



Probation and Parole Detainer Frequently Asked Questions

What are probation and parole detainers and how are they used?

A detainer is a request filed by a criminal justice agency with a jail to hold a person in custody.

What are probation detainers?

If someone on probation or parole is arrested for a new crime, the probation department (or sometimes a judge) may lodge a detainer that keeps the probationer in custody. Probation detainers hold thousands of people in county jails all across Pennsylvania.

How long can someone be held under a probation detainer?

This person may be held as a result of their detainer until the resolution of their new case, or until a judge agrees to remove the detainer. This process can take months and sometimes years.

How does this contribute to the pretrial detention crisis in Pennsylvania?

Pennsylvania ranks [second in the nation when it comes to the percentage of its residents on parole or probation](#). Pretrial detention is one of the primary drivers of mass incarceration in Pennsylvania and people incarcerated on probation detainers often make up a majority of those held in pretrial detention.

Anytime a person on parole or probation is arrested for a new charge, they may be held in custody on a detainer until that new case is resolved. Remember, an arrest may have as much to do with police practices as it does with a probationer's behavior.

How do detainers work under Philadelphia's new rule?

Until recent changes, the First Judicial District local court rule 910 prohibited automatic detainers except in very narrow circumstances. However, in practice, this rule was largely ignored. In October 2018, the First Judicial District declared their intention to replace rule 910 with a new rule that eliminates the due process protections and broadly allows probation officers to arrest and issue detainers, essentially codifying the existing practice.

Why haven't I heard about this issue before?

You may not have heard of detainers per se, but you've probably heard about the Kalief Browder case.

In 2010, the police arrested seventeen-year-old Kalief Browder for armed robbery one night as he was walking home. At the time of his arrest, Kalief was on juvenile probation for joyriding. At the time of his robbery arrest, the judge initially imposed \$3,000 cash bail but then shortly after lodged a violation of probation detainer against him, this detainer held him in custody. Kalief Browder refused to plead guilty and that probation detainer - not the \$3,000 cash bail --- kept Kalief in Rikers for three years. That probation detainer led to Kalief's death.

What should be done about this problem?

Probation departments should not have the authority to automatically detain people. Judges should use their power to detain people on probation only in cases where such detainers appear absolutely necessary to protect public safety.

If someone on probation is arrested for a new crime, a detainer should only be lodged after a full hearing before a judge. At this hearing, the probationer should be present and represented by counsel; she should have the opportunity to review the evidence and confront the witnesses against her and to present evidence on her own behalf. Someone should never be detained merely because of a new arrest.