

§2.99

28 CFR Ch. I (7-1-05 Edition)

parole and the forfeiture of time pursuant to D.C. Code 24-406(a).

(f) A summons or warrant issued pursuant to this section shall be accompanied by a warrant application (or other notice) stating:

(1) The charges against the parolee;

(2) The specific reports and other documents upon which the Commission intends to rely in determining whether a violation occurred and whether to revoke parole;

(3) Notice of the Commission's intent, if the parolee is arrested within the District of Columbia, to hold a probable cause hearing within five days of the parolee's arrest;

(4) A statement of the purpose of the probable cause hearing;

(5) The days of the week on which the Commission regularly holds its dockets of probable cause hearings at the Central Detention Facility;

(6) The parolee's procedural rights in the revocation process; and

(7) The possible actions that the Commission may take.

(g) Every warrant issued by the Board of Parole of the District of Columbia prior to August 5, 2000, shall be deemed to be a valid warrant of the U.S. Parole Commission unless withdrawn by the Commission. Such warrant shall be executed as provided in §2.99, and every offender retaken upon such warrant shall be treated for all purposes as if retaken upon a warrant issued by the Commission.

[65 FR 45888, July 26, 2000, as amended at 67 FR 2569, Jan. 18, 2002; 68 FR 41531, July 14, 2003]

§2.99 Execution of warrant and service of summons.

(a) Any officer of any Federal or District of Columbia correctional institution, any Federal Officer authorized to serve criminal process, or any officer or designated civilian employee of the Metropolitan Police Department of the District of Columbia, to whom a warrant is delivered, shall execute such warrant by taking the parolee and returning him to the custody of the Attorney General.

(b) Upon the arrest of the parolee, the officer executing the warrant shall deliver to the parolee a copy of the warrant application (or other notice

provided by the Commission) containing the information described in §2.98 (f).

(c) If execution of the warrant is delayed pending disposition of local charges, for further investigation, or for some other purpose, the parolee is to be continued under supervision by the Supervision Officer until the normal expiration of the sentence, or until the warrant is executed, whichever first occurs. Monthly supervision reports are to be submitted, and the parolee must continue to abide by all the conditions of release.

(d) If any other warrant for the arrest of the parolee has been executed or is outstanding at the time the Commission's warrant is executed, the arresting officer may, within 72 hours of executing the Commission's warrant, release the parolee to such other warrant and lodge the Commission's warrant as a detainer, voiding the execution thereof, if such action is consistent with the instructions of the Commission. In other cases, a parolee may be released from an executed warrant whenever the Commission finds such action necessary to serve the ends of justice.

(e) A summons to appear at a probable cause hearing or revocation hearing shall be served upon the parolee in person by delivering to the parolee a copy of the summons and the application therefor. Service shall be made by any Federal or District of Columbia officer authorized to serve criminal process and certification of such service shall be returned to the Commission.

(f) Official notification of the issuance of a Commission warrant shall authorize any law enforcement officer within the United States to hold the parolee in custody until the warrant can be executed in accordance with paragraph (a) of this section.

[65 FR 45888, July 26, 2000, as amended at 67 FR 2569, Jan. 18, 2002]

§2.100 Warrant placed as detainer and dispositional review.

(a) When a parolee is in the custody of other law enforcement authorities, or is serving a new sentence of imprisonment imposed for a crime committed while on parole or for a violation of

Department of Justice

§2.101

some other form of community supervision, a parole violation warrant may be lodged against him as a detainer.

(b) If the parolee is serving a new sentence of imprisonment, and is eligible and has applied for parole under the Commission's jurisdiction, a dispositional revocation hearing shall be scheduled simultaneously with the initial hearing on the new sentence. In such cases, the warrant shall not be executed except upon final order of the Commission following such hearing, as provided in §2.81(c). In any other cases, the detainer shall be reviewed on the record pursuant to paragraph (c) of this section.

(c) If the parolee is serving a new sentence of imprisonment that does not include eligibility for parole under the Commission's jurisdiction, the Commission shall review the detainer upon the request of the parolee. Following such review, the Commission may:

(1) Withdraw the detainer and order reinstatement of the parolee to supervision upon release from custody, or close the case if the expiration date has passed.

(2) Order a dispositional revocation hearing to be conducted by a hearing examiner or an official designated by the Commission at the institution in which the parolee is confined. In such case, the warrant shall not be executed except upon final order of the Commission following such hearing.

(3) Let the detainer stand until the new sentence is completed. Following the release of the parolee, and the execution of the Commission's warrant, an institutional revocation hearing shall be conducted after the parolee is returned to federal custody.

(d) Dispositional revocation hearings pursuant to this section shall be conducted in accordance with the provisions at §2.103 governing institutional revocation hearings, except that a hearing conducted at a state or local facility may be conducted by a hearing examiner, hearing examiner panel, or other official designated by the Commission. Following a revocation hearing conducted pursuant to this section, the Commission may take any action specified in §2.105.

(1) The date the violation term commences is the date the Commission's

warrant is executed. It shall be the policy of the Commission that the parolee's violation term (i.e., the unexpired term that remained to be served at the time the parolee was last released on parole) shall start to run only upon his release from the confinement portion of the sentence for the new offense, or the date of reparole granted pursuant to this subpart, whichever comes first.

(2) A parole violator whose parole is revoked shall be given credit for all time in confinement resulting from any new offense or violation that is considered by the Commission as a basis for revocation, but solely for the limited purpose of satisfying the time ranges in the reparole guidelines at §2.81. The computation of the prisoner's sentence, and forfeiture of time on parole pursuant to D.C. Code 24-406(a), is not affected by such guideline credit.

[65 FR 45888, July 26, 2000, as amended at 68 FR 41531, July 14, 2003]

§2.101 Probable cause hearing and determination.

(a) *Hearing.* A parolee who is retaken and held in custody in the District of Columbia on a warrant issued by the Commission, and who has not been convicted of a new crime, shall be given a probable cause hearing by an examiner of the Commission no later than five days from the date of such retaking. A parolee who is retaken and held in custody outside the District of Columbia, but within the Washington DC metropolitan area, and who has not been convicted of a new crime, shall be given a probable cause hearing by an examiner of the Commission within five days of the parolee's arrival at a facility where probable cause hearings are conducted. The purpose of a probable cause hearing is to determine whether there is probable cause to believe that the parolee has violated parole as charged, and if so, whether a local or institutional revocation hearing should be conducted. If the examiner finds probable cause, the examiner shall schedule a final revocation hearing to be held within 65 days of such parolee's arrest.

(b) *Notice and opportunity to postpone hearing.* Prior to the commencement of each docket of probable cause hearings in the District of Columbia, a list of