

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
ADMINISTRATIVE ORDER NO. 09-15**

**Revised Procedures Under The Bail Reform Act of 2000 For
Remands and Abscondences of Pre-trial Defendants in Halfway Houses**

Supersedes Administrative Order 03-08

WHEREAS, The Bail Reform Act of 2000 (the Act), codified at D.C. Code § 23-1329 (f)(1) - (5), places obligations on the Department of Corrections (DOC) and the Superior Court with respect to the treatment of defendants in a pretrial status who have been released to halfway houses in the District of Columbia pursuant to D.C. Code § 23-1321 (c)(1)(B)(xi);

WHEREAS, pursuant to its obligations under the Act, the DOC has promulgated regulations to establish standards of conduct and discipline for such defendants, as well as to classify infractions that violate the DOC standards. *See* 28 DCMR 700 *et seq.* (2002);

WHEREAS, a defendant who commits a Class I infraction, as defined in 28 DCMR 702.5, will be “immediately remanded to the [Central Detention Facility] pending judicial intervention and review.” *See* 28 DCMR 702.2;

WHEREAS, the Act thereafter requires that the “Department of Corrections shall immediately notify the Superior Court . . . of the detention of the person and request an order for the person to be brought before the Court without unnecessary delay[.]” D.C. Code § 23-1329 (f)(3), and also requires that “[a]n affidavit stating the basis for the person’s remand to the jail shall be filed forthwith with the court.” *Id.*;

WHEREAS, based on these statutory provisions, the DOC regulations provide that the “affidavit stating the basis for the defendant's remand shall be prepared and filed by the Community Corrections staff with the appropriate judicial officer within twenty-four (24) hours (excluding weekends and holidays) along with a request for the removal of the defendant from the work release program,” and “a request for an order that the defendant be brought before [the] court without unnecessary delay.” *See* 28 DCMR 703.2; and

WHEREAS, the Act further provides: “If, based on the affidavit . . . the Court finds probable cause to believe that the person violated a standard of conduct for which a sanction is revocation of release, it shall schedule a hearing for revocation of release . . . and shall detain the person pending completion of the hearing.” D.C. Code § 23-1329 (f)(4). On the other hand, “If, based upon the affidavit . . . the Court does not find probable cause to believe that the person violated a standard of conduct for which the sanction is revocation of release, it shall order the release of the person with the original or modified conditions of release.” D.C. Code § 23-1329 (f)(5).

NOW, THEREFORE, it is by this Court,

ORDERED, that the procedures originally established in Administrative Order 02-18, and modified in 03-08 be further modified to insure that the statutory obligations of the DOC and the Superior Court are carried out, as follows:

1. The DOC shall ensure that all affidavits submitted pursuant to these provisions are signed and sworn by the affiant under the penalty of perjury. The “halfway house administrator” and the “charge of quarters” are hereby authorized to act as clerks of the court for the sole purposes of administering oaths and witnessing sworn statements as required by Superior Court Criminal Rules 3 and 5.

Remand Cases

2. Affidavits presented based on any Class I infraction which has resulted in a remand, shall be entitled “Notice of Remand” and be filed with the Arraignment Court Intake Office, and docketed for same day probable cause determination in the Adult Arraignment Courtroom.
3. The presiding judge in the Adult Arraignment Courtroom shall make a determination, to be announced on the record, whether the affidavit establishes probable cause to continue to detain the defendant. The affiant is not required to be present for the review of the affidavit by the judicial officer.
4. If the judge determines that there is probable cause to believe that a Class I infraction has occurred, the Court shall issue a commitment order detaining the defendant pending a revocation hearing. A revocation hearing shall be scheduled before the judge to whom the case is assigned. The hearing shall be scheduled no less than three days nor more than five days (excluding weekends and holidays) from the finding of probable cause, unless counsel for the government and counsel for the defense agree to a different hearing date. Stand-in counsel shall notify defense counsel of the hearing date. The United States Attorney’s Office, the Pretrial Services Agency and the DOC shall receive notice of the hearing date.
5. If a judge determines that the affidavit does not establish probable cause, the Court shall order that the defendant be released under the original conditions of release i.e. returned to work release status. The DOC shall be notified of this action.

Abscondence Cases

6. The DOC Warrant Squad shall present affidavits based on a defendant’s abscondence or escape from a halfway house entitled “Notice of

Abscondence/Escape” to the USAO for review, and thereafter, shall submit such affidavit to Judge in Chambers requesting the issuance of an arrest warrant. If a finding of probable cause is made, the Judge in Chambers will issue an arrest warrant and the Clerk shall make the appropriate docket entries. The Clerk shall notify the calendar judge of actions taken, via email.

7. A DOC representative from Community Release Programs will also deliver a copy of the “Notice of Abscondence/Escape” to the Arraignment Court Intake Office for dissemination to the calendar judge.
8. In the event an arrest warrant for a defendant who has been deemed a serious danger to the community is needed on a weekend or holiday, a representative from the DOC Warrant Squad shall submit the affidavit to the USAO in intake to review for presentation to the presiding judge in the Adult Arraignment Courtroom for action, if the courtroom is in session. Otherwise, the DOC Warrant Squad representative shall submit the affidavit to the USAO for review, and the USAO may contact the Emergency Judge for issuance of the warrant.

SO ORDERED.

BY THE COURT

Date: November 18, 2009

/s/

**Lee F. Satterfield
Chief Judge**

Copies to:

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Senior Judges
Magistrate Judges
Executive Officer
Clerk of the Court
Division Directors
United States Attorney
Director, Public Defender Service
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