

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PAROLE DIVISION**



**POLICY AND
OPERATING PROCEDURE**

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DATE: 12/27/12

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SUPERSEDES: 10/13/05

SUBJECT: SUBSTANCE ABUSE FELONY PUNISHMENT FACILITY (SAFPF)

AUTHORITY: TEXAS GOVERNMENT CODE § 493.009; BPP-POL. 146.251

PURPOSE: To establish criteria and procedures related to SAFPF placements.

PROCEDURE:

- I. ELIGIBILITY CRITERIA FOR SUBSTANCE ABUSE FELONY PUNISHMENT FACILITY (SAFPF) PLACEMENT
 - A. Offenders are eligible for placement in an SAFPF if:
 1. The offender is not charged or convicted of the following sections of the Texas Penal Code, or charged or convicted of criminal attempt under the following sections of the Texas Penal Code:
 - a. Section 21.11 – Indecency with a Child
 - b. Section 22.011 – Sexual Assault
 - c. Section 22.021 – Aggravated Sexual Assault
 2. The offender has no pending misdemeanor or felony charges.
 3. The offender is not serving a jail sentence.
 4. The offender's maximum discharge date exceeds eighteen (18) months from the date of the Texas Board of Pardons and Paroles (BPP) panel decision.
 5. The offender has been tested with a TDCJ-approved screening instrument and is determined to be chemically dependent.

6. The offender is currently not receiving ongoing counseling or monitoring for a serious mental illness or history of serious mental illness, mental disorder, behavior problem, or emotional condition.
 7. The offender is currently not receiving psychotropic medication for a serious mental illness, mental disorder, or emotional condition.
 8. A BPP panel makes a finding that drug or alcohol abuse significantly contributed to the commission of the crime or violation(s) of the conditions of release prior to parole or mandatory supervision.
- B. Offenders may be placed in an SAFPF as a result of BPP action for SAFPF placement pursuant to:
1. A conditional waiver of the Revocation Hearing process, Notice of Alternate Action form (PSV-48A).
 2. The Revocation Hearing process, to include Waiver Processing Sheet (PSV-67).

II. PROCEDURE FOR SAFPF PLACEMENT PURSUANT TO A CONDITIONAL WAIVER OF REVOCATION HEARING PROCESS VIA NOTICE OF ALTERNATE ACTION

- A. Upon receipt of the Notice of Arrest, the field parole officer is responsible for conducting a pre-hearing interview with the offender in accordance with Parole Division policy 4.2.1, *Pre-Hearing and Hearing Process*.
1. The Rights of Offender in the Revocation Process form (PSV-48) shall be read and a copy provided to the offender.
 2. At the time of the initial pre-hearing interview, the offender may agree to placement in an Intermediate Sanction Facility (ISF) or SAFPF. This conditional waiver shall resolve the alleged violation(s) depending on Texas Department of Criminal Justice-Parole Division (TDCJ-PD) recommendation and BPP approval of the recommendation. The allegations must be administrative violations only, with no law violation pending.
 - a. If the offender agrees with the conditional waiver of the Revocation Hearing process and accepts SAFPF placement to resolve the alleged violation(s), then the offender shall sign the PSV-48A, acknowledging understanding and acceptance. The offender is provided a copy of the PSV-48A.
 - b. The field parole officer shall add a hearing/waiver date in the Offender Information Management System (OIMS) within one (1) work day after conducting the pre-hearing interview. If the decision of the BPP is SAFPF, an ISF/SAFPF work item will be generated in the OIMS to be completed by the region ISF coordinator or designated staff.

- B. If the BPP denies SAFPF imposition, then the parole officer shall proceed to the Revocation Hearing process to address alleged violation(s) in accordance with approved Parole Division policy 4.2.1, *Pre-Hearing and Hearing Process*.
- C. If the BPP approves SAFPF imposition, the parole officer shall terminate the current Residence screen in the OIMS and verify the new release plan, if available, and review the Medical screen to ensure all current medical conditions are noted. If the officer determines the offender has a current medical condition that would cause the offender not to be eligible for SAFPF, an email will be forwarded to the region ISF coordinator with supporting documentation.
- D. The region ISF coordinator or designee shall:
 - 1. Complete and approve the ISF/SAFPF work item in the OIMS within three (3) business days of the BPP decision.
 - 2. Ensure that any medical and/or psychological information (e.g., medication, frequency, etc.) is properly recorded on the OIMS.
 - 3. Notify the ISF/SAFPF Parole Officer III (POIII), CCU, by phone or email on cases requiring alternative BPP Action due to a medical reason, retainer, transfer to bench warrant, or new charge.
 - 4. Notify the Central Coordination Unit (CCU) immediately of all offenders on the transportation list who were unable to transport.

III. PROCEDURE FOR SAFPF PLACEMENT PURSUANT TO THE REVOCATION HEARING PROCESS VIA HEARING REPORT PROCESSING SHEET (HS-135) or PSV-67

- A. Upon receipt of the BPP Action for SAFPF placement pursuant to the Revocation Hearing process and the offender being in custody, the assigned parole officer shall complete and forward the SAFPF transfer packet to the PO III, CCU or designee as listed in section II.D above.
- B. Upon receipt of the BPP Action for SAFPF placement pursuant to a Summons Hearing, the assigned parole officer shall:
 - 1. Contact the Warrants Section/Command Center and request an emergency warrant to have the offender taken into custody.
 - 2. Upon receiving the Notice of Arrest, the SAFPF work item shall be completed as listed in II.D above.

IV. SCHEDULING THE ISF TRANSFER

- A. Within two (2) business days of BPP vote, the region ISF coordinator or designee shall complete the SAFPF work item in the work pool in the OIMS.

- B. The CCU shall prepare and forward by fax or email, the transportation list to the ISF facility transporting offenders to the SAFPF, the receiving SAFPF facility, facility parole officers, and Huntsville, at least forty-eight (48) hours prior to the scheduled transport date. Any changes to the transportation lists shall be forwarded by the ISF/SAFPF PO III.

V. PAROLE DIVISION REVIEW OF SAFPF DISCIPLINARY PROCESS

- A. The facility shall forward all Disciplinary Hearing Reports to the CCU, ISF/SAFPF PO III assigned to the facility within three (3) business days after the conclusion of the Disciplinary Hearing. The PO III shall review the reports for due process to determine whether:
1. The offender received written notification of the charge(s) at least twenty-four (24) hours prior to the hearing;
 2. The offender was illiterate, mentally retarded, mentally ill, intellectually or mentally impaired, confined in Pre-Hearing Detention (PHD), non-English speaking or having questionable understanding of English or, if hearing impaired, appointed a counsel substitute;
 3. A counsel substitute was appointed when due to the complexity of the issue, the offender would not be able to present the evidence necessary for an adequate representation of the case;
 4. The offender requested witnesses and witnesses were allowed to testify. If not, the PS I shall determine whether witnesses were disallowed for security or safety consideration and if their written statements were accepted and entered into evidence in the witnesses' absence;
 5. The offender was allowed to present documentary evidence;
 6. The offender was allowed to attend the hearing;
 7. The offender received written notification of the recommended sanction;
 8. Graduated sanctions had been used; and
 9. The recommended punishment was within the range of punishment specified in the Violation Action Grid as outlined in Parole Division policy 4.1.1, *Processing Violations of the Rules and Conditions of Release*.
- B. The ISF/SAFPF PO III shall review the Disciplinary Hearing Report (SSS-74) and indicate whether any of the above requirements were not met and whether he agrees or disagrees with the recommended sanction. The PO III shall provide a copy of the SSS-74 within two (2) business days of the decision to the facility and Facility Parole Officer.

- C. The PO III can overrule any facility-recommended sanction.
- D. If the facility recommendation is to return the offender to TDCJ-CID and the PO III concurs, the facility parole officer shall proceed to the Revocation Hearing process for BPP Action on the new allegation(s).
- E. If the PO III decision is to move to the Revocation Hearing process, the facility parole officer shall proceed to the Revocation Hearing process for BPP Action on the new allegation(s).
- F. Should the offender have two (2) prior findings of guilt for a facility rule violation Category C offense, then any subsequent Category C offense shall be processed as a major disciplinary violation.

VI. DUTIES OF THE FACILITY PAROLE OFFICER

- A. While the offender remains in the facility, the facility parole officer shall:
 - 1. Notify the ISF Central Coordination Unit by email of situations that prevent the offender from being released (e.g., disciplinary, C O R Transmittal, medical, plan failure, etc.) immediately upon learning of said event.
 - 2. Update and maintain offender information in the OIMS in accordance with existing policy.
- B. Processing Disciplinary Violations

To process violations for offenders placed in an SAFPF pursuant to the Revocation Process or Notice of Alternate Action Process, the facility parole officer shall:

- 1. Conduct a pre-hearing interview in accordance with Parole Division policy 4.2.1, *Pre-Hearing and Hearing Process*, with the offender within five (5) business days from the PO III's decision to go to the Revocation Hearing process for disciplinary rule violation(s). The PO III, CCU or designee, will designate that the offender is ineligible for release from the facility.
- 2. Attach a copy of the facility hearing report to include the SSS-74 and attachments to the Rights of the Offender in the Revocation Process form per Parole Division policy 4.2.1, *Pre-Hearing and Hearing Process*.
- 3. Immediately notify the CCU by fax of the BPP Action upon receipt of notification.

VII. SAFPF TERMS

- A. An SAFPF is an indeterminate term of confinement and treatment of not less than six (6) months or more than nine (9) months.

- B. The SAFPF term shall begin the date the offender is placed in SAFPF.
- C. SAFPF confinement and treatment is followed by the Therapeutic Community (TC) Continuum of Care and initial admission into one of the following:
 - 1. An aftercare Transitional Treatment Center (TTC-Phase I) or
 - 2. A Phase 1-B alternative outpatient program for up to 90 calendar days.

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