

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PAROLE DIVISION**



**POLICY AND
OPERATING PROCEDURE**

NUMBER: PD/POP-4.1.1

DATE: 06/28/16

PAGE: 1 of 11

SUPERSEDES: 04/28/16

SUBJECT: PROCESSING VIOLATIONS OF THE RULES AND CONDITIONS OF RELEASE

PURPOSE: To establish procedures for processing post-release violations committed by offenders subject to the jurisdiction of the Parole Division.

AUTHORITY: TEXAS GOVERNMENT CODE §§ 508.112, 508.251, 508.252

PROCEDURE:

- I. It is the policy of the Parole Division to investigate and document alleged violations of the rules and conditions of release committed by offenders. The supervision level of the offender and the alleged violations under investigation determine the extent of action by field personnel. Field personnel shall use the Violation Action Grid (VAG) as a guide to determine the extent of action.

Note: Refer to PD/POP-4.2.1, *Pre-Hearing and Hearing Process*, for action to be taken upon summons issuance, warrant confirmation, or when an offender is in custody without a warrant.

II. Investigation of Violations

- A. All suspected violations of the conditions of release to supervision shall be investigated and documented in the Offender Information Management System (OIMS).
- B. Alleged violations shall constitute the violations charged against an offender and specifically cited in the Violation section in the OIMS. Alleged violations shall be supported by information gathered during the course of the investigation. All contacts that are conducted during the investigation, to include any missed contacts, shall be entered into the OIMS within three (3) business days after the contact or after return to the designated headquarters for contacts made in the field. This includes, but is not limited to, all contacts and attempted contacts with family members, law enforcement, vendors, therapists, the offender, etc. The investigating officer shall classify these types of contacts as "Investigative." Information supporting allegations shall also be cited in the OIMS.

- C. Information that can be relied upon to support the alleged violation shall be limited to evidence that can be established through documents, testimony, or exhibits, including documents, testimony, or exhibits obtained from the offender. Unless the source of the information is a person whose identity is protected by law, the sources of the information relied upon to support the alleged violation shall be clearly identified.
- D. When alleged violations include allegations of violations of criminal law, the investigation shall include information or reports from officials associated with the investigation of the alleged criminal conduct.
- E. When suspected violations, whether alleged or not, include complaints of violations of criminal law, such complainants shall be informed that they should register their complaints with the appropriate law enforcement agencies.
- F. A National Crime Information Center/Texas Crime Information Center (NCIC/TCIC) check shall be conducted prior to the submission of a Violation Report (VR) that contains at least one Type I allegation. The check shall include a review of a recent criminal history report and a wanted persons check.
- G. In the event that the alleged violations include absconding, the information that can be relied upon to support the alleged violation shall include reference to historical OIMS entries that indicate the last known report date and file records that indicate the offender's knowledge of reporting and residence requirements. Refer to Section IX or X for determination of absconder status for regular and specialized caseloads.
- H. In the event the allegation is an arrest for stalking, as defined in Section 42.072 of the Texas Penal Code, the victim's pseudonym, if provided by law enforcement, shall be utilized when completing the violation report and in all documents thereafter.

III. Documentation of Violations

An entry in the Violation section Parole Action Violation/Revocation (PAVR) of the OIMS shall constitute documentation for violations noted in the VAG. All Type I violations shall be entered in the Violation section (PAVR) within five (5) business days from the date the violation is made known to the parole officer. All Type II violations shall be investigated, and if appropriate, followed by an intervention and documentation in the Violation section (PAVR) within ten (10) business days from the date the violation is made known to the parole officer. The violations shall be entered in either a newly created VR or added to an existing, active VR.

IV. Violation Categories

- A. The VAG is designed to provide guidance to staff and outline actions that may be taken when an offender has violated the terms and conditions of release. The VAG takes into consideration the severity of the violation, previous violations, and the offender's supervision level.

In the event the VAG has a “W” listed as an action, the Parole Division action may be up to and including issuance of a pre-revocation warrant. Except as provided in Section VI of this policy, if the VAG has an “S” listed as an action, the Parole Division action may be up to and including the issuance of a summons to appear at a pre-revocation hearing. Except as provided in Section VI of this policy, if the VAG has an “I” listed as an action, the Parole Division action may be an intervention.

B. Type I

The following violations require parole officer investigation, documentation, and action according to the VAG within five (5) business days from the date the violation is made known to the parole officer:

1. Arrest, charge, indictment, or conviction for a new felony offense.
2. Arrest, charge, or conviction for any assaultive conduct or non-filed assaultive conduct supported by affidavit(s) from complainant(s) and witness(es).
3. Arrest, charge, or conviction for a new, non-assaultive misdemeanor offense, excluding minor traffic offenses.
4. Possession or use of a firearm, prohibited weapon, or illegal weapon.
5. Absconding supervision as noted in Sections IX and X of this policy.
6. Unsuccessful discharge from a treatment program (excluding any indigent offenders that were discharged based solely on their ability to pay the required fees). This includes substance abuse treatment, domestic violence counseling, and anger control training/counseling/sex offender treatment.
7. Consecutive admitted or detected instances of alcohol, a controlled substance, or illicit substance use, and refusal by the offender to participate in treatment. “Consecutive” is defined as the detection or admission of substance use at least twice during a 60 calendar day period.
8. Violation of conditions of release to supervision restricting contact with minors, specified persons, and/or victims.
9. Violation of conditions of release to supervision related to operation of a motor vehicle, travel, or movement restrictions. These may include leaving the state or county without permission, entering child safety zones, or entering prohibited counties.

10. Violation of one or more of the following Special Conditions: “O.08”–No gang activity (and all components), “O.21”–District (Day) Reentry Center (DRC) Program, “O.29”–Not enroll in/attend/enter college/university, “O.30”–Not own/maintain/operate computer equipment, “O.31”–Not own/maintain/operate photographic equipment, “O.32”–Notify prospective employer, “O.40”–No employment at nursing home or similar facility, “O.45”–DWI repeat offender program, “O.48”–Shall participate in the SVORI aftercare program, “P”– Mental Health Services or Intellectual Developmental Disorder (and all components).
11. Violation of rule(s) of an Intermediate Sanction Facility (ISF) or a Substance Abuse Felony Punishment Facility (SAFPF).
12. Confirmed Global Positioning System (GPS) or electronic monitoring (EM) equipment tampering violations or failure to participate in either program, or officer verified deliberate violations of GPS or EM activity schedule or curfew by the offender shall be processed in accordance with PD/POP-3.5.1, *Electronic Monitoring Program* or PD/POP-3.15.1, *Super-Intensive Supervision Program (SISP)—Administrative Guidelines*.
13. Violation of Super-Intensive Supervision Program (SISP) or conditions of release to supervision related to sex offender registration, access or possession of prohibited activities, materials, or services, shall be processed in accordance with PD/POP-3.15.1, *Super-Intensive Supervision Program (SISP)—Administrative Guidelines*, PD/POP-3.6.2, *Sex Offender Program Supervision Guidelines*, or PD/POP-3.6.4, *Sex Offender Registration Program*.

C. Type II

The following violations require investigation and, if appropriate, intervention and documentation in the OIMS not more than 10 business days from the date the parole officer becomes aware of the violations:

1. Failure to report as instructed, offender location verified.
2. Change of residence without the permission of the parole officer, offender location verified.
3. Arrest or conviction for minor traffic offenses punishable only by fine.
4. Acting as an informant without approval.
5. Association with persons of criminal background without permission.
6. Delinquency in the payment of statutorily required monies, as noted in PD/POP-3.1.6, *Restitution/Post-Secondary Education Reimbursement/Fees/Collection Process*.

Note: An intervention for failure to pay supervision fees (only) can be documented in the OIMS as a contact entry and the intervention noted as a contact reason.

7. Admitted or detected single or non-consecutive instances of alcohol, controlled substance, or illicit substance use in violation of conditions of release to supervision.
8. Failure to comply with conditions of release to supervision related to required treatment or training program not involving unsuccessful discharge.
9. Activity schedule or curfew violations that the parole officer verifies were caused by negligence of the offender.
10. Violation of conditions of release to supervision requiring “C”–No Financial Transactions, “I”–Notify Perspective Employer if Position of Financial Responsibility, or the Department of Public Safety Identification Card/Driver License program.
11. Failure to obtain or demonstrate a sixth grade education skill level.
12. Violation of one or more of the following Special Conditions: “O.07”–Community service, “O.12”–Not enter establishment for on premise alcohol consumption, “O.22”–Gainful employment, “O.36”–Provide full financial disclosure, “O.37”–Participate in Project RIO, “O.38”–Participate in cognitive skills classes.

V. Interventions

An intervention is a corrective measure designed to increase control of offenders and to direct offenders toward future compliance with the rules and conditions of release. Interventions shall be applied according to the VAG as deemed appropriate by the parole officer and/or unit supervisor.

A. Warning/Admonishment

1. Compliance counseling by the parole officer.
2. Written reprimand from the parole officer or supervisor.
3. Case conference with the offender, parole officer, and supervisor.

B. Increase Control

1. Increase supervision level and/or increase contact with the offender.
2. Activity monitoring (job lists, daily diary, financial review).

3. DRC reporting and/or program attendance.
- C. Increase Monitoring/Programming
1. Alcohol testing
 2. Electronic monitoring
 3. Treatment programming
 4. Urinalysis
- D. Modifications of the conditions of release to supervision pursuant to approved special condition request from a parole panel.
- E. In the event that a VR results in a decision by the Warrants Section to not issue a warrant, an intervention shall be applied.

VI. Issuance of Summons to Appear

- A. A summons may be issued for an offender after the first anniversary of the date the person was released, when the offender has maintained stable employment and a stable residence for a year and;
1. Is not on the SISP, EM, or sex offender caseload;
 2. Is not an absconder;
 3. Is not a threat to public safety, as defined in paragraph C of this section; and
 4. If charged with a Class C misdemeanor, said offense is not against a child younger than 17 years of age or an offense involving family violence.
- B. A summons shall be issued if an offender:
1. Is charged only with committing an administrative violation of release, after being on supervision for one or more years;
 2. Is an offender for which a summons may not be issued under Section VI.A.
- C. Type I violations 1, 2, 4, 5, 8, 9, 10, 11, 12, and 13 (Section IV, Violation Categories) are deemed for the purposes of this section to constitute a threat to public safety and are not subject to summons issuance. Additionally, any behavior that is believed to be a precursor to the possibility of dangerous behavior constitutes a threat to public safety.

Some examples of this type of behavior are failure to attend anger management counseling, failure to abide by special conditions concerning operating a motor vehicle, or failure to abide by special conditions concerning treatment.

VII. Disposition of Violation Reports

- A. VRs shall require a recommended action from the submitting parole officer, the unit supervisor, and/or the parole supervisor. If a unit supervisor fails to agree with the parole officer's recommended action, the unit supervisor shall make an alternate recommendation. The parole supervisor shall then determine which of the two recommendations shall constitute the recommended division action. In all cases, the recommendation shall be reflected by signature of the appropriate authority. Two (2) signatures for the same recommendation shall constitute the recommended Parole Division action. The supervisor who enters the concurring recommendation shall ensure all contacts associated with the violation(s) have been entered into the OIMS.
- B. Recommended actions in response to alleged violations include:
 - 1. Recommend one of the following:
 - a. "Continue Supervision – No Further Action."
 - b. "Continue Supervision – Apply Intervention" (specify intervention).
 - c. "Continue Supervision – Await Disposition of Criminal Charge."
 - d. "Continue Supervision – Request BPP Condition" (specify letter[s]).
 - 2. Issue Summons to Appear in accordance with the provisions in this policy.
 - 3. Recommend "Issue Warrant."

VIII. Unit supervisors shall review VRs no later than one (1) business day after receipt. In the event the unit supervisor is not available (e.g., training, approved leave, etc.), the VR shall be transferred to another unit supervisor.

VRs that are incorrect, incomplete, or require additional investigation shall be returned to the parole officer within one (1) business day with specific instructions for action. In reviewing the VR for a recommendation, the supervisor shall evaluate the severity of the alleged violations, the supervision history of the offender, and the prior application and/or availability of interventions. Based on the severity of the alleged violation, returning of the VR shall not delay the appropriate action or interfere with the final disposition of the VR.

In instances where a VR has been returned due to being incomplete or requiring additional information, the parole officer shall comply with the instructions provided and re-submit the violation report within two (2) business days of return.

IX. Determination of Absconder Status for Regular Supervision Caseloads

- A. An offender shall be considered an absconder if he fails to make an initial report to a parole office upon release from a detention facility or upon the parole officer becoming aware that the offender has absconded supervision. For the purposes of determination of absconder status, a minimum of one (1) attempted home visit shall be conducted as part of the investigation. The attempted home visit shall be conducted within five (5) business days of the initial missed contact. The officer shall submit a VR within five (5) business days of the date scheduled for the initial report to the field officer or upon the parole officer becoming aware that the offender has absconded supervision.
- B. The supervising officer shall attempt to locate the offender prior to submitting a VR for absconding supervision. The investigation should include, but not be limited to, NCIC/TCIC checks, jail checks, and contacts with employers, family members, landlords, and reported residence(s). The NCIC/TCIC check shall include a review of a recent criminal history report and a wanted persons check.
- C. An offender shall be considered an absconder if, after initially reporting, he fails to report as scheduled in accordance with applicable contact standards, and cannot be located for the purpose of supervision. The officer shall submit a VR within 15 business days of the date of the missed contact between the officer and the offender. For the purposes of determination of absconder status, a minimum of two (2) attempted home visits shall be conducted. The first attempted home visit shall be conducted within five (5) business days of the initial missed contact.
- D. In the event the offender's whereabouts are not known or there is no contact with the offender, the parole officer shall enter an issue warrant recommendation. Once reviewed in accordance with Section VIII and the reviewing supervisor determines the VR is complete, the reviewing supervisor shall enter an issue warrant recommendation.
- E. In the event the offender resides in a Residential Reentry Center (RRC), contact with RRC staff verifying the offender no longer resides at the facility will suffice for an attempted home visit.

X. Determination of Absconder Status for Specialized Caseloads

- A. If the offender fails to attend a scheduled contact (field, home, or office) with the officer, and the offender cannot be located, the officer shall submit a VR within five (5) business days of the missed contact. For the purposes of determination of absconder status, a minimum of one (1) attempted home visit shall be conducted as part of the investigation. The attempted home visit shall be conducted within five (5) business days of the initial missed contact.
- B. Provisions noted in Section IX.A and B of this policy also apply to specialized caseloads.

- C. In the event the offender's whereabouts are not known, or there is no contact with the offender, the parole officer shall enter an issue warrant recommendation. Once reviewed in accordance with Section VIII and the reviewing supervisor determines the VR is complete, the reviewing supervisor shall enter an issue warrant recommendation.
- D. In the event the offender resides in an RRC, contact with RRC staff verifying the offender no longer resides at the facility will suffice for an attempted home visit.

XI. Routing of VRs

- A. If the VR has two concurring recommendations for "Continue Supervision," "Continue Supervision-Pending Disposition," "Felony Conviction-Proceed to Revocation Hearing," or "Intervention," the VR will not be transferred electronically to the OIMS Violation Review work pool.
- B. If the VR has two concurring recommendations for "Issue Summons" or "Issue Warrant," the VR shall be automatically transferred electronically to the OIMS Violation Review work pool.

XII. Warrants Section Review of Violation Reports

- A. Region Warrants Specialists (RWS) and Command Center analysts have the primary responsibility for review of VRs received in the Warrants Section's work pool on the OIMS. The VR review shall consist of:
 - 1. Proper investigation of the allegation(s) was conducted by the officer and documented in the OIMS; and
 - 2. Accuracy and completeness of allegation(s).
- B. Once the review is completed and the decision rendered, a decision shall be entered into the OIMS. The decision can be:
 - 1. Issue warrant, at which time the RWS or Command Center analyst shall determine if the offender is eligible for release on bond;

Note: The Warrants Section shall be notified in the event new information is received affecting the eligibility for release on bond. Additionally, the bond eligibility will be reviewed upon warrant confirmation.
 - 2. Issue summons;
 - 3. Return for alternate action(s);
 - 4. Continue supervision with no further action;

5. Continue supervision pending adjudication of charge(s); or
6. Return for additional information/correction(s).

XIII. If an emergency warrant is issued or a warrant is issued after hours, the parole officer shall ensure all allegations have been updated or added to the OIMS within three (3) business days of warrant issuance. The only exception is if the warrant is withdrawn prior to the end of the third (3rd) business day.

XIV. Monitoring and Disposition of Criminal Charges

- A. The parole officer is responsible for initiating the preliminary hearing process in accordance with PD/POP-4.2.1, *Pre-Hearing and Hearing Process*, as well as, monitoring the status of pending criminal charges. Inquiries shall occur at least one (1) time per month and within seven (7) business days following a scheduled setting of an offender's appearance in court. The name of the agency contacted and the results of the status check shall be entered into the OIMS. Pending criminal charges shall be tracked until final disposition.
- B. Upon notification of final disposition of a criminal charge, the parole officer shall act in accordance with the following circumstances within five (5) business days and document the action in the OIMS.
 1. No Warrant in Effect
 - a. Apply an intervention, or
 - b. Initiate the hearing process, or
 - c. Update the existing VR with the disposition information and enter a new recommendation.
 2. Warrant in Effect
 - a. Conduct a pre-hearing interview with the offender to continue the hearing process.
 - b. Request closure of the warrant in accordance with PD/POP-4.2.2, *Warrant Closure/Return to Supervision*, and apply an intervention, or initiate the hearing process by summons, as appropriate.

XV. Appeal of a Warrants Section Decision

If any member of the field staff is not in agreement with a decision, notice shall be forwarded to the Region Director who will review the facts of the case and the requested action. If in agreement, the Region Director shall contact the Warrants Section Director and include justification for the request to change the original decision. The Warrants Section Director shall review the request and determine the final outcome.

XVI. Interstate Compact Offenders

Out of state offenders supervised in Texas are subject to the same conditions as Texas offenders. Violations by offenders supervised through the Interstate Compact shall be:

- A. Entered into the Interstate Compact Tracking System (ICOTS) per PD/POP 3.10.4, *Supervision Procedures for Interstate Compact Offenders*.
- B. Processed in accordance with Section II, Investigation of Violations, in the event the allegation is listed as a Type I violation (Section IV, Violation Categories).

Note: A Texas Parole Division Emergency Warrant shall be requested in the event the offender is determined to be a threat to public safety, pending receipt of the warrant from the sending state. The Texas Parole Division Emergency Warrant shall be withdrawn upon receipt of notice of warrant issuance or other final decision (i.e., continue supervision) from the sending state.

Stuart Jenkins
Director, Parole Division