

## Department of Justice

## §2.213

### §2.212 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 releasee and returning him to the custody of the Attorney General.

(b) Upon the arrest of the releasee, the officer executing the warrant shall deliver to the releasee a copy of the warrant application (or other notice provided by the Commission) containing the information described in §2.211(f).

(c) If execution of the warrant is delayed pending disposition of local charges, for further investigation, or for some other purpose, the releasee 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 releasee must continue to abide by all the conditions of release.

(d) If any other warrant for the arrest of the releasee 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 arrestee to such other warrant and lodge the Commission's warrant as a detainer, voiding the execution thereof, provided such action is consistent with the instructions of the Commission. In other cases, the arrestee 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 releasee in person by delivering to the releasee 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 releasee in custody until the warrant can be executed in accordance with paragraph (a) of this section.

### §2.213 Warrant placed as detainer and dispositional review.

(a) When a releasee is a prisoner in the custody of other law enforcement authorities, or is serving a new sentence of imprisonment imposed for a crime (or for a violation of some other form of community supervision) committed while on supervised release, a violation warrant may be lodged against him as a detainer.

(b) The Commission shall review the detainer upon the request of the prisoner pursuant to the procedure set forth in §2.47(a)(2). Following such review, the Commission may:

(1) Withdraw the detainer and order reinstatement of the prisoner to supervision upon release from custody;

(2) Order a dispositional revocation hearing to be conducted at the institution in which the prisoner is confined; or

(3) Let the detainer stand until the new sentence is completed. Following the execution of the Commission's warrant, and the transfer of the prisoner to an appropriate federal facility, an institutional revocation hearing shall be conducted.

(c) Dispositional revocation hearings pursuant to this section shall be conducted in accordance with the provisions at §2.216 governing institutional revocation hearings. A hearing conducted at a state or local facility may be conducted either by a hearing examiner or by any federal, state, or local official designated by a Commissioner. Following a revocation hearing conducted pursuant to this section, the Commission may take any action authorized by §§2.218 and 2.219.

(d) The date the violation term commences is the date the Commission's warrant is executed. A releasee's violation term (*i.e.*, the term of imprisonment and/or further term of supervised release that the Commission may require the releasee to serve after revocation) shall start to run only upon

the offender's release from the confinement portion of the intervening sentence.

(e) An offender whose supervised release 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 purpose of satisfying the time ranges in the reparole guidelines at §2.21. The computation of the offender's sentence, and the forfeiture of time on supervised release, are not affected by such guideline credit.

**§2.214 Probable cause hearing and determination.**

(a) *Hearing.* A supervised releasee 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 releasee who is retaken and held in custody outside the District of Columbia, but within the Washington D.C. 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 releasee'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 releasee has violated the conditions of supervised release 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 the releasee'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 the releasees who are scheduled for probable cause hearings, together with a copy of the warrant application for each releasee, shall be sent to the D.C. Public Defender Service. At or before the probable cause hearing, the releasee (or the releasee's attorney) may submit a written request that the

hearing be postponed for any period up to thirty days, and the Commission shall ordinarily grant such requests. Prior to the commencement of the probable cause hearing, the examiner shall advise the releasee that the releasee may accept representation by the attorney from the D.C. Public Defender Service who is assigned to that docket, waive the assistance of an attorney at the probable cause hearing, or have the probable cause hearing postponed in order to obtain another attorney and/or witnesses on his behalf. In addition, the releasee may request the Commission to require the attendance of adverse witnesses (*i.e.*, witnesses who have given information upon which revocation may be based) at a postponed probable cause hearing. Such adverse witnesses may be required to attend either a postponed probable cause hearing, or a combined postponed probable cause and local revocation hearing, provided the releasee meets the requirements of §2.215(a) for a local revocation hearing. The releasee shall also be given notice of the time and place of any postponed probable cause hearing.

(c) *Review of the charges.* At the beginning of the probable cause hearing, the examiner shall ascertain that the notice required by §2.212(b) has been given to the releasee. The examiner shall then review the violation charges with the releasee and shall apprise the releasee of the evidence that has been submitted in support of the charges. The examiner shall ascertain whether the releasee admits or denies each charge listed on the warrant application (or other notice of charges), and shall offer the releasee an opportunity to rebut or explain the allegations contained in the evidence giving rise to each charge. The examiner shall also receive the statements of any witnesses and documentary evidence that may be presented by the releasee. At a postponed probable cause hearing, the examiner shall also permit the releasee to confront and cross-examine any adverse witnesses in attendance, unless good cause is found for not allowing confrontation. Whenever a probable cause hearing is postponed to secure the appearance of adverse witnesses (or counsel in the case of a probable cause