

NH DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE DIRECTIVE	CHAPTER <u>Enforcement Operations</u> STATEMENT NUMBER <u>5.51</u>
SUBJECT: <b>ADULT PROBATION/PAROLE VIOLATIONS</b>  PROPONENT: <u>Michael McAlister, Director</u> <i>Name/Title</i>  <u>Field Services</u> <u>271-5652</u> <i>Office</i> <i>Phone #</i>	EFFECTIVE DATE <u>08/01/07</u>  REVIEW DATE <u>08/01/08</u>  SUPERSEDES PPD# <u>5.51;5.54;</u> <u>5.53; 5.74&amp;</u> <u>5.19</u>  DATED <u>01/01/04;</u> <u>05/01/01;</u> <u>09/15/02;</u> <u>09/01/01 &amp;</u> <u>10/01/02</u>
ISSUING OFFICER:   <hr/> <i>William Wrenn, Commissioner</i>	DIRECTOR'S INITIALS _____ DATE    _____  APPENDIX ATTACHED: YES    _____ NO    _____
REFERENCE NO:        See reference section on last page of PPD.	

- I.     PURPOSE:  
 To establish a policy and procedure for adult probation/parole violations
- II.    APPLICABILITY:  
 To all Probation/Parole staff within the Division of Field Services
- III.   POLICY:  
 It is the policy of the Division of Field Services to report violations of probation/parole conditions to the proper authority when deemed necessary by the Probation/Parole Officer (PPO) or when required by law or court order. The PPO should consider all possible alternatives prior to returning an offender to court of the Parole Board. The PPO shall only enforce financial obligations ordered by the court, Parole Board or state law.
- III.   PROCEDURES:
- A.     PAROLE VIOLATIONS
1.     Filing Procedures:
- a.     Parole violations are governed by RSA 651-A:15-a and 651-A:16. All parole violations are documented and all serious and major probation/parole violations shall be promptly reported.
- b.     The PPO shall make a justification and recommendation for disposition

in accordance with the continuum of sanctions and RSA 651-A:18 (attachment 1).

- c. When a PPO makes the decision to obtain a parole warrant, the officer shall discuss and review the proposed violation and recommendation for disposition with their supervisor.
  - d. An Affidavit and Warrant (attachment 2) will be completed and signed by the PPO in the presence of a Justice of the Peace prior to obtaining a Parole Board member's signature. The supervisor shall review and sign the Violation Summary.
  - e. A complete Violation Summary shall include the following information:
    1. The original offense
    2. Sentence and termination date
    3. Conduct while on parole
    4. A detailed account of the reasons for the violation, dates of the violation and rules violated are to be included with the Affidavit and Warrant.
  - f. Once a Parole Board member has signed the Affidavit and Warrant, an original Affidavit and Warrant and the Violation Summary will be submitted to the Parole Board.
  - g. Faxed warrants: When circumstances require expediency, the following procedure is to be utilized:
    1. After completing steps 1 – 3, the PPO shall contact an available Board member by telephone to explain the situation and set up the fax transfer.
    2. The PPO will fax a confidential cover sheet, the warrant and supporting summary to the Board member.
    3. The PPO will arrange for the original warrant and supporting material to be forwarded to the Board member for signature.
    4. The original warrant shall contain the same signature dates as that of the faxed warrant.
    5. Faxed or photocopied parole warrants cannot be entered into NCIC.
    6. Upon return of the original signed warrants, originals shall be distributed as follows:
      - a) Central Office if NCIC entry is requested
      - b) Parole Board with remaining copies to be kept in the file
  - h. In cases where the parolee is incarcerated, a copy of the Affidavit and Warrant will be filed at the place of incarceration. If the parolee is still at large, a copy of the Warrant will be forwarded to the arresting authority once the parolee is apprehended, if requested.
  - i. The PPO may address other non-compliance issues by requesting letters of warning, review hearings and documentation of prior intervention, etc.
  - j. The PPO shall send active parole warrants to other agencies only in exigent circumstances. This action must be noted in the chronologicals and the PPO must retrieve the warrant upon apprehension.
2. Arrest of Parole Violators:
- a. In those cases where a warrant is in effect for a parolee, a police officer, or a PPO may serve the warrant and make the arrest, taking the parolee to the nearest house of correction or prison. The parole warrant will be filed at the facility.
  - b. In cases where a warrantless arrest is deemed necessary, please refer to

PPD 5.03.

- c. The parolee must receive a copy of the warrant. The parolee must be given written notice of a preliminary hearing at or as soon as possible after the arrest. The preliminary hearing, if requested, must be held within 72 hours, excluding weekends or holidays. Continuances for the purpose of obtaining counsel, assembling witnesses, etc. will generally be granted by the hearings officer. Continuances must be requested in writing.
  - d. The parolee is advised of their rights by reviewing and having them sign the Notice of Preliminary Hearing (attachment 3). If the parolee waives the right to a preliminary hearing, they must sign the waiver portion of the Preliminary Hearing Notice form. A copy is provided to the parolee. For information on preliminary hearings, please refer to PPD 5.03.
3. Revocation Hearing Procedures:
- a. Upon notification of the parole revocation hearing by the Executive Assistant to the Parole Board, the PPO is responsible for notifying any witnesses essential to the State's case of the date, time and location of the hearing to ensure their presence.
  - b. The PPO shall present the necessary witnesses, reports and other evidence to prove the allegations listed on the warrant. The standard of proof at a hearing is preponderance of the evidence.
  - c. Witnesses' names are to be provided to the Parole Board's Executive Assistant. Those witnesses who need to be compelled to appear can be subpoenaed by contacting the Parole Board's Executive Assistant.
  - d. PPOs should be prepared to respond to questions or inquiries raised by the Parole Board, the parolee or legal counsel.
  - e. PPOs should be aware that parole revocation hearings tend to be more informal than most courtroom proceedings, nevertheless, they should be prepared to present their case in a well-organized and professional manner.
  - f. In the event parole is revoked, the case file is to be returned in its entirety to the Parole Board's Executive Assistant.
4. Halfway House Placement:
- a. When a PPO has identified a parolee for placement at a halfway house in lieu of revocation, the Chief Probation/Parole Officer (CPPO) will review the case.
  - b. The PPO will contact the Unit Manager/designee to verify bed space and acceptance. The Unit Manager will confirm bed space availability with the Community Corrections' Program Assistant. When confirmed, the Unit Manager will approve placement and notify the PPO.
  - c. The PPO will transport the parolee to the designated location and bring the active case file, or at a minimum, the Presentence Investigation (PSI), NCIC record, mittimus/parole violation and updated sex offender evaluation, if appropriate.
  - d. Upon arrival, the PPO and halfway house staff will complete a placement agreement, medical intake screening form and a photograph. The PPO must fax the agreement to the Parole Board's Executive Assistant.
  - e. The halfway house staff will notify the Reception and Diagnosis Unit (R&D) to relay the medical information and obtain a prison ID number. The halfway house staff will record the parolee's name and number on the change sheet and forward it to the offender records office and forward a photo with the name and ID number on it by the next business day. The Unit Manager will ensure that verbal notification of the placement is made

- f. to the offender records office as soon as possible.
- f. If bed space is not available, the PPO must determine if the parolee can be maintained in the community until space is available. If not, the parolee should be detained with a warrant or detention order.
- g. While at the halfway house, the parolee must abide by all the house rules and participate in all recommended and required programs.
- h. The supervising PPO should maintain biweekly contact with the halfway house staff to monitor the parolee's progress. If the parolee is unsuccessfully discharged, halfway house staff will arrange for transportation to the prison when possible. The PPO or district office may be called for assistance in the event halfway house staff is unable to transport.

5. References:

In addition to this policy and procedure established by the Department of Corrections, Division of Field Services, each PPO should have a good working knowledge of the Administrative Rules of the Adult Parole Board, RSA 651-A:4, III (attachment 4) and RSA 651-A:16 (attachment 5).

B. PROBATION VIOLATIONS

1. Filing Procedures:

- a. Reporting probation violations is governed by RSA 504-A:12, III. The PPO should discuss and review the violation with the CPPO.
- b. The PPO shall complete a violation report (attachment 6) and file it with the court.
- c. If a request for an arrest warrant is made, the PPO shall also submit a violation summary explaining the need (i.e. absconding, offender detained in another state or new criminal charges). For a complete list of probation rules and regulations, please refer to PPD 5.06.
- d. When a capias/warrant is issued, information pertaining to the offender's status may be provided to law enforcement officials.

2. Violation Report Format:

- a. When the decision has been made to file a violation with the court, four copies of the violation should be completed. The original goes to the court, one copy to the prosecutor, the defendant and the file.
- b. The following violation format contained in CORIS will be used:
  - 1) The court docket number of the original order placing the person under probation supervision.
  - 2) The defendant's full name; current or last known address and date of birth.
  - 3) The of the district or superior court in which the final disposition was made, the date of the final disposition and the presiding Judge's name.
  - 4) A list of offense(s) for which the defendant was convicted.
  - 5) A copy of the original disposition order.
  - 6) Specifically list the way(s) in which the defendant has failed to comply with the conditions of probation or court order identifying the applicable rule(s) by number along with the date of each occurrence.
  - 7) Date of the violation report.
  - 8) The PPO may provide some pre-hearing recommendations to the court to include:
    - a) A hearing date set by the court as soon as possible

- b) The court to issue a warrant/capias or detention order for the arrest and detention of the offender with bail, if applicable in the amount of \$\_\_\_\_\_.
  - c) Other (certain circumstances such as a warrantless arrest would require a recommendation to the court under this category).
- 9) This section may be filled out by the judge after the disposition of the violation.
- 10) In addition to completing the violation report, the PPO shall complete a violation summary. This should be a narrative of the defendant's conduct that led to the violation of probation report for use by the prosecutor.
3. Arrest of Violators:
- a. If the probationer is arrested by a PPO, a probation violation must be forwarded to the court no later than the next business day. The PPO must follow the procedures as outlined in PPD 5.03.
  - b. For information on preliminary hearings, please refer to PPD 5.03.
4. Courtroom Procedures:
- a. Prior to the violation hearing the PPO should communicate with the prosecutor to review the case.
  - b. The PPO should be prepared to supply the prosecutor with the necessary names and documents, i.e. victims', witnesses' names, etc. to support the violation. In areas where no prosecutors are available, the PPO should be prepared to present their own case. In the event that a PPO must prosecute, but is unable to do so, s/he shall seek assistance from the CPPO. A prosecutor may be able to assist.
  - c. The PPO must be thoroughly familiar with the rules of the court, criminal codes and general courtroom decorum.
  - d. PPOs prosecuting their own violations should be prepared to examine and cross examine witnesses and be confronted by the defendant and the defendant's counsel.
  - e. The PPO shall have a sentencing recommendation prepared for the court that should consider but not limited to the following:
    - 1) Disposition of monies owed through the Department of Corrections (i.e. fines, attorney fees, restitution).
    - 2) Revocation of probation
    - 3) Continuation of probation consistent with statute (with recommended length of time)
    - 4) Whether the sentence does or should result in additional court-ordered sanctions or enhanced/modified rules of probation (if treatment, no alcohol clause, etc). The PPO should be prepared to justify these recommendations to the court if necessary.
  - f. When a probationer is committed to a DOC facility for a probation violation, copies of the violation report will be forwarded to offender records.

REFERENCES:

Standards for the Administration of Correctional Agencies  
Second Edition Standards

Standards for Adult Correctional Institutions  
Fourth Edition Standards

Standards for Adult Community Residential Services  
Fourth Edition Standards

Standards for Adult Probation and Parole Field Services  
Third Edition Standards  
**3-3142; 3-3156 thru 3-3160; 3-3162; 3-3172; 3-3219**  
**Other:**

McALISTER/pf

Attachments

## **Section 651-A:18**

### **651-A:18 Revocation Required. -**

I. The board may revoke the parole of any parolee who:

- (a) Violates the conditions of his parole;
- (b) Violates the law; or
- (c) Associates with criminal companions.

II. The board shall revoke the parole of any parolee who:

- (a) Is convicted of a felony; or
- (b) Absconds from parole supervision for a period of 60 days or more.

III-V. [Repealed.]

**Source.** 1983, 461:16. 1986, 156:14, III. 1991, 342:2. 1993, 26:1, eff. April 8, 1993.

State of New Hampshire



ADULT PAROLE BOARD

DATE ARRESTED

AFFIDAVIT & WARRANT FOR THE ARREST OF PAROLEE

NOW COMES \_\_\_\_\_ OF THE NEW HAMPSHIRE DEPARTMENT OF CORRECTIONS, DIVISION OF FIELD SERVICES, WHO COMPLAINS ON OATH THAT \_\_\_\_\_ # \_\_\_\_\_ PAROLED ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 19\_\_\_\_, AND WHOSE PAROLE WILL NOT EXPIRE UNTIL THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 19\_\_\_\_, HAS VIOLATED THE CONDITION OF PAROLE AS FOLLOWS:

\_\_\_\_\_  
JUSTICE OF THE PEACE                      DATE                      SIGNATURE  
\_\_\_\_\_  
TITLE

WHEREFORE IN CONSIDERATION OF THE ABOVE COMPLAINT, THE UNDERSIGNED MEMBER OF THE NEW HAMPSHIRE BOARD OF PAROLE HEREBY ORDERS THE COMMISSIONER, ANY PROBATION/PAROLE OFFICER OR LAW ENFORCEMENT OFFICER AUTHORIZED TO SERVE CRIMINAL PROCESS TO ARREST SAID \_\_\_\_\_ IN ACCORDANCE WITH RSA 651-A:15a AND TAKE HIM/HER TO A COUNTY JAIL UNTIL A PRELIMINARY HEARING IS HELD BY THE DIVISION OF FIELD SERVICES, UPON A FINDING OF PROBABLE CAUSE AT THAT HEARING, SAID PAROLEE IS TO BE RETURNED TO THE NEW HAMPSHIRE STATE PRISON AND BROUGHT BEFORE SAID BOARD OF PAROLE FOR HEARING AND FURTHER DISPOSITION.

DATED THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 19\_\_\_\_

\_\_\_\_\_  
MEMBER, NEW HAMPSHIRE ADULT BOARD OF PAROLE

DATED THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 19\_\_\_\_, I, \_\_\_\_\_

\_\_\_\_\_ DELIVERED SAID \_\_\_\_\_ TO THE NEW HAMPSHIRE STATE PRISON WITH THIS WARRANT.

THE STATE OF NEW HAMPSHIRE

PAROLE VIOLATION

TO THE WARDEN OF THE NEW HAMPSHIRE STATE PRISON

THIS IS TO CERTIFY THAT THE ADULT PAROLE BOARD BY AUTHORITY OF THE REVISED STATUTES ANNOTATED CHAPTES 651 A:17 HAS REVOKED THE PAROLE OF

AND YOU ARE DIRECTED TO RECEIVE AND HOLD SAID  
AS PROVIDED BY REVISED STATUTES ANNOTATED, CHAPTER 651 A:18.

DATED THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 20

PAROLE

MEMBER , NEW HAMPSHIRE ADULT BOARD OF

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF CORRECTIONS  
DIVISION OF FIELD SERVICES

PRELIMINARY HEARING/WAIVER NOTICE  
VIOLATION OF \_\_\_\_\_

NHSP# \_\_\_\_\_

DOCKET# \_\_\_\_\_

TO:

DATE \_\_\_\_\_

FROM:

You are hereby notified that you stand charged with the following violation(s) of the conditions of your \_\_\_\_\_:

You are entitled to a preliminary hearing under the terms of *Morrissey v. Brewer/Gagnon v. Scarpelli* (delete one) for the purpose of determining whether there is reason to believe the above allegations are factual. You have the following rights at said hearing:

1. To appear and speak on your own behalf.
2. To present witnesses, testimony and documentary evidence.
3. To request presence of adverse witnesses, subject to evaluation by the Hearings Officer (you will be advised in advance if the request is denied).
4. To ask questions of adverse witnesses relative to allegations of the violation.
5. To be represented by Counsel should you elect to retain one.

\_\_\_\_\_ I desire a Preliminary hearing. It will be held at \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_\_ at \_\_\_\_\_ am/pm to determine if there is reasonable ground to believe that I violated the conditions of my \_\_\_\_\_ and that I am entitled to be personally present to speak in my behalf at said hearing; present witnesses and may request the presence of adverse witnesses for the purpose of confrontative and cross examination.

\_\_\_\_\_ Having been informed of my rights to a Preliminary Hearing as outlined above, I hereby waive these rights. If I am a parolee, I understand I will be transported to NH State Prison pending my appearance at a Revocation Hearing at the next regular/special meeting of the Parole Board. If I am a probationer, I understand I will be held at \_\_\_\_\_ pending an appearance before the \_\_\_\_\_ Court.

By my signature below, I acknowledge receipt of a copy of the violation stating forth the allegations against me.

\_\_\_\_\_  
Offender  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness  
\_\_\_\_\_  
Date

### **Section 651-A:4**

**651-A:4 Duties; Adult Parole Board.** – The board shall:

- I. Be responsible for paroling prisoners from the state prison, subject to the applicable provisions of this chapter;
- II. Have legal custody of all persons released on parole until they receive their discharge or are recommitted to the prison;
- III. Adopt rules, pursuant to RSA 541-A, relative to:
  - (a) The parole process, including the conduct of parole hearings;
  - (b) Criteria used to evaluate prospective parolees;
  - (c) Conditions for the conduct of parolees; and
  - (d) Procedures for revocation of parole.

**Source.** 1983, 461:16, eff. July 1, 1983.

**CHAPTER 651-A  
PAROLE OF PRISONERS**

**Section 651-A:16**

**651-A:16 Report Required. –**

I. The department may report any parolee who violates the conditions of his parole to the parole board. However, the department shall, within 30 days of official knowledge of such an occurrence, submit a report on any parolee who:

- (a) Is arrested for any felony or misdemeanor offense;
- (b) Is convicted of any felony, misdemeanor or other offense; provided, however, that the department need only report traffic offenses deemed to be serious traffic offenses under RSA 265;
- (c) Absconds from supervision for a period of 30 days or more; or
- (d) Commits 3 or more parole violations of any type within a 12 month period.

II. This report shall include information on the circumstances of the alleged violation as well as a recommendation as to whether parole should be revoked.

**Source.** 1983, 461:16, eff. July 1, 1983.

State of New Hampshire

Sullivan

SULLIVAN SUPERIOR COURT

State V. Defendant

**VIOLATION OF PROBATION**

The Undersigned, an approved Probation/Parole Officer in and for the State of New Hampshire, states that Defendant, whose date of birth is mm/dd/yyyy, of \_\_\_\_\_ was sentenced or disposed of at the SULLIVAN SUPERIOR COURT on 11/12/2003 for the offense(s) of Theft Of Services(637:8), where the Honorable Judge \_\_\_\_\_ made the following order:

SEE ATTACHED

And that the said Defendant is alleged by the Probation/Parole Officer to be in violation of the specific rules of probation as contained in the Rules of Court of the District and Superior Courts of the State of New Hampshire, and any special rules of the Court, as follows:

Violation details.

DATED: 12/13/2006

Respectfully submitted by:

\_\_\_\_\_  
Department of Corrections

Approved By

\_\_\_\_\_  
Chief Probation/Parole Officer

It is recommended to the Court that:

- a. \_\_\_\_\_ A hearing date be set by the Court as soon as possible.
- b. \_\_\_\_\_ The Court issue a warrant/capias or detention order for the arrest and detention of the above with bail, if applicable set in the amount of \$\_\_\_\_\_.

