

Number: TBD

EFFECTIVE DATE: December 4, 2000

PROCEDURE STATEMENT

Policy Area: Supervision

Issue: Violation of Conditions of Parole

Action/Guidance: Preliminary Interview

Context: Effective supervision requires an offender accountability structure to ensure that: (1) all active cases are appropriately supervised in order to protect the public; (2) a well-defined course of offender re-integration into the community is followed and closely monitored; and (3) alleged parole violators are dealt with swiftly, strictly and uniformly. SCSOs and CSOs are directly responsible for implementing this process, documenting it, ensuring adherence to and completion of requirements, and communicating the results accurately to the United States Parole Commission ("USPC").

I. Definitions:

- *Form F-2: Preliminary Interview and Revocation Hearing Form*—This form serves as the parolee's notice of rights, and is the vehicle by which the parolee exercises or waives his rights. The form is in two parts. Part I is presented at the initial visit between the interviewing officer and the parolee. Part II is completed at the conclusion of the preliminary interview.
- *Attorney Designation Form*—If the parolee desires a postponement of the preliminary interview and being without funds, wishes to obtain a lawyer, he/she completes both Part I of the Form F-2 (to request a postponement) and the Attorney Designation Form to request counsel. Because an attorney with the Public Defender Service for the District of Columbia ("PDS") will normally be ready to proceed if the parolee signs the form, a postponement will be needed only where the parolee wants a private attorney.
- *Form H-20: Warrant Application*—This form is attached to the warrant and serves as the official statement of the charges against the parolee. A supplemental warrant application may add further charges.
- *Warrant Package*—The package consists of the warrant application, Form H-20, and the Attorney Designation Form that is given to PDS.
- *Local Revocation Hearing*—A fully adversarial hearing reasonably near the place of the alleged violation(s) or arrest. One of the two numbered conditions must be met for a local revocation hearing: (1) the parolee has not been convicted of a crime committed while under supervision and the parolee denies that he has violated any condition of his release; (2) the parolee has not been convicted of a crime while under supervision, the parolee admits some violations, but denies a substantial charge and asks for an adverse witness on that charge.
- *Institutional Revocation Hearing*—A parolee who does not qualify for a local revocation hearing is given a hearing without the right to call adverse witnesses. Although the hearing may be conducted in an institution, the District of Columbia Department of Corrections will hold all parole violators for their hearings, whether "local" or "institutional," except where the parolee is serving a new prison term.

II. The Role and Responsibilities of Interviewing Officer in Preliminary Interviews:

- A. A parolee who is retaken on a warrant issued by a Commissioner shall be given a preliminary interview by an official (the “interviewing officer”) who is designated by CSOSA.
- B. The official designated to conduct the preliminary interview shall be an individual trained and certified to conduct a preliminary interview, and must not be the person who recommended that the warrant be issued.
- C. Within three (3) business days of receiving the assignment, the interviewing officer must visit the parolee and offer to conduct a preliminary interview. The schedule of parolees to be interviewed is sent in advance to PDS by the Scheduling Unit.
- D. The preliminary interviewing officer’s findings enable the USPC to determine if there is probable cause to believe that the parolee has violated his/her parole as charged, the appropriate action to take (e.g., whether a revocation hearing should be conducted, whether an intermediate sanction should be levied, etc.), and what rights need to be observed if a revocation hearing is conducted (e.g., what witnesses to call).

III. Procedure:

A. Conducting the Preliminary Interview

1. The Scheduling Unit places the preliminary interview on the docket and assigns an interviewing officer to conduct the interview.
2. The Scheduling Unit contacts the holding facility and informs the institution and PDS of the date scheduled for the interview.
3. The interviewing officer brings the appropriate forms and documentation to the preliminary interview: (1) Form F-2; (2) Attorney Designation Form; and (3) the Warrant Package.
4. The interviewing officer reads Part I of Form F-2 to the offender which explains the preliminary interview process and apprises the offender of his/her legal rights. The offender’s legal rights include the right to request a postponed preliminary interview to obtain the following:
 - a. the right to an attorney (if a PDS lawyer is not present);
 - b. the right to request the appearance of adverse witnesses.

NOTE: the right to request the appearance of adverse witnesses only applies if the offender intends to contest the administrative charges against him/her and he/she has not been convicted of a new offense while under supervision.

The USPC should be notified as soon as possible of a postponement for an adverse witness so that the USPC can determine whether a combined Preliminary Interview/Local Hearing can be scheduled. PDS frequently requests a postponement for this reason; in that case, the interview is stopped and a summary report is submitted to apprise the USPC of the request.

However, Form F-2 must be completed so the parolee may indicate formally what witnesses he/she wants present at the combined hearing.

5. After presenting the offender with Form F-2, the interviewing officer requests that the offender to sign the form. If the parolee refuses to sign the form, the interviewing officer informs him/her that such refusal will be viewed as a waiver of his/her opportunity to have a local revocation hearing. In this instance, the interviewing officer attaches a detailed statement informing the USPC that the parolee was advised of his/her rights but refused to sign the form.
6. After the parolee has signed Form F-2, the interviewing officer reads the violation(s) charged against the parolee from Form H-20. The Warrant Application identifies the evidence that the USPC will rely upon in revoking parole. The evidence is to be explained and shown to the offender.
7. The interviewing officer asks the parolee to respond to the charges. If the parolee refuses to respond to the charges read to him/her, the interviewing officer informs him/her that a probable cause finding will be made based upon the evidence available.

B. Probable Cause Recommendation of Interviewing Officer

At the conclusion of the preliminary interview, the interviewing officer informs the parolee of his/her recommended decision as to whether there is probable cause to believe that the parolee has violated the conditions of his/her release, and submits to the USPC a digest of the interview together with his/her recommended decision.

1. Evidence to Support a Probable Cause Finding:

The USPC may base a revocation decision on the following documentary evidence:

- letters and declarations (sworn or unsworn)
- police reports
- other reports (such as halfway house disciplinary reports)
- other material that might not be admissible in a criminal trial.

Circumstantial evidence may also support a finding of probable cause.

Note: A conviction is not required. However, conviction of a federal, state, or local crime committed subsequent to release by a parolee **shall** constitute probable cause for the purposes of this procedure and no preliminary interview shall be conducted unless otherwise ordered by the USPC.

Hearsay evidence can be relied upon to find probable cause and to decide whether to revoke parole. The dismissal of a criminal charge does not mean that the underlying evidence fails to support probable cause. It only means that a prosecutor chose not to prosecute the case. Evidence which is sufficient to support a request for a warrant may be sufficient to support a finding of probable cause if it persuades the interviewing officer that there is a likelihood that a violation has occurred. The interviewing officer must make an independent finding as to whether probable cause exists.

2. Interviewing Officer's Recommendation

The interviewing officer must inform the parolee of his/her recommendation as to probable cause. Specific findings regarding each alleged violation must be made and stated to the offender. The interviewing officer must notify the parolee that the USPC will make the final determination as to probable cause.

- a. If probable cause is found, the interviewing officer must state what violation has been found and report this finding to the USPC.
- b. If the interviewing officer's recommendation is that no probable cause may be found that the parolee has violated the conditions of his/her release, this too must be clearly reported to the USPC.

3. Completion of the Preliminary Interview

If probable cause is found, after the charges have been read and the documentary and testimonial evidence has been presented, the parolee is requested to sign Part II of Form F-2 to indicate whether he/she wishes to have a local or institutional revocation hearing.

As soon as possible, but no more than three (3) days following the interview, a summary report must be prepared and sent to the USPC along with all completed forms. A copy of the report (with the exception of the confidential page) shall be given to the parolee and to his/her attorney. A copy of the complete report will also be maintained in the file.

C. Postponement of Interview

At the beginning of the preliminary interview, the interviewing officer advises the parolee that he/she may have the preliminary interview postponed in order to obtain representation by an attorney or arrange for the attendance of witnesses. No postponement shall exceed 30 days.

D. Local Revocation Hearing

A postponed preliminary interview may be conducted as a combined preliminary interview/local revocation hearing by a hearing examiner, hearing examiner panel, or other official designated by the USPC provided that the USPC has ordered a combined procedure and the parolee has been advised that the postponed preliminary interview will constitute his/her final revocation hearing.

IV. Statutory Authority: Section 11233(b)(2)(B) of the National Capital Revitalization and Self-Government Improvement Act of 1997 ("Revitalization Act"), Pub. Law 105-33, 111 Stat. 712, D.C. Code § 24-1233(b)(2)(B) (1996 Repl., 1999 Supp.) (CSOSA Director's authority); 28 C.F.R. § 2.101; D.C. Code §24-1231(a)(2) (1996 Repl., 1999 Supp.).

V. Procedural References/Supercedures:

- References: U.S. Parole Commission Rules & Regulations Manual (June 2, 1997) § 2.48; 18 U.S.C. §4214
- Supercedes: N/A