

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PAROLE DIVISION**



**POLICY AND
OPERATING PROCEDURE**

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SUPERSEDES: 08/07/15

SUBJECT: SEX OFFENDER TREATMENT AND POLYGRAPH GUIDELINES

AUTHORITY: TEXAS GOVERNMENT CODE ANN. §§ 493.017, 508.187, 508.221, 508.281, 508.316;
TEXAS OCCUPATIONS CODE §§ 109.052, 109.054, 110.301, 110.302

PURPOSE: To establish procedures for sex offender treatment, sex offender supervision, and polygraph examination.

PROCEDURE:

I. SEX OFFENDER TREATMENT REQUIREMENTS

A. Treatment Providers

Information in this section is applicable to sex offender treatment providers under contract with the Texas Department of Criminal Justice-Parole Division (TDCJ-PD) and to non-contract sex offender treatment providers that clients attend and pay for themselves. Parole officers shall inform non-contract treatment providers of the requirements in this procedure.

If a treatment provider does not abide by these requirements, the parole officer shall instruct the client to locate another treatment provider, or the parole officer shall provide a referral to another sex offender treatment provider.

B. Evaluations

1. Sex offender evaluations shall be conducted:

- a. When Special Condition "O.33"—Evaluate for Sex Offender Counseling is in effect for sex offenders, within 60 days of the client being released or imposition of the condition. Reference PD/POP-3.6.8, *Administrative Guidelines for Imposition of Special Condition "X" for Offenders without a Sex Offense Conviction*, for non-sex offender time frames.

- b. When Special Condition “X”—Sex Offender Program is imposed, the client shall be evaluated as soon as determined necessary, but no later than 180 calendar days after release or imposition of the condition.

If the therapist requires an assessment prior to placement in treatment, the assessment shall take place within seven (7) calendar days of release or imposition of Special Condition “X.”

- c. Annually to determine current treatment needs for a client who:
 - i. Has completed treatment and has Special Condition “X” or a treatment special condition; or
 - ii. Is on a sex offender caseload and has Special Condition “O.33”—Evaluate for Sex Offender Counseling.
- d. Annually for a client currently attending sex offender treatment to determine the client’s progress, regress, and/or risk. Under certain circumstances, it may not be feasible for an evaluation to be completed one (1) calendar year from the last evaluation (e.g., client has been in custody, absconded, etc.). If the supervision team determines an evaluation cannot be completed one (1) calendar year from the last evaluation, the parole officer shall document in the Team Meeting section of the Offender Information Management System (OIMS) the reason the evaluation will be delayed and when the evaluation will be completed. An evaluation shall be completed for a client who is attending sex offender treatment and has been in “Active, Normal Reporting” status for an aggregate period of 12 months.

- 2. Clients who have been civilly committed as sexually violent predators shall follow the treatment protocol and evaluation process as designated by the Texas Civil Commitment Office. Civilly committed clients shall submit to a polygraph as determined by the client’s risk level as noted in Section VII.A.3 of this policy.
- 3. Parole officers shall obtain prior approval from the Accounts Payable Unit for evaluations of clients who qualify for subsidy.
- 4. The initial treatment evaluation shall be comprised of a clinical interview and psychological testing. In addition, the evaluation may include a physiological assessment, if determined appropriate. Treatment providers shall use tools that are appropriate for determining sex offender treatment needs and conform to the standards set by the Council on Sex Offender Treatment.
- 5. Annual evaluations shall consist of an interview, review of risk, review of the polygraph, if applicable, and other testing as determined appropriate by the treatment provider.

6. The parole officer shall enter the client's initial and annual evaluations in the Sex Offender Treatment Program Referral Attendance section in the OIMS within three (3) business days of verifying the client completed the evaluation.
7. Acceptable evaluation assessment tools include:
 - a. Abel Screen
 - b. Abel and Becker Cognitions Scale
 - c. Affinity Assessment
 - d. Bumby Cognitive Distortions Scale
 - e. Burt Rape Myth Acceptance Scale
 - f. Hanson Sex Attitudes Questionnaire
 - g. Hare Psychopathy (Hare-PCL-R)
 - h. Level of Service Inventory-Revised (LSI-R)
 - i. Millon Clinical Multiaxial Inventory (MCMI-II)
 - j. Minnesota Multiphasic Personality Inventory (MMPI-II)
 - k. Minnesota Sex Offender Screening Tool-Revised (MnSOST-R)
 - l. Multiphasic Sexual Inventory (MSI-II)
 - m. Personality Assessment Inventory (PAI)
 - n. Plethysmograph (PPG)
 - o. Polygraph
 - p. Rapid Risk Assessment for Sex Offense Recidivism (RRASOR)
 - q. Sex Offender Risk Appraisal Guide (SORAG)
 - r. Sexual Adjustment Inventory
 - s. Shipley Institute of Living Scale
 - t. Static-99
 - u. Static-99R
 - v. Static-2002
 - w. Acute 2007 Assessment (or current version as revisions are made)
 - x. Stable 2007 Assessment (or current version as revisions are made)
 - y. Violence Risk Appraisal Guide (VRAG)
 - z. Wilson's Sexual Fantasy Questionnaire

The Sex Offender Program supervisor or designee shall approve any other techniques or tests, if used in lieu of the assessments noted above, for clients whose counseling is subsidized by the TDCJ-PD or jointly agreed upon by the parole officer and treatment provider for self-pay clients.

C. Counseling

1. Sex offender counseling shall be in group format. Clients shall attend group counseling once a week for a minimum of 1½ hours of face-to-face contact with the treatment provider each session. This frequency may be modified upon joint agreement of the parole officer and the treatment provider. The parole officer shall document in the OIMS the discussion with the treatment provider and resulting modifications.
2. The Sex Offender program supervisor or designee shall approve the number of treatment sessions, if treatment is not available weekly. Email requests shall be sent from the parole supervisor to the Sex Offender program supervisor or designee. The following information is needed when making this request:
 - a. There is no other sex offender treatment provider within a reasonable driving distance;
 - b. The provider demonstrated that the clients' treatment needs will be met;
 - c. Treatment groups will be at least 180 minutes every other week; and
 - d. The clients will be given homework for the week, when not in treatment, to maintain an acceptable pace in treatment.
3. Clients shall be referred to a sex offender treatment program that, at a minimum, addresses the following issues:
 - a. Arousal or impulse control
 - b. Sexual offense sequence/reoffense prevention
 - c. Thinking errors
 - d. Victim empathy
 - e. Increasing social competence
 - f. Support systems
 - g. Relapse prevention
 - h. Substance abuse education or treatment referral
 - i. Assessment of progress in treatment
 - j. Chaperones
 - k. Improving primary relationships

- l. Adjunct therapies
 - m. After-care treatment
4. The parole officer and treatment provider shall jointly agree upon the course of treatment to include:
 - a. Frequency of attendance and any resulting modifications
 - b. Treatment goals and plans of action
 - c. Other treatment referrals
 - d. Termination from treatment

II. REFERRAL PROCESS TO SEX OFFENDER TREATMENT PROGRAMS

- A. A list of contracted providers shall be attached to the client's release certificate. The releasing parole officer shall instruct the client to attend a program listed on the form identifying the date, time, and place of the first session. To accommodate the schedule and location of the treatment provider and/or the client, parole officers may change the original counseling session schedule arranged by the releasing parole officer.
- B. In the event a client is reincarcerated during the supervision period (e.g., revoked or placed in an intermediate sanction facility [ISF], county jail, etc.) and later released to the same community, or a client was terminated from treatment and non-revocation action was taken, the parole officer shall refer the client to the sex offender treatment provider who was treating the client prior to reincarceration or termination, unless the treatment provider and parole officer agree to refer the client to another treatment provider, or the original treatment provider is no longer available. Parole officers shall strive to ensure that continuity of care is achieved.
- C. Clients shall be enrolled in and attend a treatment program within seven (7) calendar days from the date the:
 1. Client is released from the Correctional Institutions Division (CID), ISF, or county jail;
 2. Transfer of supervision is completed; or
 3. Parole officer receives notice that treatment was imposed.
- D. Disclosure of Information and Waiver of Confidentiality (PMS-33)

This form shall be completed at the time the client is referred to a sex offender treatment program (or any other type of treatment program), polygraph examiner, contract vendor, or self-pay treatment provider, and whenever there is a change in treatment providers. The PMS-33 allows parole officers to observe counseling sessions and establishes a mutual exchange of information.

E. The supervising parole officer shall determine, via the Income Section of the OIMS, whether a client's financial status qualifies him for subsidized services, or whether a client has the ability to pay for treatment in full. If a client qualifies for subsidy, the parole officers shall select "Subsidy Enrolled" in the OIMS and refer to applicable procedures.

F. The parole officer shall submit all of the following items to the treatment provider within five (5) business days of referral and maintain copies in the district file:

1. TDCJ-PD Sex Offender Treatment/Polygraph Referral Information form (PMS-27) specifying the reason for the referral;

2. Copies of the client's available social and criminal history documentation, including offense reports, TDCJ file material, a copy of the risk assessment, psychosocial evaluations, polygraph reports, and progress reports from other treatment programs;

Note: The parole officer shall redact all Personally Identifiable Information (PII) corresponding to **a victim who was under 18 years of age at the time of the offense**, so the identity of the victim is not discernable. Examples of PII would be the name of the victim, statements that show the victim to be the son, daughter, brother, sister, or cousin of any individual, or other statements indicating who the victim is related to such as an aunt or uncle. **The age of the victim is not PII and should not be redacted.** All redacted documents shall be thoroughly reviewed and approved by the unit supervisor prior to the release of the information to the treatment provider.

3. Copies of the client's Certificate of Release including special conditions;

4. Completed and signed PMS-33;

5. Completed Notice of Sex Offender Treatment Requirements (PMS-32), if the referral is to a non-contract provider; and

Note: The parole officer shall provide a copy to the client.

6. Sex Offender Treatment Program (SOTP) Closing Summary (if applicable):

a. The parole officer shall view the SOTP screen in the Inmate Inquiry (IMF) screen to determine if a client attended the in-prison SOTP or the Sex Offender Education Program (SOEP).

b. The parole officer shall print and include the Closing Summary (OT00, option 26—Report Menu) in the initial treatment referral packet to the treatment provider, if the client attended the SOTP program.

c. The parole officer has access to treatment notes for a client who attended the SOTP or SOEP, and may refer to these notes on the OT00 screen, option 13 – Treatment Notes List.

- G. A client shall not be allowed to change sex offender treatment programs unless the treatment provider and parole officer agree to the change. The parole officer and treatment provider shall review all aspects of a client's request, or the need to move a client to another sex offender treatment program to determine if the move is appropriate and in the best interest of the client. If a change in treatment providers is agreed upon, the parole officer shall contact the new treatment provider and provide him with the items noted in Section II.F. The parole officer shall ask the previous treatment provider to submit a TDCJ-PD Sex Offender Treatment Progress Report (PMS-31). The parole officer shall then forward the report to the new treatment provider.

If the parole officer and treatment provider cannot mutually agree on whether the client should transfer to a new treatment provider, the parole officer and the unit supervisor shall meet with the current treatment provider to discuss the situation before taking a course of action. The unit supervisor makes the final decision and documents the reason(s) in the OIMS.

When a client is being terminated from the subsidy program and/or treatment, the parole officer shall complete and submit the TDCJ-PD Sex Offender Treatment Terminated From Subsidy/Notification of Treatment Termination form (SP-0507), indicating the reason for termination (e.g., absconded, arrested, transferred, etc.). If the therapist terminates treatment, the SP-0507 is unnecessary.

III. GROUP OBSERVATION

- A. With the approval of the treatment provider, parole officers are encouraged to observe counseling groups once per quarter. A parole officer's attendance at treatment groups fosters the team approach and opens lines of communication with the treatment provider. "Observation" means the parole officer acts neither as a facilitator of treatment nor as a participant in the session. A schedule shall be coordinated with the treatment provider to minimize disruption of the treatment process. If parole issues arise during the observed group, the parole officer shall inform the client to contact his parole officer to address those issues promptly.
- B. Parole officers who observe counseling sessions shall share information concerning a client's participation in the group with other specialized officers who supervise clients attending the observed group. Parole officers may share information in person, by email, or in any other manner mutually agreed upon by local specialized parole officers. The supervising parole officer shall document any pertinent information in the OIMS.

IV. OTHER TREATMENT NEEDS

If other treatment programs or resources are deemed appropriate, parole officers shall request the necessary special conditions for effective client supervision. Treatment requirements shall be imposed that address the individual client's needs. Parole officers shall use external and internal resources to address these needs.

- A. The use of alcohol and drugs is often associated with acting out sexually or is recorded in the sex offender's criminal history as DWI, Public Intoxication, etc. Sex offenders may blame alcohol or drugs for their behavior and may use substances to entice potential victims. Parole officers shall refer clients who have a pattern of substance usage or abuse to appropriate treatment programs and/or Narcotics Anonymous (NA)/Alcoholics Anonymous (AA), once the special condition is imposed.
- B. Family violence and anger management problems are other areas that can be part of a sex offender's lifestyle. Parole officers shall assess these areas during contacts with the client's significant others and collateral contacts. After discussion with the client's treatment provider, parole officers shall make the proper referral (e.g., family/relationship therapy, anger management therapy, etc.), once the special condition is imposed.
- C. Sex offenders with mental impairment and/or mental illness may require medication or the services of psychiatric programs and/or sex offender treatment providers who treat this population. Parole officers shall make the appropriate referrals upon discussion with the sex offender treatment provider once the special condition is imposed.
- D. Parole officers shall have the client sign the PMS-33 so that all providers may communicate with one another in the event there are multiple providers.

V. SEX OFFENDER TREATMENT PROVIDER'S CREDENTIALS

- A. If the treatment provider is under contract with the TDCJ-PD or employed by the TDCJ SOTP, the parole officer does not need to obtain the treatment provider's credentials.
- B. Referrals for sex offender treatment shall be made only to sex offender treatment providers who are licensed by the Council on Sex Offender Treatment as described in the Texas Occupations Code, Chapter 110, unless otherwise approved by the Sex Offender Program supervisor or designee. For a list of sex offender treatment providers, parole officers shall access the Council on Sex Offender Treatment website at www.dshs.state.tx.us/csot/csot_troster.shtm.

VI. RESPONSIBILITIES OF SEX OFFENDER TREATMENT PROVIDERS AND THE PAROLE OFFICER

- A. Treatment providers shall provide the following documents to the parole officer:
 - 1. A TDCJ-PD Attendance Roster & Billing invoice (PMS-41) or sign-in sheet utilized by non-contract providers each week indicating whether the client attended group session;
 - 2. A PMS-31 by the 10th calendar day after the client's first full month of enrollment, and quarterly thereafter. If a provider uses his own progress report, and it is substantially similar to the PMS-31, the provider's report may be accepted as an appropriate progress report.

The parole officer shall image the progress report into the OIMS Imaging section under Supervision, Program Documents, Referrals, Additional Information section. The PMS-31/Progress Report shall be imaged into OIMS within five (5) business days of receipt;

3. A progress report upon special request by the parole officer;
4. A termination/discharge progress report upon termination from the treatment program;
5. A written treatment plan within 30 calendar days after the client's enrollment in the treatment program, and an updated treatment plan thereafter at the time progress reports are completed or as needed, depending upon the client's progress in treatment; and
6. A report by the 15th calendar day of each month indicating the total number of counseling sessions attended by each client and the reason for any termination. This report is required by state law (Texas Government Code Ann. § 493.017). Parole officers shall notify the Sex Offender Program supervisor or designee if this report is not received from each treatment provider providing sex offender treatment to any sex offender on that parole officer's caseload. The PMS-41 or sign-in sheet may satisfy this requirement if all of the required information is included.

The documents noted above, excluding the PMS-41 or weekly sign-in sheet utilized by non-contract providers, shall be maintained in the client's district file. The PMS-41 or weekly sign-in sheet utilized by non-contract providers shall be imaged in the client's record in the OIMS within five (5) business days of receipt. The PMS-41 or weekly sign-in sheet utilized by non-contract providers shall be provided to the office manager who shall maintain all PMS-41 or weekly sign-in sheets in a central location.

- B. The treatment provider shall notify the supervising parole officer or unit supervisor within two (2) business days when any client:
1. Fails to attend the initial or any subsequent treatment session pursuant to Texas Government Code § 508.187(c)(3);
 2. Refuses to pay for treatment when the ability to pay a specific rate has been established by the supervising parole officer;
 3. Displays disruptive behavior; or
 4. Manifests signs of re-offending.

VII. POLYGRAPH EXAMINATION REQUIREMENTS

- A. Clients shall submit to polygraph examinations to determine deception and compliance with supervision and treatment. Polygraph examinations shall be conducted as follows:
1. An instant offense examination, which refers to a polygraph regarding the sexual offense, shall be conducted within six (6) months of release or imposition of Special Condition “X” for clients who deny the offense. Examples of a denial may include a client refusing to participate in the polygraph examination, pleading not guilty, and/or currently challenging his conviction. The parole officer shall contact the Sex Offender program supervisor or designee. The Sex Offender program supervisor or designee, upon conferring with the Specialized Programs Section Director, shall contact the Office of General Counsel (OGC).
 2. A sexual history disclosure examination, which covers the client’s lifetime, not including the sexual offense, will be conducted within six (6) months of release or imposition of Special Condition “X” for clients who admit their offense, or within nine (9) months of release on supervision or imposition of Special Condition “X” for clients who require an instant offense polygraph. Sexual history polygraphs require extensive preparation between the treatment provider and client. Therefore, the supervising parole officer shall ensure the sex offender treatment provider is aware of the time frames for taking a sexual history polygraph, so he can prepare the client to take the polygraph within the specified time frame.
 3. A maintenance or monitoring examination, which covers the time frame from release or since the last polygraph to the present time, will be conducted after the initial sexual history or instant offense polygraph is completed as follows:
 - a. High-risk clients—Every six (6) months
 - b. Moderate and low risk clients—Annually
 4. Prior to the polygraph examination, the parole officer, treatment provider, and polygraph examiner (treatment team) shall jointly agree on the questions that will be asked of the client.
 5. The treatment team shall jointly agree if additional examinations are necessary. In the event the treatment team does not agree to the frequency of the polygraph examination, the supervising parole officer shall contact the Sex Offender program supervisor or designee by email for further action.
 6. The polygraph schedule mentioned in VII.A.3 reflects the minimum requirements. If a client shows deception or inconclusive results on a polygraph, the treatment team may require additional testing within a reasonable time frame at the client’s expense, unless determined to be indigent or is subsidy eligible.

7. In the event an offender intends to invoke or invokes the Fifth Amendment right, please reference PD/POP-3.6.9, Sex Offender Treatment and Polygraph Guidelines Addendum, dated 03/15/2016, and the Fifth Amendment Notification Form (PMS-35) for instructions.

B. The treatment team shall meet within five (5) business days after completion of the polygraph examination and every six (6) months thereafter, or more frequently if needed, to discuss the examination and determine the need for additional testing, the supervision level of the client, and any needed changes in the client's supervision. The parole officer shall document all team meetings in the Team Meeting section of the OIMS under the appropriate program referral.

VIII. REFERRAL PROCESS TO POLYGRAPH EXAMINER

A. The supervising parole officer shall enter the polygraph program referral in the Program Referral section in the OIMS prior to referring the client to a polygraph examiner.

B. The supervising parole officer shall determine, using the Income Section of the OIMS, whether the client's financial status qualifies him for subsidized services, or whether the client has the ability to pay in full for polygraph examinations. If the client qualifies for subsidy, parole officers shall refer to applicable procedures.

C. The parole officer shall make referrals to the polygraph examiner by submitting a referral packet, which shall contain:

1. The PMS-27, specifying the reason for the referral;

Copies of the client's available social and criminal history documentation, including offense reports, TDCJ file material, closing summaries from the SOTP in CID, psychosocial evaluations, and progress reports from other treatment programs.

Note: The parole officer shall redact all Personally Identifiable Information (PII) corresponding to **a victim who was under 18 years of age at the time of the offense**, so the identity of the victim is not discernable. Examples of PII would be the name of the victim, statements that show the victim to be the son, daughter, brother, sister, or cousin of any individual, or other statements indicating who the victim is related to such as an aunt or uncle. **The age of the victim is not PII and should not be redacted.** All redacted documents shall be thoroughly reviewed and approved by the unit supervisor prior to the release of the information to the provider.

2. Copies of the client's Certificate of Release, including special conditions;

3. Copy of the risk assessment;

4. The TDCJ-PD Sex Offender Treatment/Polygraph Examination/Individual Session Services Invoice (PMS-34) with the email approval from the Accounts Payable Unit if the subsidized polygraph has been approved; and
5. A completed and signed PMS-33.

IX. POLYGRAPH EXAMINATIONS

Parole officers shall work with the polygraph examiner and therapist to develop pre- and post-test questions. When feasible, parole officers are encouraged to observe the polygraph examination, if the examiner does not object. A parole officer's attendance and participation in the process fosters the team approach and opens lines of communication with the polygraph examiner and the treatment provider.

The parole officer shall enter the date of the polygraph in the Polygraph Program Referral Attendance section in OIMS within three (3) business days of verifying the client completed the polygraph. The parole officer shall enter the payment information in the cost section of the Polygraph Program Referral section in the OIMS.

X. POLYGRAPH EXAMINER'S CREDENTIALS

- A. If the polygraph examiner is under contract with TDCJ-PD, the parole officer does not need to obtain the examiner's credentials.
- B. For non-contract polygraph examiners, unit supervisors shall verify the polygraph examiner is identified on the Joint Polygraph Committee on Offender Testing (JPCOT) roster. To verify, access the Texas Association of Polygraph Examiners (TAPE) website at www.texaspolygraph.org.

XI. RESPONSIBILITIES OF POLYGRAPH EXAMINERS

- A. The polygraph examiner shall notify the appropriate parole officer or supervisor within two (2) business days by telephone when any client:
 1. Fails to attend an examination session;
 2. Displays disruptive behavior; or
 3. Manifests signs of re-offending.
- B. The polygraph examiner shall submit a written report within 15 calendar days.

XII. EVALUATION/POLYGRAPH REPORTS

The polygraph examiner shall audio-visually record all polygraph examinations. The recording shall be retained for a minimum of two (2) years. The parole officer shall ensure non-contract examiners audio-visually record each exam prior to making the referral to the polygraph examiner.

- A. The therapist shall submit the evaluation report within the time frame required by policy. The report shall be in a summary format addressing, at a minimum, the following:
 - 1. Reason for referral/referral issues;
 - 2. Techniques administered/methodology;
 - 3. Clinical observation;
 - 4. Test results;
 - 5. Conclusions/recommendations; and
 - 6. The referral questions for clients without a sex offense conviction.
- B. The polygraph examiner shall provide a full written report to the parole officer within 15 calendar days of the completion of the polygraph.

XIII. TREATMENT PROVIDER AND POLYGRAPH EXAMINER SUBSIDY PROGRAM FOR SEX OFFENDERS

- A. Treatment providers across the state have contracts with TDCJ-PD to provide treatment and evaluation services for sex offenders who do not have the financial resources to pay for treatment. The parole officer shall follow the established guidelines to enroll a client in a contract group.
- B. The subsidy program is intended to be used on a short-term basis in order to assist clients until they locate employment and become self-sufficient. There may be a small number of clients who remain indigent for the duration of their supervision period and thus remain on the subsidy program.
- C. Referrals shall be made to providers on a rotating basis if there is more than one contract provider available in the area. However, continuity-of-care issues prevail over referral rotation.
- D. When a sex offender treatment special condition is imposed on a client, the parole officer shall determine if the client is subsidy eligible via the Income section of the OIMS during the initial office visit or within three (3) business days from the date the client is notified of the treatment requirement.
- E. After 60 calendar days of subsidy enrollment, clients shall be automatically removed from the subsidized program unless the parole officer has entered an extension in the OIMS. Extensions can be entered in 30-day increments only.

- F. If a client is not eligible for an extension, the parole officer shall notify the treatment provider via the SP-0507, indicating the date the client will become a self-paying group member. The treatment provider shall terminate the client at the proper time by noting the date of termination on the invoice.
- G. If there is a need to continue the client on subsidy beyond the initial 60 days, the parole officer shall enter the extension request in the Program Referral section of the OIMS. The unit supervisor will approve or reject the request. If the unit supervisor rejects the subsidy extension request, he will be required to provide a reason.
- H. Clients needing open-ended subsidy can be submitted for approval through the OIMS to the Accounts Payable Unit. Open-ended subsidy is reserved for clients who are subsidy eligible and receive disability or have a verifiable disability that prohibits them from working. Parole officers shall document the verification of disability prior to submitting the request via the OIMS. An open-ended request can be submitted for clients who have retired, and the request will be reviewed for approval.
- I. Treatment providers shall establish a participant co-payment plan based on their own sliding scale and shall communicate the scale to the parole officer.
- J. A parole officer shall remove a client from the subsidy program by notifying the client's treatment provider within three (3) business days of the date the parole officer became aware the client will no longer be subsidized (i.e., is no longer subsidy eligible, medically unable to attend, incarcerated, etc.), via the SP-0507. A client may be reinstated if the situation allows attendance to resume.
- K. Clients who have been removed from the subsidy program may be reinstated in the program should the client become subsidy eligible at a later date. Parole officers shall notify the client and provide the treatment provider with a copy of the printed Income screen indicating the client is eligible for subsidy. Parole officers shall document the reasons for the reinstatement in the OIMS. Subsequent referrals for subsidized counseling will be for a period of 60 days.

XIV. INDIVIDUAL SESSIONS/INVOICES

- A. The Sex Offender program supervisor or designee shall review requests for subsidized individual counseling sessions prior to the session commencing. The unit supervisor shall contact the Sex Offender program supervisor or designee by email for approval of sessions on a case-by-case basis. The unit supervisor shall provide information regarding the client's offense, the reason for the client's inability to pay, the treatment provider's evaluation, if one has been completed, and the "unusual circumstance" requiring individual sessions for the client. "Unusual circumstances" may include:
 - 1. The treatment provider's belief that the client might present an immediate threat to the community and no violations have occurred;

2. The client's counseling needs cannot be appropriately met in a group format; or
3. A crisis is present.

Note: The Parole Division will not provide back payments for individual sessions conducted without prior approval from the Program Supervisor or designee.

- B. A copy of the approval email from the Sex Offender Program supervisor or designee shall be forwarded to the treatment provider for billing purposes. The PMS-34 shall be used for billing individual sessions and filled out in the same manner as described above. A written report is not required for individual sessions.
- C. The parole officer shall enter the individual session in the Sex Offender Treatment Program Referral Attendance section in the OIMS within three (3) business days of verifying the client attended an individual session.

XV. TREATMENT, EVALUATIONS, POLYGRAPH SERVICES, AND BILLING

- A. TDCJ-PD shall pay for one (1) evaluation with the treatment provider and one (1) polygraph (low or moderate risk) or two (high risk) examinations per year for indigent clients. The Sex Offender Program Supervisor or designee may approve a second subsidized polygraph, if determined appropriate. If a client has an evaluation or polygraph examination completed with one provider and is then later transferred (in the same fiscal year, September 1–August 31) to a second provider, the results completed by the first provider/polygrapher shall follow the client to the second provider. The PMS-34 is the referral instrument and billing form for subsidized evaluations and polygraph examinations. Place copies of the PMS-34 with the approval email in the offender's district file.
- B. All requests for subsidized evaluations or polygraph examinations shall be submitted to the Accounts Payable Unit, via email, at subsidy.request@tdcj.texas.gov for review and approval. To request approval for an evaluation or examination, parole officers shall email all of the following information:
 1. Client's name and TDCJ or SID number;
 2. One of the following:
 - a. The client has Special Condition "X"—Indicate the sex offense conviction/adjudication and whether it is a current or prior offense.
 - b. The client has Special Condition "O.33"—Indicate the sex offense conviction/adjudication and whether it is a current or prior offense.
 - c. The client has Special Condition "O.33"—Indicate the current offense with sexual elements.

3. Name of the contract treatment provider or polygraph examiner who will complete the evaluation or polygraph examination. If the request is for a polygraph, the request shall include the city in which the exam will take place;
 4. Reason for the evaluation (initial, yearly, and/or any emergency circumstances occurring with the client); reason for the polygraph examination and type (Instant Offense, Sexual History, etc.);
 5. Date of the last evaluation or polygraph examination and name of the treatment provider or polygraph examiner who completed the last evaluation or polygraph examination; and
 6. Justification as to why the client is unable to pay for the evaluation or polygraph examination. Justification shall include that the client is subsidy eligible.
- C. Upon receiving approval from the Accounts Payable Unit to conduct an evaluation or polygraph examination, the supervising parole officer shall initiate the PMS-34 by completing the parole officer section of the form and forwarding it to the unit supervisor for review and approval. Once the unit supervisor approves the PMS-34, the parole officer shall forward it, with a copy of the approval email, to the treatment provider or polygraph examiner to complete the remainder of the form. Once the contractor delivers the written report, the contractor will forward the PMS-34 to the TDCJ Accounts Payable Unit, Austin, for payment. The parole officer shall maintain a copy of the PMS-34 and approval email in the district file.
- D. The approval for a subsidized evaluation or polygraph examination is valid for 90 calendar days from the date of approval. If the evaluation/polygraph is not completed within the 90 days of approval and either is still needed, the unit supervisor shall send a subsequent request for approval to the email noted above. The request shall state that it is a second request. The 90-day time period is for accounting purposes only, and parole officers shall ensure that evaluations are completed within the time frame specified in this procedure.
- E. The treatment provider shall provide the PMS-41 to the district office by the fifth (5th) calendar day of the month for the preceding month's services. If the provider elects to send the roster/invoice on a weekly basis, the received date shall be the date when the entire month's invoices are received. The parole officer shall enter the client's attendance in the Program Referral Attendance section and payment information in the Cost section in the OIMS within three (3) business days of receiving the PMS-41 or sign-in sheets, if a non-contract provider does not utilize the PMS-41.
- F. The parole officer or designee shall image the PMS-41 or weekly sign-in sheets utilized by non-contract providers in the client's OIMS record within five (5) business days of receipt.
- G. Within five (5) calendar days of receipt, parole officers shall review the PMS-41 and sign the parole officer portion. The parole officer signature indicates that the client is either within the initial 60-day subsidy period, an extension has been entered in the OIMS, or the client has been terminated from subsidy.

A parole officer signature is required for each name entered on the PMS-41. Treatment providers who are providing services to other district offices will make copies of the PMS-41 and submit them to each district office. Each parole officer is only responsible for verifying and signing for clients under their supervision. Treatment providers will submit one copy per district parole office (DPO). Therefore, several parole officers may sign the same invoice. All parole officers within the DPO shall sign the invoice within five (5) calendar days of the receipt of the invoice.

- H. In the event the treatment provider is billing for a client who is no longer subsidized, the parole officer shall sign his name and indicate the date the treatment provider was notified via the SP-0507, and that the client was terminated from subsidy. The date shall match the date entered into the OIMS.
- I. No later than five (5) calendar days after receipt of the invoices, the signed invoices shall be provided to the unit supervisor for review and approval. The unit supervisor shall review the invoices, verify that the offender is eligible for subsidy, and ensure the subsidy information is entered in the OIMS. The unit supervisor shall forward the approved invoices within five (5) calendar days to:

TDCJ
Accounts Payable Unit
8610 Shoal Creek Blvd.
Austin, TX 78757

XVI. TREATMENT PARTICIPATION

- A. Failure to participate in treatment and/or polygraph examination may mean the client:
 - 1. Has failed to pay treatment and/or polygraph examination fees once the offender's ability to pay has been established;
 - 2. Has not been verbally involved or engaged in the treatment and/or polygraph examination process;
 - 3. Does not complete homework assignments given by the treatment provider;
 - 4. Behaves in an inappropriate or aggressive manner toward the treatment provider, other group members, and/or the polygraph examiner;
 - 5. Refuses to complete evaluation/assessment testing and/or polygraph examination as required by the treatment program;
 - 6. Fails to follow the therapist's treatment plan or contract as determined by the therapist; or
 - 7. Remains in denial of his or her offense.

If a client is not participating, the treatment team shall jointly decide the proper course of action.

- B. Before submitting any request to the Texas Board of Pardons and Paroles (BPP) or modifying sex offender components, the parole officer shall discuss plans to modify or withdraw a special condition/component with the client's treatment provider and polygraph examiner. The parole officer shall document the discussion, as well as the treatment provider and polygraph examiner's recommendations in the OIMS.

If the parole officer initiates action contrary to the treatment provider and polygraph examiner's recommendations, the parole officer shall obtain approval from the unit supervisor before pursuing such action.

The reasons for the action shall be clearly documented in the OIMS. The parole officer shall inform the treatment provider and polygraph examiner of the decided course of action.

- C. The parole officer shall obtain a written relapse prevention plan, approved by the treatment provider and polygraph examiner, from the client prior to the parole officer's request for BPP withdrawal or modification of those special conditions that prohibit the client from living with or having contact with children. The purpose of this plan is to ensure the client has a ready course of action that will help control recurring, sexually deviant thoughts, and thus break the cycle of reoffending. The parole officer shall maintain all required written documentation from the treatment provider and polygraph examiner in the district file and document it in the OIMS.

Stuart Jenkins
Director, Parole Division

PD/POP-3.6.9 – Sex Offender Treatment and Polygraph Guidelines Addendum

Date: 03/15/2016

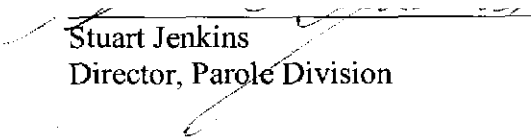
Section VII. Polygraph Examination Requirements

Authority: U.S. Const. amend. V, *Ex parte Dangelo*, 376 S.W.3d 776, 781 (Tex. Crim. App. 2012), *Dansby v. State*, 398 S.W.3d 233 (Tex. Crim. App. 2013). *Dansby v. State*, 468 S.W.3d 225, 234 (Tex. App. Dallas 2015)

The following procedures apply when a sex offender intends to or has invoked the Fifth Amendment right regarding a polygraph examination.

1. If the parole officer has been informed prior to the polygraph examination appointment, by either the sex offender therapist or the client, that the client intends to invoke the Fifth Amendment right during the polygraph examination, the parole officer must inform the client that:
 - a. The Fifth Amendment right is only applicable to questions where the answer might incriminate a person in future criminal proceedings, for example identifying undisclosed victims or admitting to new criminal offenses. The right is applicable to pre-test, in-test, and post-test questions asked during the polygraph examination.
 - b. The Fifth Amendment right is not applicable to questions that would not lead to future criminal proceedings, for example violating child safety zones or committing offenses for which a person has already been convicted or to which a person has already pled guilty.
 - c. The client must show up for the scheduled polygraph examination appointment and is responsible for paying the required fee.
 - d. The client must sign the polygraph consent form, otherwise the polygraph examiner may not proceed with the examination.
 - e. The client must listen and respond to each and every question asked by the polygraph examiner. Blanket assertions of the Fifth Amendment right are not permitted. The Fifth Amendment right must be invoked in response to each specific question where appropriate.
 - f. The parole officer must provide the client with the attached form outlining the above and require the client to sign and date the form.
2. If the parole officer did not have prior notice of the client's intent to invoke the Fifth Amendment right during the polygraph examination, and was informed **after** the polygraph examination appointment that the client refused to comply with the polygraph examination because the client invoked his Fifth Amendment right, the client must be instructed to return to the parole office. Once the client returns to the parole office, the parole officer must review step 1 above with the client, have the client sign and date the attached form, and reschedule the polygraph examination appointment.

3. After the polygraph examination appointment, the parole officer must ask the polygraph examiner to send to the parole officer each question asked and the client's response to each question. The parole officer must send the requested information to the Sex Offender Program supervisor or designee. The Sex Offender Program supervisor or designee, upon conferring with the Specialized Programs Section Director (Section Director), must contact the Office of General Counsel (OGC) to review the appropriateness of the client's invocation of the Fifth Amendment right. The invocation of the Fifth Amendment right will be viewed liberally and in the light most favorable to its legitimacy. The privilege should be deemed appropriate unless it clearly appears the assertion is mistaken and the answer cannot lead to future criminal proceedings.
4. If the OGC determines the client's Fifth Amendment responses were appropriate, the parole officer must discuss the results of the polygraph examination with the client's supervision and treatment team. The parole officer must inform the sex offender therapist that the client may not be discharged from sex offender treatment based solely on the client's appropriately invoking the Fifth Amendment right during the polygraph examination. A pre-revocation warrant may not be requested or issued under these circumstances.
5. If the OGC determines the client's Fifth Amendment responses were not appropriate, the OGC will inform the Section Director of its determination and reasoning. The Section Director must consult with the supervision and treatment team to determine the proper response to the polygraph examination results. This may include, but not limited to, discussing the issue with the client, allowing the client to retake the polygraph examination, requesting a parole panel to modify supervision conditions, unsuccessfully discharging the client from sex offender treatment, or proceeding to a revocation hearing.


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