

COURT OF COMMON PLEAS OF LANCASTER COUNTY

Adult Probation & Parole – Violation process

AVERAGE LENGTH OF COMMITMENT IN LCP FOR TECHNICAL/DIRECT VIOLATIONS

To determine the average length of stay from initial incarceration until an inmate is sentenced, a sample of 50 cases was taken from Adult Probation and Parole cases on 1/27/23 (25 Technical Violations and 25 Direct Violations) and the following results were provided:

Technical Violations (Violations which result from probationers not following standard APPS Rules)

-The average length of stay for the 25 cases sampled was 26 days.

-Outlier cases: #1 1 requested a Gagnon I Hearing (preliminary hearing on a technical violation).
#2: 1 Sex Offender Unit case required an ADA to be present – rescheduled.
#3: 1 case defendant requested a full hearing (hearing required more time and additional parties to be present).
#4: 1 case needed to be returned to a particular sentencing judge (sentenced to a significant amount of time at the hearing).

If the above four cases are removed, the average length of stay was 21 days for the remaining 21 cases.

Direct Violations (Violations which result from probationers committing new criminal offenses)

-Average length of stay for the 25 cases sampled was 78 days.
-Charges ranged from ungraded misdemeanors to the highest graded charge of F2 Possession of Firearms.
-12 cases were ungraded felonies (drug delivery cases) to the highest grading of F2.
-5 cases were M2 assaultive offenses or M1 charges.
-8 cases were a combination of ungraded misdemeanor drug charges and M3 charges (Harassment/Disorderly Conduct/Driving Under Suspension type charges).

Points to note:

-The disparity in length of stay between Direct Violations and Technical Violations is due to recent caselaw (Commonwealth V. Giliam) which impacts new charges only and requires a defendant to be sentenced on a new charge prior to sentencing on a probation/parole violation.

-Although the length of stay may be longer on some Direct Violations, upon sentencing on the new charges, defendants are receiving substantial county or state sentences.

-For those charges that can be resolved at the MDJ level, the average length of stay is lower.

-Prior to incarceration on both technical and direct violations, both the supervising officer and supervisor review the case and determine that incarceration is warranted, and successful supervision cannot be achieved by placing the defendant on non-custodial status.

-Non-custodial status is afforded to those defendants who are not a risk to the community or themselves and are determined not to be a flight risk.