

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
ADMINISTRATIVE ORDER NO. 03-08**

Supercedes Administrative Order 02-18

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

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 standards set down. 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 CCC 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,” see 28 DCMR 702.3, 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, the following procedures have been formulated to insure that the statutory obligations of the DOC and the Superior Court under the Act are carried out:

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. Four copies of each affidavit are presented.

2. Such affidavits shall be filed with the Case Management Branch of the Criminal Division Clerk's Office (Room 4000) of the Court within 24 hours (excluding weekends and holidays) of the detention of the defendant. Generally, the DOC shall notify the Court by 11:00 a.m. each day of the cases in which affidavits will be presented to the Court that day, and actually file the affidavits with the Court by 1:00 p.m.
3. Upon the filing of such affidavit with the Court, the Clerk's Office shall insure that the underlying case file is forwarded to Courtroom C-10 not later than 1:45 p.m. The judge presiding in Courtroom C-10 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 judicial officer 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. The Court shall insure that a copy of the commitment order detaining the defendant is received by the DOC representative in the courtroom so that the order can be delivered and appropriately enforced by the DOC.

5. Upon a finding of probable cause, 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, counsel for the defense and the DOC all 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 from their representatives in the courtroom.
6. If a judge determines that the affidavit does not establish probable cause, the Court shall order that the defendant be released with the original conditions of release.

This administrative order incorporates, and where inconsistent, supercedes Administrative Order 02-18.

SO ORDERED.

BY THE COURT
March 11, 2003

/s/

Rufus King, III
Chief Judge

Copies to:

All Judges
Executive Officer
Clerk of the Court
Division Directors
United States Attorney

Director, Public Defender Service
Director, D.C. Department of Corrections
United States Marshals Service
Director, Pretrial Services Agency
Director, CSOSA
Superior Court Trial Lawyers Association
Librarian