



**DEPARTMENT OF CORRECTIONS
PROBATION AND PAROLE DIVISION
OPERATIONAL PROCEDURE**

Procedure No.: PPD 4.6.500	Subject: ARRESTS/PICK UP AND HOLDS/DETAINING NON-OFFENDERS/RELEASE OF OFFENDERS
Reference: 46-6-210, MCA; 46-6-311, MCA; 46-6-507, MCA; 46-23-1012, MCA; 46-23-1023, MCA	Page 1 of 5
Effective Date: 12/19/16	Revised:
Signature / Title: /s/ Kevin Olson, Probation and Parole Division Administrator	

I. PURPOSE:

Probation and Parole Division employees will follow established procedures when arresting and holding offenders.

II. DEFINITIONS:

Disciplinary Hearing – A formal hearing that provides applicable due process requirements to confront violations of PPD facility rules, or conditional release or furlough conditions of supervision.

Hearings Officer – A Department employee that, as an impartial person, conducts Disciplinary, Preliminary “On-Site,” and Intervention hearings.

Intervention Hearing – An informal administrative hearing conducted when a Probation & Parole Officer reasonably believes that an offender has violated his/her conditions of supervision. §46-23-1015, MCA

PPD-Probation and Parole Division – The Division oversees the Probation & Parole regional offices, interstate transfers, and the facilities providing assessments and sanctions, training, prerelease, and treatment services.

Preliminary “On-site” Hearing – A formal administrative hearing conducted at the site of the alleged violation or arrest to determine if there is probable cause or reasonable grounds to believe a parolee or interstate offender violated his/her conditions of supervision. §46-23-1024, MCA

Self-Surrender – A DOC commitment approved for placement in an approved PPD facility and released from custody, but who will be in the community under supervision while waiting for an available bed in the facility.

III. PROCEDURES:

A. AUTHORIZATION TO PICK UP AND HOLD PROBATIONER

1. When a P&P Officer reasonably believes a probationer within Montana has violated a condition of his/her supervision, or presents such danger to the community that he/she cannot remain within the community without seriously and/or continuously endangering personal safety and/or the property rights of others, a court may issue a warrant for the arrest of the probationer. The P&P Officer may arrest the probationer without a warrant or may deputize another Officer with the power of arrest to do so by giving oral authorization. The Officer must then write out the statement mandated in §46-23-1012, MCA, and deliver it to the detention center within 12 hours.

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2. If it is necessary to arrest a probationer outside of Montana, P&P Officers must obtain a bench warrant from the District Court judge.

3. Pick Up and Hold-Procedures and Responsibility:

- a. P&P Officer must report all arrests to his/her supervisor as soon as possible. P&P Officer
- b. Within 12 hours of an arrest, the P&P Officer must: P&P Officer
 - i. Complete OMIS Warrants entries for *PPD 4.6.500(A) Authorization to Pick Up & Hold* setting forth that the offender has, in the Officer’s judgment, violated the conditions of the his/her probation;
 - ii. Submit *Authorization* to the place of detention; and
 - iii. Distribute *Authorization* to arresting authority (i.e. sheriff or police department)
- c. Upon time of arrest, probationer may be held without bail for 72 hours.
- d. P&P Officer will discuss with the Deputy Chief (DC) or designee to determine the course of action to be taken within 72 hours of the arrest: P&P Officer
DC or designee
 - i. Release the offender;
 - ii. Hold an intervention hearing with possible intervention options, including jail (see *P&P 140-5 Intervention Hearings*); or
 - iii. Pursue formal revocation:
 - 1) arrange for the probationer to appear before a magistrate to set bail;
 - 2) *P&P 100-1(A) Report of Violation* is completed and filed with the District Court (see *P&P 100-1 Report of Violation on Probationers and Parolees*).
 - 3) if the probationer is detained and bond is set, *P&P 100-1(A) Report of Violation* is filed with court within 10 days of the arrest. (See *P&P 100-1*.)
- e. If the *Authorization to Pick Up & Hold* issued is no longer necessary, complete OMIS Warrant entries for *PPD 4.6.500(C) Authorization to Cancel Warrant/Pick Up & Hold* and forward to local law enforcement. P&P Officer

B. WARRANTS TO ARREST

1. Offenders Within Montana:

- a. When a P&P Officer reasonably believes a parolee, conditional release or interstate offender within Montana has violated a condition of his/her supervision or presents such danger to the community that he/she cannot remain within the community, the DOC may issue a warrant for the arrest of the offender. The P&P Officer may arrest the offender without a warrant or may authorize law enforcement with the power of arrest to do so by giving oral authorization. The Officer must then write out the statement mandated in §46-23-1023, MCA, and deliver it to the detention center within 12 hours.

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b. Procedures and Responsibility:

- i. P&P Officer must report all arrests to his/her supervisor as soon as possible. P&P Officer
- ii. Within 12 hours of an arrest, the Officer must: P&P Officer
 - 1) Complete OMIS Warrants entries for *PPD 4.6.500(B) Warrant to Arrest* setting forth that the offender has, in the Officer’s judgment, violated the conditions of the offender’s release and/or rules of the PPD facility.
 - 2) Submit *Warrant* to the place of detention; and
 - 3) Distribute *Warrant* to arresting authority (i.e. sheriff or police department).
- iii. Parolees, conditional release and interstate offenders are not entitled to bond.
- iv. For parolee, or conditional release offender: Discuss with the Deputy Chief (DC) or designee to determine whether to, within a reasonable time: P&P Officer
DC or designee
 - 1) Release the offender;
 - 2) Hold an intervention hearing with possible intervention options, including jail (see *P&P 140-5 Intervention Hearings*); or
 - 3) Pursue formal revocation:
 - a) Parolees – Hold on-site hearing pursuant to *P&P 140-2 Preliminary (On-Site) Hearings*. *P&P 100 Report of Violation on Probationers and Parolees* will be followed if revocation is necessary.
 - b) Conditional release offender – Hold disciplinary hearing pursuant to *P&P 140-1 Adult Offender Discipline and Disciplinary Hearings*.
- v. For interstate offender: Discuss with DC or designee and Interstate staff, to determine whether to, within a reasonable time: P&P Officer
DC or designee
 - 1) Release the offender;
 - 2) Hold an intervention hearing for possible sanctions; or
 - 3) Pursue formal revocation (see *PPD 4.6.203 Interstate Commission Procedures*)
- vi. When the issued *Warrant* is no longer necessary, complete OMIS Warrant entries for *PPD 4.6.500(C) Authorization to Cancel Warrant/Pick Up & Hold* and forward to local law enforcement. P&P Officer
DC or designee

2. Offenders Outside Montana:

- a. If it is necessary to arrest a parolee or conditional release offender outside of Montana, P&P Officers must obtain an administrative warrant through the Interstate Compact Section by the Deputy Compact Administrator (DCA), or designee.
- b. Once a warrant or detainer for parole violations is issued on a parolee, it will remain in effect until the parolee is apprehended or the BOPP Hearing Panel has been contacted and allows the warrant to be quashed.

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c. Procedures and Responsibility:

- i. In the case of parolees with suspended time to follow, the BOPP Hearing Panel will be contacted to determine the status of the warrant/detainer. BOPP
 - 1) If the parolee meets criteria including, but not limited to, the following, the BOPP Hearing Panel may leave the warrant/detainer in place despite the parole expiration date:
 - a) commission of another felony
 - b) violent or sexual offender
 - c) victims
 - d) high profile case
 - e) extensive criminal history
 - 2) For other parole cases where there is suspended time to follow, the BOPP Hearing Panel may cancel the warrant/detainer and allow the Department to file *P&P 100-1(A) Report of Violation* for revocation of the offender's suspended time.
- ii. In the case of parolees without suspended time to follow, the BOPP Hearing Panel will be contacted to determine the status of the warrant/detainer using the above-listed criteria. BOPP
 - 1) For other parole cases where there is no suspended time to follow, the BOPP Hearing Panel will determine if it is in the best interest of justice, the public, and the parolee to dismiss the warrant/detainer and will notify the DCA or designee.

C. DETAINING NON-OFFENDERS

1. Pursuant to §46-6-507, MCA, an Officer who, while conducting his/her duties, has a reasonable suspicion that a person is interfering or will interfere with those duties, or has probable cause to believe that the person is committing or has committed an offense, may detain the person. The Officer shall immediately notify the nearest available law enforcement agency or peace officer, and the law enforcement agency or peace officer shall either take the person into custody or release the person.
2. As soon as time permits after the incident, the Officer shall notify his/her Deputy Chief when a non-offender has been detained.

D. RELEASE OF DOC COMMIT TO SELF-SURRENDER

1. When a DOC commitment screened and accepted into a PPD facility is placed on self-surrender status, the supervising P&P Officer will complete *PPD 4.6.500(D) Authorization to Release Offender* in OMIS. Offender is given date to report to supervising Officer (see *PPD 4.6.301 Offender Self-Surrender*).
2. Distribute *Authorization to Release Offender* to holding authority.

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E. RELEASE OF ARRESTED OFFENDER

1. After violations have been investigated and a determination has been made to return the offender to active supervision in the community, supervising P&P Officer completes *PPD 4.6.500(D) Authorization to Release Offender* in OMIS (this must be done within 72 hours of probationer's arrest).
2. If bond has been posted in District Court or a lower court (in the case of a probationer), advise the court that the bond should be exonerated.
3. Distribute *Authorization to Release Offender* to holding authority.
4. Notify POII or Deputy Chief of date and time of release on all offenders.

IV. CLOSING:

Questions concerning this procedure shall be directed to the POII, Deputy Chief, or Deputy Compact Administrator.

V. FORMS:

- PPD 4.6.500 (A) Authorization to Pick Up & Hold Probationer-OMIS
- PPD 4.6.500 (B) Warrant to Arrest-OMIS
- PPD 4.6.500 (C) Authorization to Cancel Warrant/Pick Up & Hold-OMIS
- PPD 4.6.500 (D) Authorization to Release Offender-OMIS