

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PAROLE DIVISION**



**POLICY AND
OPERATING PROCEDURE**

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DATE: 01/23/13

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SUPERSEDES: 12/10/08

SUBJECT: INELIGIBLE RELEASE

AUTHORITY: TEXAS GOVERNMENT CODE ANN. §§ 508.251, 508.252

PURPOSE: To describe policy and procedure for processing the case files of offenders who were sentenced to the Texas Department of Criminal Justice – Correctional Institutions Division (TDCJ-CID) and were released, although not eligible for release.

DEFINITION:

Ineligible Release: Occurs when an offender who otherwise should have been returned or transferred to TDCJ-CID or while on a detainer or warrant is released from a federal facility, county jail, private facility, or state jail facility. An ineligible release can also occur when an offender is released from custody, has not discharged his sentence, or did not sign/receive a Parole or Mandatory Supervision release certificate.

PROCEDURES:

I. INFORMATION OF AN INELIGIBLE RELEASE

In the event an employee suspects or has knowledge that an offender has been ineligibly released, the employee shall forward, via e-mail, the following information through the chain of command to the Assistant Director of the Review and Release Processing Section (RRP). The employee shall include:

- A. The offender's name;
- B. The offender's TDCJ number and SID number;
- C. The offender's supervision status (if known);
- D. The offender's location (if unknown, the offender's last known location will be included);

- E. The date of ineligible release (if known);
- F. A detailed description of why it is believed an ineligible release has occurred; and
- G. The RRP will be responsible for further investigation and determination if an ineligible release has occurred.

II. DIRECTED WARRANT ISSUANCE

- A. The Parole Division Director, Parole Division Deputy Director, Review & Release Director, Region Director, Assistant Region Director, Review & Release Assistant Director, Classification and Records Assistant Director, District Parole Officer IV, District Parole Officer III, District Parole Officer II and District Parole Officer I can request the issuance of an Ineligible Release Warrant upon receipt of information that an offender was not eligible for release.
- B. The Warrants Section shall process the request and include the Assistant Director and Program Supervisor III (PS III), RRP, on the distribution of the notice of warrant issuance.

III. INELIGIBLE RELEASE DETERMINATION

- A. Upon receipt of either the notice of possible ineligible release or the notice of Ineligible Release Warrant issuance, the Assistant Director of RRP shall determine if an ineligible release has occurred. The determination will be made within three (3) business days.
- B. In the event it is determined an ineligible release has occurred and there is not an existing warrant in effect, the RRP Section shall complete and forward an Ineligible Release warrant request to the Warrants Section. The following shall be included on distribution: Parole Division Director, Parole Division Deputy Director, Review & Release Director, Review & Release Assistant Director, and the Assistant Director of Classification and Records office.
- C. In the event it is determined an ineligible release has **not** occurred and there is an Ineligible Release Warrant in effect, the RRP Section shall request that the Ineligible Release Warrant be withdrawn via the Warrant Cancellation e-form (PSV-0701).

IV. WARRANT CONFIRMATION

- A. Within two (2) business days of warrant confirmation, the Warrants Section shall request a recalculation of the offender's maximum expiration date based on prior in-custody dates.
- B. Within two (2) business days of receipt of the recalculated maximum expiration date, the Warrants Section shall forward the information to the Assistant Director of the RRP Section, who will then determine and notify the Warrants Section with one of the following decisions:
 - 1. That a release certificate will be executed and the warrant withdrawn. The Warrants Section and Huntsville Placement and Release Unit (HPRU) shall coordinate with the holding facility (if the offender is out-of-state) or the assigned district parole office (if the offender is in custody in state) to have the release certificate executed. The Warrants Section shall be responsible for withdrawing the warrant for those offenders that are out of state.
 - 2. That an Ineligible Release Hearing will need to be scheduled and conducted.
 - a. The Warrants Section shall be responsible for the extradition of those offenders that are out of state and is responsible for the hearing process upon the return of the offender.
 - b. The assigned district parole office, with the assistance of the Warrants Section, shall be responsible for the hearing process for those offenders in custody in the state.
 - i. The assigned district parole office or institutional parole office shall interview the offender using the Rights of Offender in the Ineligible Release Process form (PSV-48i).
 - ii. Schedule and conduct the Ineligible Release Hearing.

V. MAXIMUM EXPIRATION DATE REVIEW

- A. The Warrants Section shall be responsible for identifying all active ineligible release warrants in which the offender has passed the maximum expiration date.
- B. Once identified, the Warrants Section shall verify the date is accurate.
- C. In the event the maximum expiration date has passed, the warrant shall be withdrawn (in accordance with *Ex parte Hale*, 117 S.W. 3d 866 [Tex. Crim. App. 2003]).

VI. BOARD RESULTS

- A. The Warrant Section (Extradition Unit) shall monitor the Ineligible Release hearing for a decision. Upon receipt of the decision, the Ineligible Release hearing packet shall be obtained from the Hearing Section and a copy shall be placed in the offender's file.
- B. If the offender is in a county jail, the Classification and Records Office will be notified of the Texas Board of Pardons and Paroles' decision, and a copy of the decision and warrant will be sent to them in order to facilitate transport of the offender to the TDCJ-CID.
- C. The offender shall be notified of the Ineligible Release hearing decision within five (5) days of the BPP action by the district parole officer, if the hearing is held in a county jail or by the institutional parole officer, if the hearing is held in a CID.
- D. The Warrant Section will maintain the file until the offender arrives in the TDCJ-CID.

VII. WARRANT WITHDRAWAL

Upon arrival of the offender in the TDCJ-CID, the file will be forwarded to the PS III of RRP for warrant withdrawal, in accordance with PD/POP-4.2.2, *Warrant Closure/Return to Supervision*.

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