

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PAROLE DIVISION**



**POLICY AND
OPERATING PROCEDURE**

NUMBER: PD/POP-1.2.4

DATE: 01/09/17

PAGE: 1 of 4

SUPERSEDES: 07/03/08

SUBJECT: MANAGEMENT OF SUBSTANCE ABUSE TREATMENT INFORMATION AND RECORDS

AUTHORITY: 42 CODE OF FEDERAL REGULATIONS PART 2 (2015); *TEXAS PUBLIC INFORMATION ACT*, TEXAS GOVERNMENT CODE §§ 552.001–.353

PURPOSE: To establish guidelines for the release of substance abuse treatment information and records.

PROCEDURE:

I. CONFIDENTIAL INFORMATION

- A. All information related to the identification of a client's participation in a substance abuse treatment program is strictly confidential by federal statute Title 42 Code of Federal Regulations Part 2. Release of confidential information without the proper release forms is a violation of federal law and is a criminal offense. Parole officers may release information under specific circumstances outlined by federal law.
- B. Texas Department of Criminal Justice-Parole Division (TDCJ-PD) staff shall maintain written records containing confidential substance abuse treatment information on active or inactive clients in a secure room, locked file cabinet, safe, or other similar location when not in use.
- C. TDCJ-PD staff shall not release information about a client receiving or previously receiving substance abuse treatment to anyone outside the TDCJ without an appropriate signed release form. The following information is confidential and shall not be disclosed:
 - 1. The existence of Special Condition "S" (Substance Abuse Treatment) on the parole certificate;
 - 2. Placement of a client at a substance abuse treatment facility; and

3. Information that would identify the client is or has been in a substance abuse treatment program.

II. NOTICE TO CLIENTS OF FEDERAL CONFIDENTIALITY REQUIREMENTS

All clients placed in a substance abuse treatment program shall receive notice of the federal confidentiality requirements. Upon placement of a client in a substance abuse treatment program, including Substance Abuse Counseling Program and Therapeutic Community Continuum of Care services, the parole officer shall:

- A. Read and explain the Confidentiality of Substance Abuse Treatment Patient Records notice (PSV-09) to the client;
- B. Answer any questions the client may have regarding the PSV-09;
- C. Have the client sign and date the notice; and
- D. Image the signed and dated PSV-09 within three (3) business days.

III. CONSENT TO RELEASE CONFIDENTIAL INFORMATION

Parole officers shall only utilize the Consent for the Release of Substance Abuse Treatment Information and Records—Criminal Justice System form (ORA 1.06.A) and General Consent for Disclosure of Substance Abuse Treatment Information and Records form (ORA1.06.B) to disclose substance abuse treatment information and records. The TDCJ-PD does not accept verbal consent or any other written forms.

- A. Consent for the Release of Substance Abuse Treatment Information and Records—Criminal Justice System (ORA 1.06.A)
 1. A client with a special condition requiring treatment shall sign the ORA 1.06.A prior to being placed in substance abuse treatment. If a client refuses to sign the ORA 1.06.A, the parole officer shall explain that refusing to sign the consent will be considered a refusal to participate in substance abuse treatment and a violation of parole in accordance with PD/POP-4.1.1, *Processing Violations of the Rules and Conditions of Release*.
 2. The ORA 1.06.A authorizes both the TDCJ and treatment provider to release all information regarding the client's substance abuse treatment to any entity listed on the form.
 3. Parole officers shall complete the following prior to the client's initial intake appointment at a substance abuse treatment provider:
 - a. Read and explain the ORA 1.06.A to the client;
 - b. Answer all questions the client may have regarding the ORA 1.06.A;

- c. Obtain the client's signature;
 - d. Provide a copy to the client and substance abuse treatment provider; and
 - e. Image the ORA 1.06.A within one (1) business day of signature.
 4. The signed ORA 1.06.A remains in effect for the duration of supervision.
- B. General Consent for Disclosure of Substance Abuse Treatment Information and Records (ORA 1.06.B)
 1. The ORA 1.06.B allows the TDCJ-PD staff to release substance abuse treatment information to a specific person or entity not listed on the ORA 1.06.A and identified by the client.
 2. The client shall sign the ORA 1.06.B prior to allowing any person or entity not specifically listed on the ORA 1.06.A to participate in a Treatment Team Meeting.
 3. Parole officers shall not have clients sign a blank ORA 1.06.B.
 4. Parole officers shall complete the following prior to releasing any substance abuse treatment information:
 - a. Read and explain the ORA 1.06.B to the client;
 - b. Answer all questions the client may have regarding the ORA 1.06.B;
 - c. Obtain the client's signature;
 - d. Provide a copy to the client and the substance abuse treatment provider; and
 - e. Image the ORA 1.06.B within one (1) business day of signature.
 5. The client may revoke the ORA 1.06.B at any time in writing or verbally. Upon notification from the client revoking ORA 1.06.B, the parole officer shall draw one line across the document diagonally, write "Revoked," and note the date and time the revocation instruction was received.
 6. The parole officer shall image revoked ORA 1.06.Bs within one (1) business day.
- C. If a parole officer releases any substance abuse treatment documents or information, a copy of the signed ORA 1.06.A and/or ORA 1.06.B shall accompany the documents notifying the recipients that further disclosure of provided information is not permitted.

- D. If the parole officer releases substance abuse treatment documents or information via email, the following statement shall be added below the released information:

“NOTICE TO RECEIVING AGENCY OR PERSON: This information has been disclosed to you from records protected by federal confidentiality rules (42 CFR Part 2). The federal rules prohibit any future disclosure of this information, unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse treatment patient.”

IV. EXCEPTIONS TO RELEASE OF CONFIDENTIAL TREATMENT INFORMATION

- A. Under certain circumstances, a parole officer may release confidential substance abuse treatment information without a signed ORA 1.06.A or ORA 1.06.B. These circumstances include:

1. Medical emergency;
2. Court order and accompanying subpoena;
3. Information about a crime committed by a client; and/or
4. Information about suspected child abuse or neglect.

Note: Client urinalysis results and a client’s status as a drug user are not protected information.

- B. Parole officers shall document the following information in the Offender Information Management System (OIMS) within one (1) business day of making a disclosure without a signed ORA 1.06.A or ORA 1.06.B:

1. Name of the person/facility receiving the information;
2. Name of the individual making the disclosure;
3. Date and time of the disclosure;
4. What information was disclosed;
5. Nature of the emergency (if applicable); and
6. Origin of the court order and subpoena (if applicable).

Pamela Thielke
Director, Parole Division