

CHAPTER 67. SPECIAL CONDITIONS OF PAROLE OR PROBATION

- Sec.
67.1. General requirements.
67.2. Release from conditions of probation or parole.
67.3. Acknowledgment by parolee.
67.4. Parole agreement.

Notes of Decisions*Exclusionary Rule*

The application of the exclusionary rule was necessary and proper to proscribe a search such as the one conducted by this parole agent. In this case, the need to exclude the improperly obtained evidence outweighs the injury to the parole revocation process which would be caused by the exclusion. *Scott v. Board of Probation and Parole*, 668 A.2d 584 (Pa. Cmwlth. 1995).

Search and Seizure

The Fourth Amendment to the United States Constitution prohibits the warrantless search of probationers or parolees' residences based upon reasonable suspicion without the consent of the owner or without a statutory or regulatory framework governing the search. This is required because there are no safeguards to protect the limited Fourth Amendments rights of probationers and parolees if that supervision is left entirely to the discretion of individual parole officers. *Scott v. Board of Probation and Parole*, 668 A.2d 584 (Pa. Cmwlth. 1995).

§ 67.1. General requirements.

(a) In addition to the general conditions of parole or probation imposed by Chapters 63 and 65 (relating to conditions governing parole; conditions governing special probation and parole), parolees shall be subject to the additional conditions imposed under §§ 63.5 (relating to special conditions of parole) and 65.5 (relating to special conditions or conditions of sentence).

(b) If problems arise or questions occur concerning the conditions of parole or probation the parolee shall consult with the parole agent, as it is the responsibility of the latter to help the parolee in the interpretation of the conditions of probation or parole. If a parolee is unable to contact his parole agent, he should contact the agent in charge of the district parole office.

(c) If a parolee violates the special conditions of this chapter, he shall be subject to arrest and revocation of his parole or probation as if he had violated the original conditions as outlined in Chapters 63 and 65.

Notes of Decisions*Admission of Evidence*

Laboratory reports were properly admitted during a hearing for technical violations under this section because the persons with knowledge of the reports were beyond the Board's subpoena power. *Damron v. Board of Probation and Parole*, 531 A.2d 592 (Pa. Cmwlth. 1987).

§ 67.2. Release from conditions of probation or parole.

The Board may release parolee or probationer from the conditions of parole or probation which it has imposed. In cases where a court of record has imposed conditions, only a court of record may release parolee or probationer from those conditions. The release form shall contain the parole number, name of parolee or probationer, date, signature of parole agent, and the conditions from which the parolee or probationer is released.

§ 67.3. Acknowledgment by parolee.

Every parolee shall acknowledge the following:

- (1) That he has read, or has had read to him, the conditions of his parole.
- (2) That he fully understands the conditions of his parole and agrees to follow such conditions.
- (3) That he fully understands the penalties involved if he violates the conditions of parole in any manner.

Notes of Decisions*Acknowledgement of Condition of Parole*

The obligation to acquaint himself with the conditions of his parole was upon the parolee, and there is no prerequisite to a valid parole condition that the parolee must agree to its terms. *Benefiel v. Board of Probation and Parole*, 426 A.2d 242 (Pa. Cmwlth. 1981).

Notice

Probation Board failed to meet notice requirement of this section where the only notice was a form entitled "Conditions Governing Parole/Reparole" signed and dated by the parolee that informed parolee that if he was convicted of a crime committed while on parole/reparole then all time at liberty would be forfeited, but the form did not inform parolee that if he was determined to be a technical parole violator then any delinquent time at liberty would be forfeited. *Pana v. Board of Probation and Parole*, 703 A.2d 737 (Pa. Cmwlth. 1997); appeal denied 729 A.2d 1132 (Pa. 1998).

The obligation to acquaint himself with the conditions of his parole is upon the parolee, and there is no prerequisite to a valid parole condition that the parolee must agree to its terms. *Benefiel v. Board of Probation and Parole*, 426 A.2d 242 (Pa. Cmwlth. 1981).

§ 67.4. Parole agreement.

The parole agreement shall contain the parole number, date and signature of the parolee. If the signature is by mark, there shall be two witnesses to the execution of the parole agreement.

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