits in paragraph (A)(3)(c) expire. The Committee majority agreed there should be an automatic release from custody at the expiration of the time limit, and to accomplish this, the rule should provide that the bench warrant expires by operation of law. See paragraph (A)(5). A related issue that concerned the members was how to ensure the court knows the individual is eligible for release and is released promptly when the time limit expires. The Committee agreed it is the responsibility of someone in the court system—judge, court administrator, clerk of courts, or even counsel—to monitor the time and make sure the jail is told to release the individual. This point is emphasized in the seventh paragraph of the Comment.

Finally, the Comment also includes (1) cross-references to the summary case and court case rules governing arrest warrants that initiate proceedings to clearly distinguish those procedures from the new bench warrant procedures, and to Chapter 5 Part B concerning violation of the conditions of bail; and (2) an explanation that “court” as used in Rule 150 is not limited to courts of record but also includes district justice courts.

[Pa.B. Doc. No. 04-419. Filed for public inspection March 12, 2004, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CARBON COUNTY

Intermediate Punishment Plan; No. 057 MI 93

Administrative Order 7-2004

And Now, this 25th day of February, 2004, in order to modify policy and procedure for the Carbon County Intermediate Punishment Plan, it is hereby

Ordered and Decreed that, effective thirty days after publication in the *Pennsylvania Bulletin*, the Court hereby *Revises* its Intermediate Punishment Plan that follows.

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

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

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

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

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

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

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

By the Court

RICHARD W. WEBB,
President Judge

Purpose

To establish policy and procedure governing the administration of Carbon County's Intermediate Punishment Programs of Intensive Supervision Services, House Arrest/Home Electronic Monitoring and Residential Inpatient Treatment; and to establish a process whereby the intermediate punishment officer and/or presentence investigator can recommend innovative sentencing alternatives to the court that may permit a better balance between the dual needs of community protection and the welfare of the defendant.

Applicability

To the Carbon County Court of Common Pleas, Carbon County's Criminal Justice Advisory Board, all adult probation staff and all offenders under the jurisdiction of the department.

Definitions

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

1. *Collateral Contact*: Communication with another person having regular contact with the offender, such as law enforcement personnel or treatment specialists.

2. *Criminal Justice Advisory Board*: A collective body of County officials that is responsible for the oversight of the County's Intermediate Punishment Plan and Programs.

3. *Home*: The actual living area of the temporary or permanent residence of an offender, which will only include “inside the confines” of the established home or apartment.

4. *Home Electronic Monitoring Program*: A sentence in which the offender is required to wear or carry an electronic device which transmits the offender's location to a receiver maintained by criminal justice personnel.

5. *House Arrest Program*: A sentence which orders offenders confined to their own residence except for preapproved excursions for medical treatment, employment, performance of community service work, drug/alcohol treatment or counseling and religious functions. House arrest may be combined with electronic monitoring to detect violations.

6. *Ignition Interlock System*: A system approved by the Department of Transportation which prevents a vehicle from being started or operated unless the operator first provides a breath sample indicating that the operator has an alcohol level less than .025%.

7. *Intensive Supervision Services*: A sentence with increased supervision, surveillance and control; reduced caseloads for probation officers; increased number of contacts per month; and mandated activities for the offender, including work or vocational training, community service work or drug/alcohol treatment.

8. *Intermediate Punishment Investigation*: An investigation completed by the intermediate punishment officer, which is provided to the court, that recommends whether an offender is eligible for participation in an intermediate punishment program.

9. *Intermediate Punishment Plan*: A document, which describes a proposed intermediate punishment program.

10. *Intermediate Punishment Programs*: A punishment option that is considered on a continuum to fall between traditional probation and traditional incarceration.

11. *Presentence Investigation*: A concise document provided to the sentencing court that includes socioeconomic data, prior criminal record, demographic data and other background information on the defendant.

12. *Residential Rehabilitative Center*: A community-based facility to which offenders can be sentenced directly where a range of rehabilitative services is available, including drug and alcohol treatment and counseling.

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 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 "innovative sentencing" or "alternatives to incarceration" for low-risk, non-violent offenders is essential as a legitimate sentencing option available to the court. Offenders that demonstrate "special needs" or exhibit "low-risk, non-violent" tendencies shall be considered for diversion from exposure to confinement and placement in an intermediate punishment program. This approach will permit offenders to remain in the community to support themselves and their legal dependents. Certain restrictions shall be placed on the defendant that will ensure a better balance between the punishment and rehabilitation of the offender, which approach will not compromise the safety and the security of the community.

Criminal Justice Advisory Board

In accordance with 42 Pa.C.S.A. § 9802, the Criminal Justice Advisory Board shall oversee the functions of the County's Intermediate Punishment Board. The Criminal Justice Advisory Board meets monthly and shall periodically assess available county-wide correctional services and future needs; shall work with the county office of probation and parole in developing the Intermediate Punishment Plan; shall adopt a county intermediate punishment plan, including program policies for administration; shall monitor the effectiveness of county correctional services and shall identify needed modifications.

Primary Goals and Objectives

The County's Intermediate Punishment Programs shall embrace the primary purposes for the development of Intermediate Punishment Programs established by the Pennsylvania Commission on Crime and Delinquency, which are as follows:

1. To protect society and promote efficiency and economy in the delivery of corrections services.
2. To promote accountability of offenders to the community.
3. To fill gaps in local correctional systems and address local needs through expansion of punishment and services available to the Court, and,
4. To provide opportunities for offenders who demonstrate special needs to receive services, which enhance their ability to become contributing members of the community.

Secondary Goals and Objectives

Secondary objectives established and adopted by the Carbon County Criminal Justice Advisory Board, the Carbon County Court of Common Pleas and the Carbon County Adult Probation/Parole Department are as follows:

1. To divert low risk, non-violent and special need offenders from exposure to incarceration and to provide a degree of punishment to an offender, which is less severe than incarceration, yet more punitive than existing probation.
2. To establish viable sentencing alternatives for the Court.
3. To reduce the incidence of criminal behavior through increased surveillance and to promote a more structured environment conducive to fostering improved work habits, family life and treatment of social or behavioral problems.
4. To provide counseling, education and treatment for targeted offenders.

Minimum Guidelines for Intermediate Punishment Programs

The Pennsylvania Commission on Crime and Delinquency has adopted the following minimum guidelines. These guidelines shall be incorporated into the County's Intermediate Punishment Programs as follows:

1. *Intensive Supervision Services*: The Carbon County Criminal Justice Advisory Board shall approve and implement written policies and procedures for the Intensive Supervision Services Program (See 37 Pa. Code § 451.119). This program shall include the following elements:
 - a. A drug testing capability for appropriate offenders.
 - b. A monitoring component, which defines the frequency and method of face-to-face and collateral contacts to ensure offender's compliance with the conditions of the program.
 - c. Limitation of caseloads of program supervising officers consistent with the supervisory component as described in this policy statement.
 - d. A minimum requirement that eight (8) to twelve (12) face-to-face and four (4) to six (6) collateral contacts be made by the supervising officer each month.
 - e. A requirement that face-to-face and telephone contacts with offenders be made at all hours, seven (7) days per week.
 - f. A requirement that there be additional qualifications for participating offenders, such as work or vocational training, community service, drug treatment, and, in appropriate cases, a curfew.
 - g. Policy and procedure for responding to major and minor violations of the program.
2. *House Arrest Program*: The Carbon County Criminal Justice Advisory Board shall approve and implement written policies and procedures for the House Arrest Program (See 37 Pa. Code § 451.117). This program shall include the following elements:
 - a. A drug testing capability for appropriate offenders.
 - b. A requirement that offenders be employed or actively seeking employment or enrolled in educational program/vocational training or participating in community service, unless an offender is physically or mentally incapable of performing the same, and have fixed residences.

c. A monitoring component, which defines the frequency of face-to-face and collateral contacts to ensure offender's compliance with the conditions of the program.

d. Limitation of the caseloads of program supervising officers consistent with the supervisory plan as described in this policy statement.

e. A requirement that a minimum of two (2) face-to-face and three (3) collateral contacts be made by the supervising officers each month.

f. A policy and procedure for responding to major and minor violations of program conditions.

g. If utilized in conjunction with the home electronic monitoring program, the minimum standards relating to home electronic monitoring shall be met.

h. A program for eligible DUI offenders shall be combined with an electronic monitoring program in accordance with the statutory requirements relating to sentencing restrictions.

3. *Home Electronic Monitoring:* The Carbon County Criminal Justice Advisory Board shall approve and implement written policies and procedures for the Home Electronic Monitoring program (See 37 Pa. Code § 451.114). This program shall include the following elements:

a. A drug testing capability for appropriate offenders.

b. The timely detection of violations.

c. The maintenance of a 24-hour-per-day response to detected violations.

d. A monitoring component to ensure offender's compliance with the conditions of the program.

e. A policy and procedure for responding to major and minor violations of program conditions.

4. *Residential Inpatient Drug and Alcohol Program:* The Carbon County Criminal Justice Advisory Board shall approve and implement written policies and procedures for the Residential Inpatient Drug and Alcohol Program. The board shall document that the services are provided by a licensee of the Department of Health, Office of Drug and Alcohol Programs (ODAP) for residential inpatient drug and alcohol treatment (See 37 Pa. Code § 451.121). This program shall include the following elements:

a. A drug testing capability.

b. Establishment of services based on an assessment of the offender's needs and available community resources.

c. Establishment of aftercare and follow-up services involving sustained and frequent interaction with recovering individuals who have progressed from the intensive or primary phase of treatment.

d. Efforts to recruit, screen and select service providers.

e. Guidelines to monitor the purchase of services for offenders.

f. A monitoring component to ensure the offender's compliance with the conditions of the residential inpatient drug and alcohol program.

g. Policy and procedure for responding to major and minor violations of residential inpatient drug and alcohol program conditions.

Method of Supervision

Generally, an offender sentenced to an intermediate punishment sanction shall be supervised in the community. However, office contacts will be permitted, but should not be relied upon by the officer. Supervision of program participants shall occur as follows:

1. *Intensive Supervision Program:* Offenders placed in this program will be supervised in the community setting by the assigned officer as follows:

a. *Community Supervisor:* The officer shall maintain two (2) face-to-face contacts with the offender on a weekly basis. Office contacts can be utilized for personal contacts, however, office contacts are discouraged and should not be relied upon by the officer.

b. *Collateral Contacts:* The officer shall maintain a minimum of one (1) collateral contact per week with an individual who has direct contact with the offender on a regular basis. One (1) collateral contact per month must be with a law enforcement official.

c. *Urine Screens:* The officer shall refer all offenders to the Carbon-Monroe-Pike Drug/Alcohol Commission for urine testing; however, it is recommended that random urine samples be secured to enhance the drug testing component of this sanction.

2. *House Arrest/Home Electronic Monitoring:* Offenders placed in this program will be supervised in the community setting by the assigned officer as follows:

a. *Community Supervisor:* The officer shall maintain one (1) face-to-face contact with the offender on a weekly basis. Office contacts can be utilized for personal contacts, however, office contacts are discouraged and should not be relied upon by the officer.

b. *Collateral Contacts:* The officer shall maintain a minimum of three (3) collateral contacts per month with an individual who has direct contact with the offender on a regular basis. One (1) collateral contact must be with a law enforcement official.

c. *Urine Screens:* The officer shall refer all offenders to the Carbon-Monroe-Pike Drug and Alcohol Commission for urine testing; however, it is recommended that random urine samples be secured to enhance the drug testing component of this sanction.

3. *Residential Inpatient Drug and Alcohol Program:* Offenders placed in this program will be supervised in the community setting by the assigned officer as follows:

a. *Community Supervisor:* The officer shall maintain contact with the inpatient facility to ensure that the offender is compliant with the requirements of the treatment program. The officer shall maintain one (1) monthly contact with the offender while in the treatment program.

b. *Collateral Contacts:* The officer shall maintain weekly contact with the treatment counselor.

c. *Urine Screens:* The offender shall undergo random urinalysis testing as per the requirements of the inpatient treatment facility.

d. *Referral Process:* Offenders selected for the residential inpatient treatment program shall be referred to the Carbon-Monroe-Pike Drug/Alcohol Commission in order to locate a suitable facility accredited by the Office of Drug and Alcohol Programs. An assessment shall be conducted on the offender to determine his/her level of care.

e. *Credit for Time Served:* Offenders who successfully complete inpatient treatment, may receive credit towards

mandatory minimum provisions of the Drunk Driving Law or other total or partial confinement sentences.

f. Probation, Parole or Intermediate Punishment Violators: These violators will be considered for an early discharge from their recommitment sentence, to a residential inpatient treatment program, when the violations are for drug and/or alcohol technical violations.

g. Treatment Documentation: The assigned officer shall execute a release of information form to secure all treatment documentation on the offender's progress while in the program.

h. After-Care/Follow-up Recommendations: The offender will be required to follow all after-care recommendations made by the treatment facility.

Intermediate Punishment Requirements

An order for an intermediate punishment program for an offender may be continuous or intermittent. The participant will be required to remain within the confines of his/her residence, except when the offender is participating in any of the following:

1. Working at acceptable employment approved by the Court or the Adult Probation/Parole Department or traveling to and from approved employment.
2. Unemployed and actively seeking employment.
3. Undergoing medical, psychiatric, mental health treatment, counseling or other treatment programs approved by the Court or the Adult Probation/Parole Department.
4. Attending a vocational or educational program approved by the Court or the Adult Probation/Parole Department.
5. Attending a regularly scheduled religious service at a place of worship.
6. Participating in a community work release or community service program.
7. Sentenced to the intensive supervision program without a curfew restriction.
8. Engaging in other activities specifically approved by the Court or the Adult Probation/Parole Department.

Sentence of Intermediate Punishment

In imposing a sentence of intermediate punishment, the court shall specify at the time of sentencing the length of the term for which the defendant is to be in an intermediate punishment program or a combination of intermediate punishment programs. The term may not exceed the maximum term for which the defendant could be confined and the program to which the defendant is sentenced. The court may order a defendant to serve a portion of the sentence under 42 Pa.C.S.A. § 9755 (relating to partial confinement) or total confinement pursuant to 42 Pa.C.S.A. § 9756 (relating to total confinement) and to serve a portion in an intermediate punishment program or a combination of intermediate punishment programs pursuant to 42 Pa.C.S.A. § 9763 (sentence of intermediate punishment).

Eligible Offenders

Pursuant to 42 Pa.C.S.A. § 9802 (relating to intermediate punishment) for purposes of sentencing, an eligible offender shall be defined as follows:

1. A person convicted of an offense who would have otherwise been sentenced to a county correctional facility to a period of partial confinement pursuant to 42

Pa.C.S.A. § 9724 (relating to partial confinement) or total confinement pursuant to 42 Pa.C.S.A. § 9725 (relating to total confinement).

2. An offender who does not demonstrate a present or past history of violent or assaultive behavior.

Eligible DUI Offender

Any person convicted under 75 Pa.C.S.A. § 3802 (relating to driving under the influence of alcohol or controlled substance) and receiving a penalty imposed pursuant 75 Pa.C.S.A. § 3804 (relating to penalties) may only be sentenced to an intermediate punishment program in:

1. A residential inpatient treatment program or a residential rehabilitative center.
2. A house arrest program coupled with a home electronic monitoring program combined with drug and alcohol treatment.

Ineligible Offenders

Pennsylvania law states that any person convicted of certain targeted offenses shall be ineligible under a sentence of intermediate punishment (See 42 Pa.C.S.A. § 9802).

Ineligible DUI Offenders

Unless otherwise court ordered, the following DUI offenders are declared ineligible for participation in Carbon County's home electronic monitoring program pursuant to 75 Pa.C.S. § 3804 (relating to penalties):

1. An offender with a BAC of .08% to .099%, second and third offense.
2. An offender with a BAC of .10% to .159% (High Rate of Alcohol), first offense.
3. An offender with a BAC of .16% or higher (Highest Rate of Alcohol), first and third offense.
4. All fourth time offenders, regardless of the BAC.

Miscellaneous Eligibility Criteria

In addition to statutory eligibility requirements and the requirements of this policy statement, any offender who meets any of the following additional criteria shall not be recommended for participation under an order of intermediate punishment:

1. An offender who exhibits a present or past history of violent or assaultive conduct.
2. An offender who is being held under a detainer, warrant or process issued by this Court or a Court of another jurisdiction.
3. An offender who has been revoked from a period of supervision on two (2) or more separate occasions.
4. An offender who has an extensive criminal or driving record.
5. An offender who resides in the Commonwealth, but outside the geographical boundaries of Carbon County, unless the resident jurisdiction has a comparable intermediate punishment program.
6. No serious bodily injury or death resulted from the incident and/or the victim suffered serious psychological harm as a result of the offender's actions.
7. An offender who has a history of prison escape.
8. An offender who has a history of chronic mental health or psychotic behavior, which would interfere with the operation of the program.

9. An offender who does not have a telephone in the residence.

10. An offender who does not desire to participate in these programs.

11. An offender who has been afforded home electronic monitoring in the past.

12. An offender convicted of Driving Under Suspension pursuant to 75 Pa.C.S.A. § 1543(b).

13. An offender who did not possess a valid driver's license at the time of the arrest.

14. An offender convicted of Habitual Offenders pursuant to 75 Pa.C.S.A. § 6503.1.

15. An offender convicted of Fleeing or Attempting to Elude Police Officer pursuant to 75 Pa.C.S.A. § 3733.

16. An offender convicted of Illegally Operating a Motor Vehicle Not Equipped with Ignition Interlock pursuant to 75 Pa.C.S.A. § 3808.

17. An offender who received an early discharge from the ARD Program and committed his/her DUI offense while in the ARD Program, but did not report the new arrest to his probation officer.

18. An offender who does not make restitution to the victim(s) for out-of-pocket losses that were not covered by an insurance company, prior to acceptance into an intermediate punishment program.

19. An offender who resides outside the Commonwealth of Pennsylvania.

20. The offender, at the time of the offense, did not possess the necessary motor vehicle insurance set forth by the Pennsylvania No-Fault Motor Vehicle Insurance Act, to cover all property damage and/or personal injuries.

21. An offender who due to "exigent circumstances" or "deemed inappropriate" for inclusion in the program by the investigative officer.

Requirements for Driving Under Influence Offenders

Evaluation Using Court Reporting Network: Pursuant to the requirements of 75 Pa.C.S.A. § 3816 (requirements for driving under influence offenders) any offender convicted of 75 Pa.C.S.A. § 3802 (relating to driving under the influence of alcohol or controlled substance) recommended for participation in an intermediate punishment program shall, prior to sentencing be evaluated using Court Reporting Network (CRN) instruments.

Drug and Alcohol Assessments: Pursuant to the requirements of 75 Pa.C.S.A. § 3814 (drug and alcohol assessments) any offender convicted of 75 Pa.C.S.A. § 3802 (relating to driving under the influence of alcohol or controlled substance) recommended for participation in an intermediate punishment program shall, prior to sentencing be subject to a full assessment for alcohol and drug addiction when,

1. The defendant, within ten years prior to the offense for which sentence is being imposed, has been sentenced for an offense under:

- a. 75 Pa.C.S.A. § 3802
 - b. former section 75 Pa.C.S.A. § 3731
 - c. an equivalent offense in another jurisdiction
2. Either:

a. The evaluation under paragraph (1) of 75 Pa.C.S.A. § 3814 (drug and alcohol assessments) indicates there is a need for counseling or treatment; or

b. The defendant's blood alcohol content at the time of the offense was at least .16%.

Failure to Obtain Necessary Evaluations: Any offender who fails to obtain the necessary evaluations, prior to sentencing and placement in an intermediate punishment program, shall be declared ineligible for participation, unless otherwise court ordered.

Target Population

The following population of DUI offenders shall be specifically targeted for inclusion in Carbon County's Home Electronic Monitoring Program.

High Rate of Alcohol—Second Offense: Pursuant to 75 Pa.C.S.A. § 3804 (relating to penalties) an offender with a BAC of .10% to .159%, second offense shall be eligible for participation in Carbon County's home electronic monitoring program, provided the offender successfully completes an intermediate punishment investigation as described in this policy statement. If declared eligible, the defendant shall be sentenced as follows:

1. The defendant shall be remanded to prison to serve the mandatory minimum sentence of thirty (30) days, however;

2. The offender shall serve only seven (7) days of incarceration, which period of imprisonment shall be served on consecutive days.

3. After completion of the seven (7) days of imprisonment, the defendant shall serve the remaining twenty-three (23) days on home electronic monitoring.

Highest Rate of Alcohol—Second Offense: Pursuant to 75 Pa.C.S.A. § 3804 (relating to penalties) an offender with a BAC of .16% or higher, second offense shall be eligible for participation in Carbon County's home electronic monitoring program, provided the offender successfully completes an intermediate punishment investigation as described in this policy statement. If declared eligible, the defendant shall be sentenced as follows:

1. The defendant shall be remanded to prison to serve the mandatory minimum sentence of ninety (90) days, however;

2. The offender shall serve only thirty (30) days of incarceration, which period of imprisonment shall be served on consecutive days.

3. After completion of the thirty (30) days of imprisonment, the defendant shall serve the remaining sixty (60) days on home electronic monitoring.

High Rate of Alcohol—Third Offense: Pursuant to 75 Pa.C.S.A. § 3804 (relating to penalties) an offender with a BAC of .10% to .159%, third offense shall be eligible for participation in Carbon County's home electronic monitoring program, provided the offender successfully completes an intermediate punishment investigation as described in this policy statement and successfully completes the following additional requirement:

1. The offender successfully completes a residential inpatient treatment program provided by a current licensee of the Department of Health, Office of Drug and Alcohol Programs for outpatient services.

Upon a determination of eligibility for participation in the home electronic monitoring program, the defendant shall be sentenced as follows:

1. The defendant shall receive credit for all time spent in a residential inpatient treatment program towards the mandatory minimum sentence of ninety (90) days, unless otherwise court ordered.

2. The defendant shall serve the remaining portion of the mandatory minimum sentence of ninety (90) days on home electronic monitoring.

Residential Inpatient Drug and Alcohol Program

Any offender who is declared eligible for participation in Carbon County's home electronic monitoring program pursuant to this policy statement (High Rate of Alcohol—Second Offense and Highest Rate of Alcohol—Second Offense) and successfully completes an inpatient treatment program shall have his/her required period of incarceration waived, unless otherwise court ordered. The defendant shall receive credit towards the mandatory minimum sentence for all time spent at an inpatient treatment program with the remaining balance of the mandatory minimum sentence served on home electronic monitoring.

Work Release Privileges

Pursuant to this policy statement, all offenders required to serve a portion of the mandatory minimum sentence incarcerated shall be eligible for participation in the work release program, provided they meet the eligibility requirements of the Carbon County Work Release Program. It is recommended that the intermediate punishment officer and work release director coordinate efforts to ensure that no interruption occurs in the offender's employment status and to ensure that a smooth transition occurs from incarceration to the home electronic monitoring program.

Service and Completion of Period of Confinement

Upon successfully serving the period of incarceration imposed by the court and without further order of court, the defendant shall be automatically released from prison and immediately report to the Carbon County Adult Probation for installation of the home electronic monitoring equipment.

Prison Infractions

An offender who violates any rules and regulations of the prison while serving his/her prison sentence and is awaiting release to the home electronic monitoring program shall be declared ineligible for participation in an intermediate punishment program. Upon order of court, the defendant shall remain incarcerated to serve the remaining balance of his/her mandatory minimum sentence. However, if the offender violates another rule or regulation after being declared ineligible for participation in the home electronic monitoring program, then the offender will not be released upon reaching his/her minimum sentence and must petition the court for parole consideration.

Screening Process

An offender may be declared eligible upon the recommendation of the Adult Probation/Parole Department upon the successful completion of any of the following or combination thereof:

1. A presentence investigation.
2. An intermediate punishment investigation.
3. Any offender placed in these programs by an Order of Court.

Intermediate Punishment Investigations and Presentence Investigations

During the investigative phase and prior to sentencing, the presentence investigator shall identify prospective participants for possible consideration in an intermediate punishment program. During the preparation of guilty plea reports or a presentence report, the investigator shall refer all plea agreements and sentencing recommendations that suggest a sentence of intermediate punishment to the intermediate punishment officer for investigation. This investigation shall include the following:

1. Completion of an intermediate punishment eligibility application, which application is available at the Carbon County Adult Probation/Parole Office.
2. An interview of the defendant and other occupants of the residence, when applicable.
3. Explanation of program requirements to the offender and all occupants of the residence, when applicable.
4. Completion of all appropriate forms, which include:
 - a. Occupant's Approval Form, if applicable.
 - b. Explanation of the conditions of the home electronic monitoring program.
 - c. Equipment Responsibility Form.
 - d. New Client Installation Form, if applicable.
5. Inspection of offender's residence to determine if conducive for participation in the electronic monitoring program.
6. Written memorandum to the court with sentence recommendation.

Conditions of Home Electronic Monitoring

The court shall attach such reasonable conditions upon the defendant for participation in the electronic monitoring program pursuant to 42 Pa.C.S.A. § 9763(b).

Voluntary Participation

Participation in these programs shall be strictly on a voluntary basis. Offenders who do not desire to participate in these programs will be declared ineligible.

Program Explanation

All program requirements shall be explained prior to admission of the offender into an intermediate punishment program. Also, all occupants of the approved residence shall be advised of the restrictions and requirements of the program. If a resident objects to the program, then the offender may be declared ineligible.

Post Sentencing Orientation

After placement into the home electronic monitoring program, the participant shall be advised of the date and time that the equipment will be installed in the residence and other program requirements.

Intake Process

Upon an Order of Intermediate Punishment, the offender shall immediately report to the adult probation/parole department for an intake. During the intake process, the following paperwork shall be completed:

1. Execution of the conditions of the intermediate punishment program.
2. Completion of facesheet and photograph of offender.
3. Completion of risk/needs assessment form.

4. Completion of Supervision Plan.
5. Execution of Release of Information Form.

Enrollment and Initial Home Contact

During the initial home contact with the offender, the assigned officer shall:

1. Review the terms and conditions of the program.
2. Explain program requirements to all residents.
3. Read, explain and obtain signatures on all forms.
4. Explain parameters of home electronic monitoring program.
5. Explain consequences of program violations.
6. Explain payment of daily monitoring fees.
7. Explain responsibility and maintenance of equipment.
8. Install equipment.
9. Confirm with the monitoring center that equipment is operational.
10. Obtain a layout of the residence.

Offender Enrollment Forms and Schedule Change Forms

The intermediate punishment officer shall be responsible for the completion of all forms associated with the enrollment of the offender and other changes or modifications to the offender's schedule. All completed forms shall be faxed to the monitoring center.

Daily Activity Reports

All daily activity forms will be faxed to the agency and the intermediate punishment officer shall review these reports for conformity and compliance with the approved offender schedule.

Ankle Bracelets and Monitoring Equipment

Offenders placed on a home electronic monitoring unit will be required to wear ankle bracelets at all times. The bracelet emits a continuous signal to a receiver installed in the residence. Upon every field visit by the probation officer, a visual inspection of all monitoring equipment shall be conducted to ensure proper functioning.

Equipment Responsibility

All electronic monitoring equipment installed in the offender's residence shall be the exclusive responsibility of the participant to maintain its proper functioning and operation. Any tampering, theft or destruction of the equipment by the offender may result in the filing of criminal charges, being held financially responsible for the cost of the equipment and being immediately terminated from the program. Also, every participant must read and sign the equipment responsibility form.

Equipment Inventory After Installation

All equipment placed in the residence must be inventoried at the time of installation.

Offender Subsistence

Every offender placed in an intermediate punishment program will be responsible for their own subsistence, which includes, housing, clothing, medical care or other treatment or household expenses. Every participant shall be afforded a designated time during the week for grocery shopping, medical appointments or other basic necessities. All departures from the approved schedule must

receive prior approval by the intermediate punishment officer or Chief Adult Probation Officer.

Verification of Compliance With Court Imposed Sanctions

The assigned officer shall secure and verify employment via pay stubs or interviews with the employer. Also, if the offender is undergoing treatment or counseling, the officer shall verify all sessions with the counselor. Verification is an important aspect of supervision, for it ensures compliance with the conditions of the program.

Program Violations

The following system for program violations shall be utilized to determine the level of compliance with the conditions of Intermediate Punishment Programs.

Minor Violations

The following violations shall be considered minor in nature:

1. Failure to report as scheduled.
2. Failure to notify staff of changes in work status.
3. Failure to comply with rules and regulations of the program or Court order.
4. Unauthorized individuals within the residence.
5. Departure from schedule, such as leaving early or returning late.

Minor Violation Process

When "minor" violations are detected, the following corrective action may be initiated by the assigned officer:

1. Verbal reprimand.
2. Written violation report.
3. Administrative conference.
4. Increase in sanctions, such as, curfews; additional counseling or reporting, which changes shall be provided to the offender in writing.

Major Violations

The following violations shall be considered major in nature:

1. Possession of firearms, deadly weapons or offensive weapons.
2. Possession or consumption of alcoholic beverages.
3. Possession or positive urine test for a controlled substances.
4. Possession of drug paraphernalia.
5. Relocation from the approved residence without the prior approval of the assigned Officer.
6. A new arrest for violation of Municipal, County, State and Federal laws, as well as, provisions of the Liquor Code and the Vehicle Code.
7. Escape, which shall be defined as a period of one (1) hour or longer in which the participant has left the approved residence and is unaccounted for.
8. Repeated minor violations.
9. Destruction, theft or tampering with electronic monitoring equipment.
10. Operating a motor vehicle on a public highway while license is suspended.

11. Failure to maintain the scheduled drug/alcohol treatment plan.

12. Termination of offender's telephone service.

Major Violation Process

When "major" violations are detected, the assigned officer may initiate the following corrective action:

1. Written violation report.
2. Administrative conference.
3. Increase in sanctions, such as, curfews; additional counseling or reporting, which changes shall be provided to the offender in writing.
4. File a petition to revoke intermediate punishment sentence requesting a hearing and/or a warrant for arrest and detention of offender.

Investigation of Detected Program Violations

All violations of any intermediate punishment program shall be investigated by the assigned officer or on-call officer immediately after detection. All relevant information and documentation concerning electronic monitoring violations shall be obtained from the central monitoring station with all persons involved being interviewed. 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.

c. Modifications to the on-call schedule are permitted. Prior arrangements shall be made with the Chief and the Carbon County Communications Center 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 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 prob-

lem 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 on-call officer shall contact the back-up on-call officer for authorization and then contact the pretrial services on-call officer for possible assistance. The on-call officer shall not conduct a field investigation alone and without proper authorization from a supervisor.

e. The following home electronic monitoring violations must be investigated by the on-call officer after normal business hours. All other program violations will be investigated by the assigned probation officer the next available working day.

1. Band Tamper (absolute response)
2. Out-of-Range
3. Power Outage or Loss
4. Transmitter not found (dead battery)

f. When it is determined by the on-call officer that immediate termination is justified for the violation, the officer shall:

1. Immediately notify the back-up on-call supervisor.
2. Contact the bail officer for possible assistance.
3. Contact other adult probation staff for possible assistance.

4. Contact the Carbon County Communications Center for possible assistance from the Carbon County Sheriff's Department.

5. If the Sheriff's Department is unavailable, then contact the local police department for possible assistance.

6. Under no circumstances shall a probation officer attempt to arrest the offender without proper authorization from the back-up on-call supervisor and proper presence of other adult probation staff or law enforcement personnel.

7. The offender shall be transported to prison by adult probation staff or the Sheriff's Department. A Warrant to Commit and Detain Form shall be executed and provided to prison officials for admission of the offender.

8. If the offender is immediately terminated from the program, then all home electronic monitoring equipment shall be removed from the residence and inventoried. The monitoring center shall be immediately notified of the termination.

Petition to Revoke an Order of Intermediate Punishment

When the intermediate punishment officer determines that the offender violated the conditions of the program in such a manner that requires termination from the program, then a petition to revoke intermediate punishment shall be filed with the Clerk of Courts Office outlining all program violations.

Modification or Revocation of Intermediate Punishment Sentence

The court may at any time terminate a sentence of intermediate punishment or increase or decrease the conditions of the sentence pursuant to 42 Pa.C.S. § 9763 (sentence of intermediate punishment) or 42 Pa.C.S. § 9773 (modification or revocation of intermediate punishment sentence).

Termination From an Intermediate Punishment Program

The following criteria shall be utilized to determine when an offender should be terminated from an intermediate punishment program:

1. The participant has successfully completed all conditions of the program.
2. The participant has committed "major" violations of the program and was returned to prison.
3. The participant has served the minimum sentence imposed by the Court and has been legally discharged.

Termination Order

Upon successful completion of the minimum sentence, an order of court shall be prepared discharging the offender from the home electronic monitoring program. Afterwards, the officer shall review and have the offender sign the standard conditions of release, with the offender being reassigned to another probation officer.

Equipment Inventory After Termination

Upon termination from the program, the officer shall inventory and visibly inspect all equipment to ensure that no damage occurred during the program.

Cleaning of Equipment

It shall be the responsibility of the intermediate punishment officer to properly clean and sanitize all electronic monitoring equipment after an offender has been discharged from the program. No equipment shall be installed on another offender until the bracelet and home unit has been properly cleaned.

Monitoring Fees

An offender placed in the home electronic monitoring program shall be responsible for all costs associated with the monitoring aspect of the program. All fees collected will be deposited into an account to be utilized for the operation of the home electronic monitoring program or other departmental operations. Finally, all fees shall be made part of the order of sentence and the certificate of costs sheet.

Local Law Enforcement Notification

Local law enforcement agencies will be provided with all information concerning program participants.

Case Records

After placement into an intermediate punishment program, a case record folder shall be prepared by the secretary and a completed facesheet provided to the

assigned officer. Also, a complete roster of intermediate punishment participants shall be maintained by the project coordinator.

Transfer Cases

The Intermediate Punishment Officer shall coordinate efforts with other jurisdictions when appropriate candidates are identified. When an offender resides in another jurisdiction, the intermediate punishment officer shall confer with the resident county to determine whether that jurisdiction has an intermediate punishment program. All arrangements shall be made by the intermediate punishment officer and forwarded to the Court for review. All costs associated with other county's programs will be absorbed by the offender. Failure to cooperate and comply with the rules and regulations of the other jurisdiction's program will result in the offender being declared ineligible for participation.

Courtesy Cases

The department will accept intermediate punishment cases from other jurisdictions. Requesting counties shall coordinate with the intermediate punishment officer to determine eligibility. The officer will conduct an investigation pursuant to this policy statement and advise the requesting county whether the offender qualifies. If the department accepts an offender for supervision, then an effective date shall be established. Prior to enrollment in the program, the offender will be required to pay the current daily monitoring fee established by the court, for the entire period of supervision, in full. No personal checks will be accepted, only cash or money orders. A receipt will be provided to the offender.

Caseload Limits

The Chief will periodically review the caseloads of the Intermediate Punishment Officer to ensure that the officer has a manageable caseload and proper resources. This review process will ensure that the minimum standards adopted by the State and the Court are not compromised.

Project Coordination

The Chief Adult Probation/Parole Officer or his designee shall be responsible for the preparation, completion and submission of all sub-grant reports, progress reports, budget modification forms and related documentation to the Pennsylvania Commission on Crime and Delinquency. The Project Coordinator and the intermediate punishment officer, in conjunction with the Carbon County Criminal Justice Advisory Board, shall evaluate program goals and effectiveness on a regular basis.

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