

local revocation hearing whenever adverse witnesses are required to appear and give testimony with respect to contested charges.

(j) *Late received charges.* If the Commission is notified of an additional charge after probable cause has been found to proceed with a revocation hearing, the Commission may:

(1) Remand the case for a supplemental probable cause hearing if the new charge may be contested by the releasee and possibly result in the appearance of witness(es) 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.

6. Section 2.215 (f) is revised to read as follows:

§ 2.215 Place of revocation hearing.

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(f) A local revocation hearing shall be held not later than sixty-five days from the retaking of the releasee on a supervised release violation warrant. An institutional revocation hearing shall be held within ninety 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.

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7. Section 2.216 is amended by revising paragraph (e) and adding paragraphs (g) and (h) to read as follows:

§ 2.216 Revocation hearing procedure.

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(e) All evidence upon which a finding of violation may be based shall be disclosed to the alleged violator before the revocation hearing. Such evidence shall include the Community Supervision Officer's letter summarizing the releasee's adjustment to supervision and requesting the warrant, all other documents describing the charged violation or violations, and any additional evidence upon which the Commission intends to rely in determining whether the charged violation or violations, if sustained, would warrant revocation of supervised release. If the releasee is represented by an attorney, the attorney shall be provided, prior to the revocation

hearing, with a copy of the releasee's presentence investigation report, if such report is available to the Commission. If disclosure of any information would reveal the identity of a confidential informant or result in harm to any person, that information may be withheld from disclosure, in which case a summary of the withheld information shall be disclosed to the releasee prior to the revocation hearing.

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(g) At a local revocation hearing, the Commission shall secure the presence of the releasee's Community Supervision Officer, or a substitute Community Supervision Officer who shall bring the releasee's supervision file if the releasee's Community Supervision Officer is not available. At the request of the hearing examiner, such officer shall provide testimony at the hearing concerning the releasee's adjustment to supervision.

(h) After the revocation hearing, the hearing examiner shall prepare a summary of the hearing that includes a description of the evidence against the releasee and the evidence submitted by the releasee in defense or mitigation of the charges, a summary of the arguments against revocation presented by the releasee, and the examiner's recommended decision. The hearing examiner's summary, together with the releasee's file (including any documentary evidence and letters submitted on behalf of the releasee), shall be given to another examiner for review. When two hearing examiners concur in a recommended disposition, that recommendation, together with the releasee's file and the hearing examiner's summary of the hearing, shall be submitted to the Commission for decision.

8. Section 2.217 (a) (1) is amended by removing "preliminary interview" and adding in its place "probable cause hearing".

9. Section 2.218 (g) is revised to read as follows:

§ 2.218 Revocation decisions.

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(g) Decisions under this section shall be made upon the concurrence of two Commissioner votes, except that a decision to override an examiner panel recommendation shall require the concurrence of three Commissioner votes. The final decision following a local revocation hearing shall be issued within 86 days of the retaking of the releasee on a supervised release violation warrant. The final decision following an institutional revocation hearing shall be issued within 21 days

of the hearing, excluding weekends and holidays.

Dated: January 16, 2003.

Edward F. Reilly, Jr.

Chairman, U.S. Parole Commission.

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DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 002-2003]

Privacy Act of 1974; Implementation

AGENCY: Department of Justice.

ACTION: Interim Rule with Request for Comments.

SUMMARY: This interim rule with request for comments implements the Privacy Act of 1974, as amended (5 U.S.C. 552a, Pub. L. 93-579). This regulation exempts five Privacy Act systems of records of the Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), from the subsections of the Privacy Act listed below. The five systems of records listed below are described in today's notice section of the **Federal Register**. As described in the rule, the exemptions are necessary to protect law enforcement and investigatory information and functions of ATF, and will be applied only to the extent that information in a record is subject to exemption pursuant to 5 U.S.C. 552a(j) and (k).

DATES: This rule is effective on January 24, 2003. Written comments must be submitted on or before March 25, 2003.

ADDRESSES: All comments concerning this interim rule should be mailed to: Mary Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (1400 National Place Building).

FOR FURTHER INFORMATION CONTACT:

Mary Cahill (202) 307-1823.

SUPPLEMENTARY INFORMATION: On November 25, 2002, the President signed into law the Homeland Security Act of 2002, Pub. L. 107-296, 116 Stat. 2135 (2002). Under Title XI, Subtitle B of the Act, the "authorities, functions, personnel, and assets" of the Bureau of Alcohol, Tobacco, and Firearms are transferred to the Department of Justice, with the exception of certain enumerated authorities that were retained by the Department of the Treasury. The functions retained by the Department of the Treasury are the responsibility of a new Alcohol and Tobacco Tax and Trade Bureau. Section 1111 of the Homeland Security Act