

## §2.215

(1) Remand the case for a supplemental probable cause hearing to determine if the new charge is contested by the releasee and if witnesses must be presented at the revocation hearing;

(2) Notify the releasee that the additional charge will be considered at the revocation hearing without conducting a supplemental probable cause hearing; or

(3) Determine that the new charge shall not be considered at the revocation hearing.

### §2.215 Place of revocation hearing.

(a) If the releasee requests a local revocation hearing, the releasee shall be given a revocation hearing reasonably near the place of the alleged violation(s) or arrest, with the opportunity to contest the violation charges, if the following conditions are met:

(1) The releasee has not been convicted of a crime committed while under supervision; and

(2) The releasee denies all violation charges.

(b) The releasee shall also be given a local revocation hearing if the releasee admits (or has been convicted of) one or more charged violations, but denies at least one unadjudicated charge that may be determinative of the Commission's decision regarding revocation or the length of any new term of imprisonment, and the releasee requests the presence of one or more adverse witnesses regarding that contested charge. If the appearance of such witnesses at the hearing is precluded by the Commission for good cause, a local revocation hearing shall not be ordered.

(c) If there are two or more contested charges, a local revocation hearing may be conducted near the place of the violation chiefly relied upon by the Commission as a basis for the issuance of the warrant or summons.

(d)(1) A releasee shall be given an institutional revocation hearing upon the releasee's return or recommitment to an institution if the releasee:

(i) Voluntarily waives the right to a local revocation hearing; or

(ii) Admits (or has been convicted of) one or more charged violations without contesting any unadjudicated charge that may be determinative of the Commission's decision regarding revocation

## 28 CFR Ch. I (7-1-08 Edition)

and/or imposition of a new term of imprisonment.

(2) An institutional revocation hearing may also be conducted in the District of Columbia jail or prison facility in which the releasee is being held. On his own motion, a Commissioner may designate any case described in paragraph (d)(1) of this section for a local revocation hearing. The difference in procedures between a "local revocation hearing" and an "institutional revocation hearing" is set forth in §2.216(b).

(e) Unless the Commission orders release notwithstanding a probable cause finding under §2.214(g), a releasee who is retaken on a warrant issued by the Commission shall remain in custody until a decision is made on the revocation of the term of supervised release. A releasee who has been given a revocation hearing pursuant to the issuance of a summons shall remain on supervision pending the decision of the Commission, unless the Commission has ordered otherwise.

(f) A local revocation hearing shall be held not later than 65 days from the retaking of the releasee on a supervised release violation warrant. An institutional revocation hearing shall be held within 90 days of the retaking of the releasee on a supervised release violation warrant. If the releasee requests and receives any postponement, or consents to any postponement, or by his actions otherwise precludes the prompt completion of revocation proceedings in his case, the above-stated time limits shall be correspondingly extended.

(g) A local revocation hearing may be conducted by a hearing examiner or by any federal, state, or local official who is designated by a Commissioner to be the presiding hearing officer. An institutional revocation hearing may be conducted by a hearing examiner.

### §2.216 Revocation hearing procedure.

(a) The purpose of the revocation hearing shall be to determine whether the releasee has violated the conditions of the term of supervised release, and, if so, whether the term should be revoked or the releasee restored to supervised release.

(b) At a local revocation hearing, the alleged violator may present voluntary witnesses and documentary evidence.