

**United States Parole Commission**  
**U.S. Department of Justice**

The United States Parole Commission's  
Expedited Revocation Procedure

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## **Abstract**

This report examines the United States Parole Commission's development and use of an expedited revocation procedure for parole violations not involving serious new felony offenses. The majority of parole revocation proceedings involve charges of administrative violations (such as alcohol abuse, drug use, or failure to report) or misdemeanor offenses, and most parolees charged with such violations admit them. When there is no dispute as to the charged violation, the sole issue is the determination of the appropriate sanction.

In 1996, the Commission began a pilot project designed to expedite the processing of parole violations involving administrative, misdemeanor, and lesser felony charges. Certain alleged parole violators were given the option of waiving the right to a revocation hearing, acknowledging responsibility for the charged violation, and accepting a specified revocation penalty determined by the Commission on the basis of the case record. The goal was to conserve Commission resources without negatively affecting the due process rights of the alleged parole violator or the integrity of the guideline system used to sanction parole violations. In 1998, the Commission incorporated the expedited revocation procedure developed in the pilot project into its permanent regulations. By FY 2003, expedited revocation determinations accounted for forty percent of all Commission revocation actions. The savings generated by the expedited revocation procedure have allowed the Commission to devote more resources to conducting revocation hearings involving more serious and/or contested charges.

## Introduction

Although a parolee who commits a violent new crime may make the headlines, the majority of parole revocation proceedings involve administrative violations (such as alcohol abuse, drug use, or failure to report) or misdemeanor offenses (such as simple possession of a controlled substance, petit larceny, disorderly conduct, or driving while intoxicated). Most alleged parole violators charged with administrative violations or misdemeanor offenses admit the charges against them at the revocation hearing. Those who initially deny the charged violation often make a plea of mitigating circumstances at the revocation hearing rather than actually contest the facts of the violation. Thus, although some revocation hearings involve contested factual issues with examination and cross examination of witnesses, the sole question in most revocation hearings involving administrative or misdemeanor charges is the appropriate sanction for the violation.

In 1996, the United States Parole Commission initiated a pilot project in an effort to expedite the processing of parole violations<sup>1</sup> not involving serious new felony offenses. Certain alleged parole violators were given the option of waiving the right to a revocation hearing, acknowledging responsibility for the charged violation, and accepting a specified revocation penalty determined by the Commission on the basis of the case record. The goal of the project was to conserve time and resources while preserving the due process rights of the alleged parole violator and the integrity of the guideline system used to sanction parole violations. In 1998, the Commission incorporated the procedure developed in the pilot project into its permanent regulations. This article examines the Commission's development of, and experience with, an expedited revocation procedure.

## Background

Under the applicable statute and regulations,<sup>2</sup> if the Commission issues a warrant for the retaking of a parolee and there has been no new criminal conviction, a probable cause hearing will be conducted at or near the place of the alleged violation within five days of the date the parolee is taken into custody.<sup>3</sup> The parolee is entitled to retained or appointed counsel at the probable cause hearing.<sup>4</sup> If probable cause to believe the parolee has committed a violation serious enough to warrant revocation is found, a revocation hearing will be scheduled. There are two types of revocation hearings. These are called "local revocation hearings" and "institutional revocation hearings." At either type of hearing, the parolee is entitled to notice of the charges; disclosure of documentary evidence (with limited exceptions); and retained or appointed counsel. If the alleged parole violator denies the violation charge and has not been convicted of a new criminal offense, he or she is entitled to a local revocation hearing—a revocation hearing at or near the place of violation—to facilitate the appearance of adverse witnesses (persons who have given information upon which the revocation may be based). At a local revocation hearing, the alleged parole violator is entitled to confront and cross examine any adverse witnesses (with limited exceptions), to have voluntary witnesses appear on his or her behalf, and to present documentary evidence. If the alleged parole violator admits the violation or has been convicted of a new criminal offense, he or she will be transferred to a federal prison facility for an institutional revocation hearing. At an institutional revocation hearing, the alleged parole violator may have voluntary witnesses appear on his or her behalf and may present documentary evidence.

If a parolee is found guilty at a revocation hearing of a charge sufficient to warrant revocation, the Commission applies explicit decision guidelines to determine the appropriate period of imprisonment.<sup>5</sup> These guidelines are in the form of a 32-cell grid with eight categories measuring the seriousness of the revocation conduct and four categories measuring risk of further recidivism. Each cell in the grid contains a guideline range (*e.g.*, 0-8 months' imprisonment; 8-12 months' imprisonment; 12-16 months' imprisonment) that sets forth the presumptive disposition absent especially mitigating or aggravating case factors. Appendix 1(A) displays the guideline grid used if parole is revoked to determine the appropriate period of imprisonment. Appendix 1(B) displays examples of the offense behaviors assigned to the eight-category offense seriousness scale that forms the vertical axis of the guideline grid. Appendix 1(C) displays the Salient Factor Score, an empirically based prediction instrument used to assess risk of recidivism<sup>6</sup> that forms the horizontal axis of the guideline grid.

Table 1 shows the distribution of offense seriousness and risk of recidivism categories for all cases in which the Commission revoked parole in the three-year period from October 1, 2000 through September 30, 2003. Category One violations (such as administrative violations, simple possession of controlled substances, theft offenses with a loss of less than \$2,000, and misdemeanors other than assault) accounted for 60.7 percent of the revocations (57.8 percent for federal cases<sup>7</sup> and 62.1 percent for District of Columbia Code cases<sup>8</sup>). Category Two violations (such as forgery or fraud offenses resulting in a loss of less than \$2,000 or misdemeanor assault) accounted for an additional 8.1 percent (7.7 percent for federal cases and 8.3 percent for District of Columbia Code cases). Revocations based on the commission of more serious offenses accounted for the remaining 32.2 percent of the cases (34.5 percent for federal cases and 30.2 percent for District of Columbia Code cases). As might be expected, most of the parole violators were in the poor risk (59.8 percent overall; 63.5 percent for federal cases; 58.0 percent for District of Columbia Code cases) or fair risk (29.2 percent overall; 22.3 percent for federal cases; 32.5 percent for District of Columbia Code cases) categories as measured by the Salient Factor Score.

It is to be noted that not all parole violations result in revocation hearings. With administrative violations and minor misdemeanors, other alternatives generally are tried first, such as more intensive supervision, drug or alcohol abuse treatment, or residence in a community corrections center for a period up to 180 days. If such action addresses the problem, no revocation hearing will occur. Consequently, a substantial proportion of the parolees appearing at revocation hearings for administrative violations and/or minor misdemeanors have had less drastic interventions tried without success.

### Revocation Hearing Costs

Conducting revocation hearings involves costs of various kinds to the Commission, other agencies, and the alleged parole violator. For the Commission, the cost is financial, involving the staff resources required to prepare the case for the revocation hearing, conduct the hearing (including travel to and from the hearing site), and transcribe and process the hearing examiner's report. Although most revocation hearings take between 30 and 60 minutes for the hearing itself, other required tasks consume additional time. Dictation of the report of the hearing generally takes between 30 and 45 minutes. Additionally, Commission staff must, prior to a revocation hearing,

review the file and prepare a “revocation packet,” containing copies of all required documents, to be given to the examiner conducting the hearing. A copy of the revocation packet must be made and sent to the alleged parole violator (or the alleged parole violator’s attorney) after it is reviewed to ensure that it contains no non-disclosable information. If the packet contains any non-disclosable information, a summary of that information in disclosable form must be prepared and sent to the alleged parole violator (or the alleged parole violator’s attorney). In the case of an institutional revocation hearing, Commission staff must arrange with institutional staff to schedule the hearing for the next docket of hearings at that facility. In the case of a local revocation hearing, Commission staff must determine a suitable facility for the hearing (such as the local courthouse, probation office, or local detention center), arrange for the alleged parole violator’s presence (which may involve transportation by the U.S. Marshals Service), select a date and time for the hearing, coordinate the date and time selected with the alleged parole violator’s attorney, notify any witnesses of the date and time of the hearing and the necessity of their presence, transmit subpoenas and information relative to hearing procedures and reimbursement to the witnesses, and reconfirm the hearing time and date with all parties before the hearing. The hearing examiner must then travel to the hearing site. If the hearing must be postponed for some reason, this process must be repeated. Even when a revocation hearing is conducted at a federal facility with other hearings on the docket, each additional case is not simply a matter of an extra hour or hour and a half. Travel delays, delays because of unrelated events at the institution (*e.g.*, institution counts, fog lines restricting inmate movement, or disturbances), or the failure of witnesses or attorneys to appear may disrupt the docket and cause the hearing examiner to have to return to the facility for an extra day. In some cases, an extra trip to the facility may have to be scheduled.

Other agencies also bear financial costs. In case of a local revocation hearing, for example, the supervision officer is required to attend the hearing and, in some cases, the U.S. Marshals Service must transport the alleged parole violator to the place of the hearing. In the case of an institutional revocation hearing, the Bureau of Prisons generally will transport the alleged parolee violator to one of two institutions at which institutional revocation hearings are held (in Oklahoma City, Oklahoma or Philadelphia, Pennsylvania) and then, if parole is revoked, transfer the prisoner to another institution for the service of the parole-violator term. If the alleged parole violator has a court-appointed attorney, that attorney will attend the hearing.

A revocation hearing also involves costs to the alleged parole violator—but of a different kind. The first cost is associated with the type of facility in which the alleged parole violator is confined until the revocation hearing. If the parolee denies the alleged violation and is scheduled for a local revocation hearing, the parolee may be housed in a state or local jail for up to 60 days awaiting the local revocation hearing. In general, state and local jails have harsher conditions of confinement than federal facilities. If the parolee admits the alleged violation or has been convicted of a new offense, the parolee generally will be housed at one of two federal “transfer facilities” until the revocation hearing is conducted and, unless immediately re-released, then transferred to another facility for service of the parole-violator term. The period of time that an alleged parole violator will spend in the facility designated for the revocation hearing frequently will be close to 60 days. Some offenders see having to be transferred twice and adjust to two facilities as less desirable as been sent directly to the facility in which they will serve the term imposed for the violation.

The second cost involves the loss of opportunity to participate in institutional programs. Neither local jails nor the Bureau of Prisons facilities at which revocation hearings are conducted have the programs that are present in the institutions to which parole violators customarily are sent after parole is revoked. Thus, the time awaiting a revocation hearing is time in confinement with less ability to participate in institutional programs either for self-improvement, to earn prison-industry wages, or simply to make the time pass more easily.

The third cost is the psychological cost to the alleged parole violator associated with uncertainty. Although alleged parole violators have access to the parole guidelines, they are also aware that the Commission has some discretion to depart from the guidelines. Thus, even if not statistically likely, an alleged parole violator cannot exclude the possibility that something about his or her case might be considered by the Commission as an aggravating circumstance warranting an upward departure from the guidelines.

Fourth, for some alleged parole violators, the parole revocation hearing is viewed as an useless formality. The alleged parole violator may have admitted violating the conditions of parole, have less time remaining on his or her sentence than that called for by the Commission's guidelines, and recognize that his or her violations were so frequent or serious, or that his or her case is so devoid of mitigating factors, that the possibility of anything other than revocation with imprisonment for the remainder of his or her term is unrealistic.

### Pilot Project

In 1996, the Commission—faced with staff allocation and budgetary concerns—launched an experimental project to determine whether certain alleged parole violators with low seriousness (Category One) violations would be willing to accept responsibility for their conduct and waive the revocation hearing in return for a specified re-release date determined upon review of the record and application of the Commission's decision guidelines.

The following procedure was developed. Upon notification of the scheduling of a revocation hearing for a Category One violation, either after a probable cause hearing or upon a new conviction, the project coordinator (a supervisory hearing examiner) would review the case file to determine whether (1) it was a "routine case"; or (2) there either were unanswered questions that needed to be resolved at a hearing or aggravating circumstances sufficient to warrant consideration of an above-guideline decision. If the project coordinator determined it was a routine case, he would prepare a proposed expedited revocation decision. For example, he might find that the seriousness category was Category One based on the administrative violation of unlawful drug use; the Salient Factor Score was 2; the applicable parole guideline range was 12-16 months; street time was to be credited because there was no new criminal conviction; and an appropriate penalty was fourteen months to be served before rerelease (a middle of the guidelines decision based on the fact that the parolee (1) had failed to refrain from drug use after a halfway house placement with outpatient drug treatment was imposed as an alternative to revocation and, (2) had a previous revocation for similar conduct). Upon the concurrence of a second examiner, the case would be sent to a Commissioner. If the Commissioner approved the proposed decision, the Commission would send a notice to the alleged parole violator, or the alleged parole violator's attorney if one had been retained or appointed, setting

forth and explaining the proposed decision. Appendix 2 displays the notice sent to the alleged parole violator. If the alleged parole violator did not have an attorney, the project coordinator would send the notice via the alleged parole violator's United States Probation Officer (if the alleged parole violator was confined at a state or local facility) or Bureau of Prisons Case Manager (if the alleged parole violator was confined at a federal facility) after calling and briefing the probation officer or case manager on the nature of the project. If the Commissioner disapproved the recommendation for an expedited offer, the case would be scheduled for a hearing and sent to a hearing examiner for the preparation of the routine pre-hearing case assessment.

The alleged parole violator was given a specified number of days to respond to the proposal, but could request an extension of this time period.<sup>9</sup> If the alleged parole violator had requested appointment of counsel but counsel had not yet been appointed, the alleged parole violator was advised that he or she would be allowed to consult with counsel before responding to the proposal. The notice stated that, if the alleged parole violator rejected the expedited offer, the revocation hearing would be conducted as if the expedited proposal had not been made and thus the proposal was not to be considered as limiting the decision possible at a revocation hearing. If the alleged parole violator rejected, or did not respond to, the offer within the prescribed time, the case would be scheduled for hearing and sent to a hearing examiner for preparation of the routine pre-hearing case assessment.

In 1997, the project was expanded to include Category Two violations and all decisions to continue to the prisoner to the expiration of sentence<sup>10</sup> regardless of the applicable offense category.<sup>11</sup> The prohibition against an expedited offer for a decision above the applicable guideline range was changed to a presumption against such an offer as project staff had come across several cases in which it appeared, in the circumstance of the specific case, that the alleged parole violator might respond favorably to such an offer.

### Pilot Project Results

In the period from the inception of the project on March 5, 1996 through September 28, 1998, 1,484 cases were considered for the expedited revocation procedure (1,382 involved parolees with alleged Category One violations; 34 involved parolees with alleged Category Two violations; and 68 involved parolees with alleged violations in higher offense seriousness categories). These considerations resulted in 1,463 expedited offers to alleged parole violators.<sup>12</sup> Of these, 1,140 alleged parole violators (77.9 percent) accepted the expedited offer, thereby waiving the revocation hearing as well as the right of administrative appeal.

Probation officers and defense attorneys involved in particular cases were extremely positive about the project. Cooperation from United States Probation Officers in the various facets of the project was excellent. Assistant Federal Defenders from several offices would initiate calls to the project coordinator to suggest expedited offers be made in cases they believed the Commission had overlooked. The estimated savings to the Commission from the expedited revocation project was conservatively estimated at \$175,000 per year in staff and travel costs (1998 dollars).

One question raised at the beginning of the project was whether alleged parole violators or

their attorneys would expend Commission resources by trying to negotiate with the Commission to obtain a more favorable decision than that offered. As the project was not designed to include plea negotiation, Commission staff were instructed to recommend an offer that they believed would have been the appropriate result at a hearing at which the alleged parole violator admitted the violation and fully accepted responsibility for his or her conduct. Commission staff were further instructed that the alleged parole violator was free to accept or reject the offer, but the offer was not negotiable. Although defense attorneys occasionally asked whether the Commission was willing to negotiate, the issue did not prove to be a burdensome one and the Commission was successful in maintaining the integrity of its non-negotiation policy. At the same time, project staff were willing to consider new information if it was significant. Of the first 505 expedited revocation proposals, the Commission revised five offers (less than one percent) in response to information provided by the alleged parole violator or his or her attorney.<sup>13</sup>

A second question was whether the Commission might fall into the trap of undercutting its own guidelines in order to get alleged parole violators to accept its expedited revocation offers. This clearly does not appear to have been the case. Of the 1,140 expedited offers accepted between March 6, 1996 and September 30, 1998, 18 were for reparole decisions below the applicable guideline range (1.6 percent), 189 were for reparole decisions at or near the bottom of the applicable guideline range (16.6 percent), 378 were for reparole decisions in the middle of the applicable guideline range (33.2 percent), 142 were for reparole decisions at or near the top of the applicable guideline range (12.5 percent), 32 were for reparole decisions above the applicable guideline range (2.8 percent), and 381 (33.4 percent) were for continue to expiration decisions (87.3 percent of which were below or at the bottom of the applicable guideline range).<sup>14</sup>

A third question was whether alleged parole violators would accept continue to expiration decisions or whether only reparole decisions would be accepted. Of the 447 expedited offers for continuance to expiration decisions, 381 (85.2 percent) were accepted, an even higher acceptance than for expedited offers with a reparole date. Most of the continue-to-expiration offers that were accepted were for release dates below the applicable guideline range (76.2 percent) or at the bottom of the applicable guideline range (11.1 percent). In such cases, it appears that the alleged parole violator recognized that the prospect of a more favorable decision at a hearing was remote and accepted the expedited offer for other reasons. Another reason that some alleged parole violators may prefer a continue-to-expiration decision to a reparole date is to reduce or, in some cases, eliminate any further period of parole supervision upon release.

A fourth question was whether alleged parole violators who rejected expedited revocation offers would tend to receive harsher decisions at the revocation hearing. The Commission's policy was that, if an expedited offer was rejected, the offer no longer had any force and the revocation hearing was to be held *denovo*. That is, the Commission was free to render any decision (whether more lenient, the same, or harsher) that appeared warranted based upon the case record and the information presented at the hearing. Of the first 275 alleged parole violators who declined expedited offers of reparole dates, 106 (38.5 percent) received the same decision at the hearing; 85 (30.9 percent) received a more lenient decision, and 84 (30.6 percent) received a harsher decision. Of the first 36 alleged violators who declined expedited offers of continue to expiration (all but two of which were below or at the bottom of the applicable guideline range), all received the same decision at the



revocation hearing. These statistics suggest that the Commission's policy regarding a *denovo* revocation hearing was carried out in practice. There is no evidence that a failure to accept an expedited offer routinely led to a harsher decision at the revocation hearing.

### Adoption as Permanent Policy

In 1998, based on the positive results of the pilot project, the Commission incorporated the expedited revocation procedure into its rules as permanent policy. Appendix 3 sets forth the Commission's current policy as it appears in the Commission's *Rules and Procedures Manual* (2003).

With incorporation as permanent policy, the responsibility for initiation of the expedited revocation procedure was transferred from the project coordinator to the hearing examiners who prepare the routine pre-hearing case assessment. This increased efficiency as the review for expedited processing was switched from a separate step to a routine part of the pre-hearing case assessment. Under this procedure, if the hearing examiner preparing the pre-hearing case assessment recommended an expedited offer, the expedited offer forms were prepared as an addendum to the pre-hearing case assessment and the case then sent to the Commission for approval. If the Commission did not approve the offer, or if the offer was extended to the parolee and the parolee declined it, no further pre-hearing assessment was required.

In 2001, the expedited revocation procedure was expanded to include District of Columbia parole and supervised release violation cases – cases that had come under the Commission's jurisdiction in mid 2000. Initially, the District of Columbia Public Defender Service, which represents most District of Columbia Code releasees, was not favorably disposed to the expedited procedure because it was seen as not allowing time for the defense attorney to provide input regarding mitigating case circumstances before the expedited offer was made (and no negotiation was permitted once the expedited offer was made). The Commission responded by authorizing a twenty-day delay, at the request of the alleged parole violator or the alleged parole violator's attorney, between the date of the probable cause hearing and the date any expedited offer would be made in order to provide an opportunity for the alleged parole violator or his or her attorney to submit mitigating case circumstances or other comments to the Commission. Since that modification was made, the District of Columbia Public Defender Service has been supportive of the expedited revocation procedure.

### Expedited Revocation Procedure Results

Table 2 shows the number of expedited revocation dispositions, the number of revocation hearings, the total number of revocation dispositions (expedited revocation dispositions plus revocation hearings), and the percentage of revocation dispositions under the expedited revocation procedure in FY 2001, FY 2002, and FY 2003.<sup>15</sup> For federal cases, the percentage of revocation dispositions under the expedited revocation procedure ranged from 44.5 percent in FY 2001 to 37.3 percent in FY 2003. For District of Columbia Code cases, the percentage of revocation dispositions under the expedited revocation procedure increased from 5.2 percent in FY 2001 (the first year this procedure was applied to District of Columbia Code cases) to 41.9 percent in FY 2003. Overall, the percentage of revocation dispositions under the expedited revocation procedure rose from 22.2 percent in FY 2001 and 23.3 percent in FY 2002 to 40.4 percent in FY 2003.

Table 3 shows the disposition of expedited revocation offers made in FY 2003. Expedited revocation offers were accepted by 82.5 percent of the federal offenders and 86.3 percent of the District of Columbia Code offenders to whom they were made. Overall, 85.1 percent of alleged parole violators offered an expedited revocation disposition accepted the Commission's offer, a percentage that is even higher than the 77.1 percent of alleged parole violators who accepted the Commission's offer of an expedited revocation disposition during the pilot project.

Table 4 shows the decisions for those who accepted expedited revocation offers in relation to the applicable guideline range for FY 2003. The vast majority of decisions were reparole decisions within the applicable guideline range (79.7 percent) or continue to expiration decisions below or within the applicable guideline range (17.1 percent). The percentage of reparole decisions below the applicable guideline range (1.5 percent) was small as was the percentage of reparole or continue to expiration decisions above the applicable guideline range (4.4 percent). Consistent with its Commission's decision-making in the pilot project, the Commission has not undercut its decision guidelines in making expedited offers.

Of the 98 alleged parole violators who declined an expedited reparole offer in 2003, 36 (36.7 percent) received the same decision at the hearing; 41 (41.8 percent) received a more lenient decision, and 21 (21.4 percent) received a harsher decision. Of the 26 alleged parole violators who declined an expedited continue to expiration offer in 2003, 18 (69.2 percent) received the same decision at the revocation hearing and 7 (26.9 percent) received a more lenient decision.<sup>16</sup> As in the pilot project, the Commission's policy regarding a *denovo* revocation hearing appears to have been carried out in practice. There is no evidence that a failure to accept an expedited offer routinely led to a harsher decision at the revocation hearing.<sup>17</sup>

For FY 2003, the savings to the Commission in staff and travel costs as a result of the expedited revocation procedure is conservatively estimated at \$200,000. The allocation of these resources to the remaining cases has allowed more careful preparation of the cases that require a revocation hearing, more timely revocation hearings, and revocation hearings that are conducted in a more thorough manner.<sup>18</sup>

### Summary

Since first used by the Commission in 1996, the expedited revocation procedure has proven to be an effective way of conserving agency resources. By handling a substantial number of parole violations through this procedure, the Commission has been able to devote more resources to conducting revocation hearings for cases with more serious violations and/or cases in which the alleged violation is contested. There is no evidence that the Commission has undercut its decision guidelines in making expedited offers. The Commission has maintained its position of no negotiation once an expedited offer has been made, although it has retained the flexibility to modify an expedited offer upon the presentation of significant new information by the alleged parole violator.

The advantages to the alleged parole violator of accepting an expedited offer are obtaining a prompt disposition, rather than having the uncertainty of what may happen at a revocation hearing, and a prompt transfer to the institution at which the violator term will be served, rather than having

to wait for a revocation hearing at a jail-type facility or having an interim transfer to a Bureau of Prisons' revocation facility. The reaction of the defense bar to the procedure has been favorable.

An expedited revocation procedure of the type developed by the Commission would seem adaptable to state probation and parole revocation proceedings. The Connecticut Board of Parole, for example, has adopted an expedited revocation procedure based in large part on the Commission's expedited revocation procedure.<sup>19</sup>

**TABLE 1: PAROLE VIOLATION SERIOUSNESS AND RISK CATEGORIES FOR CASES RESULTING IN REVOCATION (OCTOBER 1, 2000 - SEPTEMBER 30, 2003)**

<b>Seriousness Category</b>	<b>Federal Cases</b>		<b>D.C. Code Cases</b>		<b>All Cases</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
One	929	57.8	2082	62.1	3011	60.7
Two	124	7.7	279	8.3	403	8.1
Three	117	7.3	371	11.1	488	9.8
Four	91	5.7	267	8.0	358	7.2
Five	175	10.9	261	7.8	436	8.8
Six	80	5.0	38	1.1	118	2.4
Seven	61	3.8	41	1.2	102	2.1
Eight	29	1.8	16	0.5	45	0.9

<b>Risk Category</b>	<b>Federal Cases</b>		<b>D.C. Code Cases</b>		<b>All Cases</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
Very Good (Salient Factor Score = 10-8)	12	0.7	13	0.4	25	0.5
Good (Salient Factor Score = 7-6)	216	13.5	304	9.1	520	10.5
Fair (Salient Factor Score = 5-4)	358	22.3	1,091	32.5	1,449	29.2
Poor (Salient Factor Score = 3-0)	1,020	63.5	1,947	58.0	2,967	59.8

**TABLE 2: EXPEDITED REVOCATION DISPOSITIONS AND  
FINAL REVOCATION HEARINGS (FY 2001 – FY2003)**

	FY 2001	FY 2002	FY 2003
<b>Number of Expedited Revocation Dispositions (Expedited Offers Accepted)</b>			
Federal Cases	310	275	212
D.C. Code Cases	39	129	499
All cases	349	404	711
<b>Number of Revocation Hearings</b>			
Federal Cases	386	374	357
D.C. Code Cases	707	912	693
All Cases	1,093	1,286	1,040
<b>Total Revocation Dispositions (Expedited Revocation Dispositions and Revocation Hearings)</b>			
Federal Cases	696	649	569
D.C. Code Cases	746	1,041	1,192
All Cases	1,442	1,690	1,761
<b>Percent Expedited Revocation Dispositions</b>			
Federal Cases	44.5	42.4	37.3
D.C. Code Cases	5.2	12.4	41.9
All Cases	24.2	23.9	40.4

**TABLE 3: NUMBER AND PERCENT OF EXPEDITED REVOCATION OFFERS  
ACCEPTED BY ALLEGED PAROLE VIOLATORS (FY 2003)**

	<b>Federal Cases</b>	<b>D.C. Code Cases</b>	<b>All Cases</b>
<b>Number of Expedited Offers</b>	257	578	835
<b>Number Accepted</b>	212	499	711
<b>Percent Accepted</b>	82.5%	86.3%	85.1%

**TABLE 4: ACCEPTED EXPEDITED OFFERS IN RELATION  
TO APPLICABLE GUIDELINE RANGE (FY 2003)**

<u>Offer Accepted</u>	<u>Number</u>	<u>Percent</u>
<b>Reparole Below Guideline Range</b>	11	1.5
<b>Reparole at or Near Bottom of Guideline Range</b>	263	37.0
<b>Reparole in Middle of Guideline Range</b>	255	35.9
<b>Reparole at or Near Top of Guideline Range</b>	27	3.8
<b>Reparole Above Guideline Range</b>	21	3.0
<b>Continue to Expiration Below Guideline Range</b>	84	11.8
<b>Continue to Expiration at or Near Bottom of Guideline Range</b>	15	2.1
<b>Continue to Expiration in Middle of Guideline Range</b>	20	2.8
<b>Continue to Expiration at or Near Top of Guideline Range</b>	3	0.4
<b>Continue to Expiration Above Guideline Range</b>	10	1.4
<b>Missing Data</b>	2	0.3
<b>All Cases</b>	711	100

**TABLE 5: COMPARISON OF DECLINED EXPEDITED OFFER  
TO FINAL DECISION (FY 2003)**

<u>Offer Accepted</u>	<u>Number</u>	<u>Percent</u>
<b>Reparole Offer; Same Final Decision</b>	36	29.0
<b>Reparole Offer; Final Decision More Lenient</b>	41	33.1
<b>Reparole Offer Final Decision More Harsh</b>	21	16.9
<b>CTE Offer; Same Final Decision</b>	18	14.5
<b>CTE Offer; Final Decision More Lenient</b>	7	5.6
<b>No Decision</b>	1	0.8
<b>All Cases</b>	124	100



**TABLE 4: ACCEPTED EXPEDITED OFFERS IN RELATION  
TO APPLICABLE GUIDELINE RANGE (FY 2003)**

<b><u>Offer Accepted</u></b>	<b><u>Number</u></b>	<b><u>Percent</u></b>
<b>Reparole Below Guideline Range</b>	11	1.5
<b>Reparole at or Near Bottom of Guideline Range</b>	263	37.0
<b>Reparole in Middle of Guideline Range</b>	255	35.9
<b>Reparole at or Near Top of Guideline Range</b>	27	3.8
<b>Reparole Above Guideline Range</b>	21	3.0
<b>Continue to Expiration Below Guideline Range</b>	84	11.8
<b>Continue to Expiration at or Near Bottom of Guideline Range</b>	15	2.1
<b>Continue to Expiration in Middle of Guideline Range</b>	20	2.8
<b>Continue to Expiration at or Near Top of Guideline Range</b>	3	0.4
<b>Continue to Expiration Above Guideline Range</b>	10	1.4
<b>Missing Data</b>	2	0.3
<b>All Cases</b>	711	100



**APPENDIX 1: EXCERPTS FROM UNITED STATES PAROLE COMMISSION  
RULES AND PROCEDURES MANUAL (2003 EDITION) -- SECTION 2.20**

**(A) GUIDELINES FOR DECISION-MAKING [Customary Total  
Time to be Served before Release (including jail time)]**

<b>OFFENSE CHARACTERISTICS:</b>	<b>OFFENDER CHARACTERISTICS: Parole Prognosis (Salient Factor Score 1998)</b>			
	<b>Very Good (10-8)</b>	<b>Good (7-6)</b>	<b>Fair (5-4)</b>	<b>Poor (3-0)</b>
<b>Severity of Offense Behavior</b>				
<b>Category One</b>	<b>&lt;=4 months</b>	<b>Guideline Range &lt;=8 months</b>	<b>8-12 months</b>	<b>12-16 months</b>
<b>Category Two</b>	<b>&lt;=6 months</b>	<b>Guideline Range &lt;=10 months</b>	<b>12-16 months</b>	<b>16-22 months</b>
<b>Category Three</b>	<b>&lt;=10 months</b>	<b>Guideline Range 12-16 months</b>	<b>18-24 months</b>	<b>24-32 months</b>
<b>Category Four</b>	<b>12-18 months</b>	<b>Guideline Range 20-26 months</b>	<b>26-34 months</b>	<b>34-44 months</b>
<b>Category Five</b>	<b>24-36 months</b>	<b>Guideline Range 36-48 months</b>	<b>48-60 months</b>	<b>60-72 months</b>
<b>Category Six</b>	<b>40-52 months</b>	<b>Guideline Range 52-64 months</b>	<b>64-78 months</b>	<b>78-100 months</b>
<b>Category Seven</b>	<b>52-80 months</b>	<b>Guideline Range 64-92 months</b>	<b>78-110 months</b>	<b>100-148 months</b>
<b>Category Eight*</b>	<b>100+ months</b>	<b>Guideline Range 120+ months</b>	<b>150+ months</b>	<b>180+ months</b>

**(B) EXAMPLES OF PAROLE VIOLATIONS IN EACH OF THE EIGHT  
SERIOUSNESS CATEGORIES IN THE GUIDELINE TABLE**

<b>Category One</b>	Administrative parole violations Misdemeanor offenses (except assault) Theft of less than \$2,000 Possession of controlled substances
<b>Category Two</b>	Misdemeanor assault Fraud/forgery less than \$2,000 Sale of cocaine (less than 1 grams at 100% purity or equivalent)
<b>Category Three</b>	Theft \$2,000- \$39,999 Vehicle Theft Sale of cocaine (1-4.9 grams at 100% purity or equivalent or less than 1 gram of crack cocaine); sale of marijuana (50-199 pounds)
<b>Category Four</b>	Theft \$40,000-\$200,000 Sale of heroin (less than 1 gram at 100% purity or equivalent)
<b>Category Five</b>	Robbery Theft \$200,001-\$1,000,000 Assault with weapon or bodily injury
<b>Category Six</b>	Robbery with bodily injury
<b>Category Seven</b>	Robbery with serious bodily injury Forcible sex offenses
<b>Category Eight</b>	Murder Attempted murder Espionage Kidnapping for ransom

**(C) SALIENT FACTOR SCORE (SFS 98)**

**Item A. PRIOR CONVICTIONS/ADJUDICATIONS (ADULT OR JUVENILE)**.....   
None= 3; One = 2; Two or three = 1; Four or more= 0

**Item B. PRIOR COMMITMENT(S) OF MORE THAN 30 DAYS (ADULT/JUVENILE)** .....   
None= 2; One or two=1; Three or more =0

**Item C. AGE AT CURRENT OFFENSE/PRIOR COMMITMENTS**.....

26 years or more	Three or fewer prior commitments = 3
	Four prior commitments = 2
	Five or more commitments = 1
22-25 years	Three or fewer prior commitments = 2
	Four prior commitments = 1
	Five or more commitments = 0
20-21 years	Three or fewer prior commitments = 1
	Four prior commitments = 0
19 years or less	Any number of prior commitments = 0

**Item D. RECENT COMMITMENT FREE PERIOD (THREE YEARS)** .....   
No prior commitment of more than 30 days (adult or juvenile) or released to the community from last such commitment at least 3 years prior to the commencement of the current offense =1; Otherwise = 0

**Item E. PROBATION/PAROLE/CONFINEMENT/ESCAPE STATUS VIOLATOR THIS TIME** ..   
Neither on probation, parole, confinement, or escape status at the time of the current offense; nor committed as a probation, parole, confinement, or escape status violator this time =1;  
Otherwise = 0

**Item F. OLDER OFFENDERS** .....   
If the offender was 41 years of age or more at the commencement of the current offense (and the total score from Items A - E above is 9 or less) = 1;  
Otherwise = 0

**TOTAL SCORE** .....

## **APPENDIX 2: NOTICE TO ALLEGED PAROLE VIOLATOR REGARDING ELIGIBILITY FOR EXPEDITED REVOCATION PROCEDURE**

**Name:** Felon, Archibald      **Reg. No:** 00000007      **DCDC No.** N/A

1. This is to inform you that the Parole Commission has found probable cause to believe that you have violated the conditions of your Parole.

2. The specific charges upon which these findings are based:

Charge No. 1 - Failure to Report for Supervision [as set forth in the warrant application dated 6/25/03]

3. Based on the finding of probable cause and information available to the Commission at this time, if your parole is revoked after a hearing, your reparole guidelines will be as follows:

Your parole violation behavior has been rated as Category One severity because it involved failure to report to the USPO for supervision. Your salient factor score is 3 (see attached sheet). You have been in federal confinement as a result of your behavior for a total of 1 month(s) as of 8/28/2003. Guidelines established by the Commission indicate a range of 12-16 months to be served for cases with good institutional adjustment and program achievement.

Pursuant to its regulations, the Commission will render a decision within the applicable guideline range unless it finds good cause to render a decision above or below the applicable guideline range and provides specific reasons.

4. Your violation behavior makes you eligible to apply for the following expedited procedure. You may, if you wish, waive your right to a revocation hearing, accept responsibility for your conduct, and consent to revocation on the record. If you do so, the Commission will take the following action in your case:

- Revoke Parole; None of the time spent on Parole shall be credited.
- Reparole after the service of 12 months (7/28/2004).
- In addition, you shall be subject to the Special Drug Aftercare Condition which requires that you participate as instructed by your Supervision Officer in a program (inpatient or outpatient) approved by the D.C. Court Services and Offender Supervision Agency for the treatment of narcotic addiction or drug dependency. That program may include testing and examination to determine if you have reverted to the use of drugs. You shall also abstain from the use of alcohol and/or all other intoxicants during and after the course of treatment.

After review of all relevant factors and information presented, a decision outside the guidelines at this consideration is not found warranted.

5. For the Commission to approve your application for this expedited revocation procedure, the completed form must be received by the U.S. Parole Commission within 14 days of the date noted on the cover letter. If the completed form is not received within 14 days, the revocation hearing will be held and the proposed decision set forth will not be binding on the Commission.

6. You are under no obligation to apply for the expedited revocation procedure set forth above. If you do not wish to waive your right to a revocation hearing and accept the proposed decision set forth, please indicate below that you decline the proposal. You will be given a revocation hearing under normal procedures. After your revocation hearing, the Commission, on the basis of the information available, may take any action authorized by its regulations. Thus, the action taken by the Commission may be the same, more favorable, or less favorable than the proposed action set forth above. The fact that you chose to have a revocation hearing rather than accept the proposed decision set forth above will not be taken into account.

I hereby waive my right to a revocation hearing before the U.S. Parole Commission. I accept responsibility for the conduct charged against me in the warrant application and I accept the proposed Parole Commission decision set forth on this form (with respect to revocation of parole, forfeiture of street time, and reparole.) I understand that my reparole date is contingent upon my maintaining a record of good conduct in the institution up to the date of release and an acceptable release plan. I also understand that my consent will not constitute an enforceable agreement with respect to any other action the Commission is authorized to take by law or regulation, or to limit in any respect the normal consequences of a revocation of parole. Because I accept the proposed U.S. Parole Commission's decision set forth on this form, I understand that I am waiving my right to appeal this decision.

\_\_\_\_\_  
Signature Date

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

I decline the U.S. Parole Commission's revocation proposal. I wish to have an in-person revocation hearing.

\_\_\_\_\_  
Signature Date

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

I wish to request a 14-day extension to consider this proposal.

\_\_\_\_\_  
Signature Date

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

\*\*\*\*\*

**SALIENT FACTOR SCORE (SFS-98)**

**Name:** Felon, Archibald      **Reg. No:** 00000-007

**Pts**      **SFS-98 Item Explanations**

**0**      **A. - Prior convictions/adjudications (adult or juvenile)**  
None = 3; One = 2; Two or three = 1; Four or more = 0

<u>Date</u>	<u>Offense &amp; Disposition</u>
3/90	Assault with Dangerous Weapon – 5 years probation; 1/91 Probation Revoked -10 years' imprisonment
8/90	Simple Assault – 45 days
9/90	Attempted Robbery – 30 months (consecutive to 45 days)
9/92	Escape – 3 years consecutive; paroled 6/4/1996 and parole revoked 3/3/2000; reparaled 1/6/2002; parole revoked 9/5/2002 and reparaled 3/18/2003

**0 B. - Prior commitments of more than thirty days (adult or juvenile)**

None = 2; One or two = 1; Three or more = 0

**2 C. - Age at current offense/prior commitments**

26 years or more + 3 or less prior commitments = 3  
4 prior commitments = 2  
5 or more commitments = 1

22-25 years + 3 or less prior commitments = 2  
4 prior commitments = 1  
5 or more commitments = 0

20-21 years + 3 or less prior commitments = 1  
4 prior commitments = 0

19 years or less + any number prior commitments = 0

The subject was age 42 at the time of the current parole violation.

**0 D. - Recent Commitment Free Period (Three Years)**

No prior commitment of more than thirty days (adult or juvenile), or released to the community from last such commitment at least three years prior to the commencement of the current offense = 1; Otherwise = 0

The subject was last released from confinement on 3/18/2003.

**0 E. - Probation/Parole/Confinement/Escape Status Violator This Time**

Neither on probation, parole, confinement, or escape status at the time of the current offense; nor committed as a probation, parole, confinement or escape status violator this time = 1; Otherwise = 0

**1 F. - Older Offenders**

If the offender was 41 years or more at the commencement of the current offense (and the total score from Items A-E above is 9 or less) = 1; Otherwise = 0

**3 TOTAL SCORE**

\*\*\*\*\*

Ms. A.T. Torney  
Public Defender  
District of Columbia  
Special Proceedings Division  
633 Indiana Avenue, N.W.  
Washington, D.C. 20004

Re: Archibald Felon  
Reg. No. 00000-007

Dear Ms. Torney:

Enclosed you will find a proposal for an expedited revocation determination for the above-named parolee. This program allows the subject to waive an in-person revocation hearing, accept responsibility for the parole violation behavior, and be provided a release date on the record. If the parolee accepts, a Notice of Action will be promptly issued and the parolee will be transferred to the designated facility for service of the parole violation time. If the parolee declines, an in-person hearing will be arranged under regular procedures.

We are asking that you review the attached proposal with the parolee. If, after this discussion, the parolee accepts the proposal, please advise this office by faxing the signed waiver to (301) 492-5525. We would also appreciate notification if the parolee declines the proposal.



If you have any further questions, please call Mary J. Roe, Case Analyst (301) 492-5821.

Sincerely,

Betty Bump  
Case Operations Assistant

**APPENDIX 3: EXCERPT FROM UNITED STATES PAROLE COMMISSION  
RULES AND PROCEDURES MANUAL (2003 EDITION) – SECTION 2.66**

**§2.66 EXPEDITED REVOCATION PROCEDURE.**

**(a) In addition to the actions available to the Commission under §2.47(a) and (b), and under §2.48, the Commission may offer an alleged parole violator an opportunity to accept responsibility for his violation behavior, to waive a revocation hearing, and to accept the sanction proposed by the Commission in the Notice of Eligibility for Expedited Revocation Procedure that is sent to the alleged violator.**

**(b) The following cases may be considered under the expedited revocation procedure:**

**(1) Cases in which the alleged violator has been given a preliminary interview under §2.48, and the alleged violation would be graded Category One or Category Two;**

**(2) Cases in which the alleged violator has been given a preliminary interview under §2.48 and the proposed decision is continue to expiration of sentence, regardless of offense category; and**

**(3) Cases in which an alleged violator has received a dispositional review under §2.47, and the Commission determines that conditional withdrawal of the warrant would be appropriate, but forfeiture of street time is deemed necessary to provide an adequate period of supervision.**

**(c) The alleged violator's consent shall not be deemed to create an enforceable agreement with respect to any action the Commission is authorized to take by law or regulation, or to limit in any respect the normal statutory consequences of a revocation of parole or mandatory release.**

- 1.
- 2.
3. A Commission hearing examiner will conduct a probable cause hearing for any District of Columbia Code parolee arrested in the Washington, D.C. metropolitan area. In all other cases, a United States Probation Officer, other than the officer supervising the parolee, will conduct this hearing for the Commission.
4. Under 18 U.S.C. §4214(a)(2)(B), an indigent parolee is entitled to appointed counsel in a federal parole revocation proceeding (including the preliminary hearing and the final revocation hearing).
5. The Commission has used explicit decision-making guidelines at revocation proceedings since 1976 (28 C.F.R. 2.21 (1976)). These guidelines were developed from the explicit decision-making guidelines used by the Commission at parole grant hearings since 1972.
6. See, *e.g.*, Hoffman (1994).
7. Federal offenders include offenders who committed U.S. Code offenses before November 1, 1987 and all offenders prosecuted and sentenced under the Uniform Code of Military Justice who are transferred to the custody of the Federal Bureau of Prisons.
8. Section 11231(a)(2) of *The National Capital Revitalization and Self-Government Improvement Act of 1997* assigned the Commission jurisdiction over all District of Columbia Code parole revocation proceedings effective August 5, 2000 (for offenders who committed District of Columbia Code offenses before August 5, 2000). In addition, §11233©)(2) of this Act assigned the Commission jurisdiction over all District of Columbia Code determinate sentence supervised releasee revocation proceedings (for offenders who commit District of Columbia Code offenses on or after August 5, 2000).
9. Initially, the parolee was given until the day before the hearing to respond. Subsequently, the time period allowed for a response was changed to 14 days from the date of the offer with a 14-day extension granted upon the request of the parolee. The Commission has routinely granted additional extensions when requested.
10. A “continue to exposition” disposition means that the revoked parolee will receive no further parole consideration and will serve the remainder of his or her sentence, less any applicable “good time” credit.
11. It also was expanded to include a rarely occurring situation in which a parolee has served a sentence of imprisonment for a new state offense, the Commission is willing to reparole

the individual to the community directly from state custody, but a revocation proceeding is required to forfeit the parolee's "street time" for the violation. In such case, if the parolee accepts an expedited offer of revocation, the parolee will be released directly to the community rather than being returned to a federal institution for a revocation hearing.

12. There were 20 expedited revocation offers recommended by staff that were declined by the Commission and one expedited offer that was withdrawn by the Commission upon the receipt of additional adverse information.
13. One involved an error in the Commission's guideline computation, one involved new information regarding cooperation with authorities, and three involved new information concerning acceptance by an in-patient drug treatment program.
14. At or near the bottom of the guideline range means the lower third of the guideline range; in the middle of the guideline range means the middle third of the guideline range, and at or near the top of the guideline range means the upper third of the guideline range. Exception: If the guideline range includes only five months (*e.g.*, 12-16 months includes 12, 13, 14, 15, and 16 months), at or near the bottom of the guideline range means the lowest month in the guideline range, at or near the top of the guideline range means the highest month in the guideline range, and in the middle of the guideline range means the remainder of the guideline range. Decisions of a month plus from 1 to 14 days are rounded down; decisions of a month plus 15 days or more are rounded up.
15. The federal fiscal year starts on October 1 of the preceding year (*e.g.*, FY 2001 is from October 1, 2000 through September 30, 2001).
16. One case (0.8 percent) was continued for additional information and a final decision had not yet been made.
17. The 124 expedited offers that were rejected by alleged parole violators were—on average—more severe (higher in the applicable guideline range) than those that were accepted. Of the 48 revocation hearings that resulted in a more lenient decision than the expedited offer, 21 involved an expedited offer within the applicable guideline range and a final decision at a lower point within that guideline range, 1 involved an expedited offer above the applicable guideline range and a final decision within that guideline range, 5 involved a downward revision of the applicable guideline range and a final decision within the revised guideline range, 1 involved a downward revision of the applicable guideline range and a final decision below the revised guideline range, 11 involved an expedited offer within the applicable guideline range and a final decision below that guideline range, and 9 involved reinstatement to supervision based on no finding of violation or a finding of violation insufficient to warrant revocation.
18. For example, based on a review of approximately 150 audio tapes (as part of a quality assurance review by the senior author in October 2003), it was ascertained that local revocation hearings in FY 2003 generally took from thirty to sixty minutes (longer in extremely complex cases or cases with more than one or two witnesses). Importantly, the hearing examiner's conduct of the hearing—including allowing the alleged parole violator

or his or her attorney the opportunity to present his or her side of the case—rarely gave any indication that the hearing examiner was under any time pressure. It would not have been possible for Commission staff to conduct these hearings with the same thoroughness had the 741 cases with expedited revocation dispositions required hearings.

19. See Section 5 (Expedited Revocation Disposition), *Connecticut Board of Parole Policy and Procedure Memorandum: Revocation Process*, July 1, 2003.

## References

Hoffman, P. B. (1994). Twenty Years of Operational Use of a Risk Prediction Instrument: The United States Parole Commission's Salient Factor Score. *Journal of Criminal Justice* 22, 477-494.

United States Parole Commission. *Rules and Procedures Manual*. Washington, DC: United States Parole Commission (2003).