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| | | ADULT PAROLE ADMINISTRATION: ARRESTS and DETENTION | |

This Administrative Regulation is to be made available in law libraries or other inmate resource centers.

EFFECTIVE: March 1, 1980
 REVISED: October 31, 2005
 REVIEWED: July 31, 2006
 REVIEWED: July 31, 2007
 REVISED: September 26, 2008
 REVISED: September 24, 2009
 REVISED: September 30, 2010
 REVISED: September 27, 2011
 REVISED: September 21, 2012
 REVISED: October 25, 2013
 REVISED: November 24, 2014
 REVISED: September 30, 2015

SUMMARY of REVISION/REVIEW

Director's name changed in signature block. 2.A.4. reference to teletype entries for absconders to occur immediately added. Minor grammatical changes in section III.

APPROVED:



 SCOTT FRAKES, Director
 Nebraska Department of Correctional Services

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PURPOSE

To provide guidelines regarding the arrest and detention of adult parolees by staff of Adult Parole Administration.

GENERAL

The arrest and detention of adult parolees initiated by Adult Parole Administration (APA) staff shall follow the guidelines set forth in state statute 83-1,119, applicable American Correctional Association standards, and departmental policies and procedures. State statute 83-1, 119 provides the following:

“83-1,119 Parolee; violation of parole; parole officer; report to Board of Parole; action of board.

- I. Whenever a parole officer has reasonable cause to believe that a parolee has violated, or is about to violate a condition of parole, but that the parolee will not attempt to leave the jurisdiction and will not place lives or property in danger, the parole officer shall submit a written report to the Board of Parole which may, on the basis of such report and such further investigation as it may deem appropriate:
 - A. Dismiss the charge of violation;
 - B. Determine whether the parolee violated the conditions of his or her parole;
 - C. Revoke his or her parole in accordance with the Nebraska Treatment and Corrections Act; or
 - D. Issue a warrant for the arrest of the parolee.

- II. Whenever a parole officer has reasonable cause to believe that a parolee has violated or is about to violate a condition of parole and that the parolee will attempt to leave the jurisdiction or will place lives or property in danger, the parole officer shall arrest the parolee without warrant and call on any peace officer to assist him or her in doing so.

- III. Whenever a parolee is arrested with or without a warrant, he or she shall be detained in a local jail or other detention facility. Immediately after such arrest and detention, the parole officer shall notify the Board of Parole and submit a written report of the reason for such arrest. A complete investigation shall be made by Parole Administration staff and submitted to the Parole Board. After prompt consideration of such written report, the Board shall order the parolee's release from detention or continued confinement to await a final decision on the revocation of his parole.”

These guidelines are also applicable to interstate parolees supervised by Adult Parole Administration staff.

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PROCEDURES

I. ARREST

- A. Pursuant to the provisions of state statute section 83-1, 119, staff of APA who shall have the authority to arrest adult parolees are the following:
1. The Adult Parole Administrator;
 2. Assistant Adult Parole Administrator;
 3. Parole Supervisors;
 4. Parole Officers
- B. Arrests shall occur when APA staff have reasonable cause to believe that a parolee has violated, or is about to violate a condition of parole. An arrest shall also occur if a parolee attempts to leave the jurisdiction, places lives or property in danger, or commits a new felony or serious misdemeanor. Arrests shall be performed with the assistance of law enforcement personnel if it appears that public or staff safety may be endangered. Such situations shall be preceded by a conference between the field officer and the parole supervisor to determine the appropriateness of an arrest when the situation permits.
- C. Parole officers who are authorized to arrest offenders are trained in arrest practices before being allowed to make them. The officers are equipped with authorized restraints and/or vehicle safety equipment. They are trained in transport procedures.
- D. A pre-arrest briefing shall be conducted prior to a planned arrest with all officers and law enforcement agencies participating in the action.
- E. Parole Officers' powers of arrest shall be limited to the following:
1. Nebraska and interstate parolees under the Jurisdiction of Adult Parole Administration, and
 2. Within the borders of the state of Nebraska except as allowed by the Interstate Compact for Adult Offender Supervision when retaking Nebraska interstate parolees from other states.

II. WARRANTS

- A. The Board of Parole is authorized by state statute to issue warrants for the arrest and detention of alleged parole violators. In general, APA requests for warrants shall
1. Be made in cases related to absconding supervision and the parolee's whereabouts are unknown; or when a warrant is requested by the holding authority in cases involving parole violations other than abscond, after repeated attempts to get the parolee to report to his/her parole officer have failed,

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2. Be accompanied by an arrest/violation report which sets forth the circumstances which justify the request, and
 3. Be submitted by the supervising parole officer and reviewed and approved by the Adult Parole Administrator/designee prior to submittal to the Board.
 4. A wanted person entry form will be completed by the APA Hearing Officer and be forwarded to the Special Services unit for NCIC/NCIS entry. After hours, the APA on-call staff will notify the Diagnostic and Evaluation Center (DEC) of the immediate need for an abscond entry into NCIC/NCIS. Upon notification by Adult Parole Administration of a need for an abscond entry, it is expected that teletype entry will occur immediately.
- B. Subsequent to an arrest pursuant to a warrant or when a hold has been placed, Board of Parole approval to release from detention shall be required unless an emergency exists and the Board is unavailable.

III. DETENTION

Parole officers can use local detention only for alleged parole violations. Adult Parole Administration staff are authorized to place adult parolees in detention facilities when the parolee's presence in the community would present an unreasonable risk to public or individual safety and/or property, a new felony or serious misdemeanor has allegedly been committed, the parolee appears to be an abscond risk, or the parolee has exhibited a serious or repeated pattern of violations of the conditions of parole. When violation charges are based on the alleged commission of a new crime, a detention warrant is issued only when the offender's presence in the community would present an unreasonable risk to the public or individual safety.

- A. Local facilities are statutorily authorized for detention by the Adult Parole Administration staff.
- B. The Department's adult facilities may also be used for detention of alleged Nebraska parole violators.
- C. Detention of parolees shall occur only for alleged violations of the parole agreement.

REFERENCE

- I. STATE STATUTES - State Statute Section 83-1,119.
- II. ADMINISTRATIVE REGULATION - AR 010.06, Teletype Operations.
- III. ATTACHMENTS - None.
- IV. AMERICAN CORRECTIONAL ASSOCIATION (ACA) STANDARDS
 - A. Performance Based Standards for Adult Probation and Parole Field Services (APPFS) (4th Edition) 2B-07; 3B-07; 3B-09; 3G-03