

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE  
PAROLE DIVISION**



**POLICY AND  
OPERATING PROCEDURE**

**NUMBER: PD/POP-4.1.1**

**DATE: July 27, 2021**

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**SUPERSEDES: September 25, 2020**

**SUBJECT:** PROCESSING VIOLATIONS OF THE RULES AND CONDITIONS OF RELEASE

**PURPOSE:** To establish procedures, guidelines, and time frames for investigating, documenting, and processing alleged violations of the rules and conditions of release committed by a client subject under the jurisdiction of the Parole Division.

**AUTHORITY:** TEXAS GOV'T CODE §§ 508.112, 508.251, 508.252

**DEFINITIONS:**

**Absconder** – A client who is no longer residing in an approved residence or has failed to report after being released from a detention facility and, after completing a thorough investigation, the current whereabouts of the client remain unknown.

**NOTE:** If a parole officer (PO) knows where the client is residing, even if the client is residing in an unapproved residence, the PO shall not consider the client an absconder.

**Evading Supervision** – A client who failed to report on more than one occasion in consecutive order, and there is no verified information the client moved from the approved residence.

**Missed Contact** – An unsuccessful attempt to contact the client for a scheduled office, home, or field contact, and the client has not attempted to contact the PO in a timely manner to reschedule the visit.

**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 clients. The supervision level of the client 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 after a summons is issued, a warrant is confirmed, or when a client is in custody without a warrant.

## II. INVESTIGATION OF VIOLATIONS

- A. The PO shall investigate all suspected violations of the conditions of release to supervision and document them in the Offender Information Management System (OIMS).
- B. Alleged violations shall be supported by information gathered during the investigation. All contacts that are conducted during the investigation, including any missed contacts, shall be entered into the OIMS within three 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, employers, hospitals, the client, and others. 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 those obtained from the client. 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 criminal activity, the investigation shall include information or reports from officials associated with the criminal investigation.
- E. When suspected violations, whether alleged or not, include complaints of violations of criminal law, such complainants shall be recommended to register their complaints with the appropriate law enforcement agencies.
- F. A National Crime Information Center/Texas Crime Information Center (NCIC/TCIC) check including Wanted Person, Criminal History Summary, and Full Rap Sheet shall be conducted and attached in the OIMS prior to the submission of a Violation Report (VR). Before submitting the VR, the PO shall thoroughly review all NCIC/TCIC checks for any new arrests or warrants. All NCIC/TCIC checks may not be more than seven days old.
- G. When alleged violations include evading or absconding, reliable information to support the allegation shall include reference to the client's knowledge of reporting instructions. Refer to Section VIII for determining evader or absconder status.

**NOTE: STALKING.** If an allegation is an arrest for stalking, as defined in the Texas Penal Code § 42.072, the victim's pseudonym, if provided by law enforcement, shall be used when completing the violation report and in all documents thereafter.

## III. DOCUMENTATION OF VIOLATIONS

An entry in the OIMS shall constitute documentation for violations noted in the VAG. All Type I violations shall be entered in the OIMS within five business days from the date the PO becomes aware of the violation. All Type II violations shall be investigated and, if appropriate, followed by an intervention and documentation in the OIMS within seven business days from the date the

violation is made known to the PO. All Type III violations shall be entered in the OIMS within 10 business days from the date the PO becomes aware of the violation (refer to Section VIII of this policy). 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 a client has violated the terms and conditions of release. The VAG takes into consideration the severity of the violation, previous violations, and the client's supervision level.
- B. When the VAG has a "W" listed as an action, the Parole Division action may be up to and including the 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. Absconder-related violations are ineligible for summons and interventions and require an issue warrant recommendation.

#### C. Type I

The following violations require PO investigation, documentation, and action according to the VAG within five business days from the date the PO becomes aware of the violation:

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 affidavits from complainants and witnesses.
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. Unsuccessful discharge from a treatment program (excluding any indigent clients who were discharged based solely on their lack of ability to pay the required fees). This includes substance abuse treatment, domestic violence counseling, and anger control training, counseling, and sex offender treatment.
6. Consecutive admitted or detected instances of alcohol, controlled substance, or illicit substance use, and refusal by the client to participate in treatment. "Consecutive" is defined as the detection or admission of substance use at least twice during a 60-calendar day period.
7. Violation of conditions of release to supervision restricting contact with minors, specified persons, or victims.

8. 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.
9. 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.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).
10. Violation of rules of an Intermediate Sanction Facility (ISF) or a Substance Abuse Felony Punishment Facility (SAFPF).
11. 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 client shall be processed according to PD/POP-3.5.1, Electronic Monitoring Program or PD/POP-3.15.1, *Super-Intensive Supervision Program (SISP)—Administrative Guidelines*.
12. 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 according to PD/POP-3.15.1, *Super-Intensive Supervision Program (SISP)—Administrative Guidelines*, PD/POP-3.6.2, *Sex Offender Program Supervision Guidelines*, or PD/POP3.6.4, *Sex Offender Registration Program*.

D. Type II

The following violations require investigation and, if appropriate, intervention and documentation in the OIMS within seven business days from the date the PO becomes aware of the violation:

1. Absconding Supervision
2. Failure to report as instructed, client location verified. Each failure to report incident will be counted as a separate event.

## E. Type III

The following violations require investigation and, if appropriate, intervention and documentation in the OIMS within 10 business days from the date the PO becomes aware of the violation:

1. Change of residence without the permission of the PO, client location verified.
2. Arrest or conviction for minor traffic offenses punishable only by fine.
3. Acting as an informant without approval.
4. Association with persons of criminal background without permission.
5. 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 may be documented in the OIMS as a contact entry and intervention noted as a contact reason.

6. Admitted or detected single or non-consecutive instances of alcohol, controlled substance, or illicit substance use in violation of conditions of release to supervision.
7. Failure to comply with conditions of release to supervision related to required treatment or training program not involving unsuccessful discharge.
8. Activity schedule or curfew violations that the PO verifies were caused by negligence of the client.
9. 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.
10. Failure to obtain or demonstrate a sixth-grade education skill level.
11. 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.38”—Participate in cognitive skills classes.

## V. INTERVENTIONS

An intervention is a corrective measure designed to increase control of clients and to direct clients toward future compliance with the rules and conditions of release. Interventions shall be applied according to the VAG as deemed appropriate by the PO, unit supervisor (US), or both.

- A. Warning
  - 1. Compliance counseling by the PO.
  - 2. Written reprimand from the PO or supervisor.
  - 3. Case conference with the client, PO, and supervisor.
- B. Increase Control
  - 1. Increase supervision level or increase contact with the client or both.
  - 2. Activity monitoring (job lists, daily diary, financial review).
  - 3. DRC reporting and program attendance.
- C. Increase Monitoring and Programming
  - 1. Alcohol testing
  - 2. Electronic monitoring
  - 3. Treatment programming
  - 4. Urinalysis
- D. Modifications of the conditions of release to supervision due to approved special condition request from a parole panel.
- E. If a VR results in a decision by the Warrants Section not to issue a warrant, an intervention shall be applied.

## VI. ISSUANCE OF SUMMONS TO APPEAR

- A. A summons may be issued for a client after the first anniversary of the date the person was released, when the client has maintained stable employment and a stable residence for a year and:
  - 1. Is not on the SIS, 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. Is charged with a Class C misdemeanor and the 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 a client:

1. Is charged only with committing an administrative violation of release, after being on supervision for one or more years;
  2. Is a client for which a summons may not be issued under Section VI.A.
- C. Type I violations 1, 2, 4, 5, 8, 9, 10, 11, and 12 (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 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 PO and the unit supervisor and, as applicable, the parole supervisor (PS). If a US does not agree with the PO's recommended action, the US shall make an alternate recommendation. The PS shall then determine which of the two recommendations shall constitute the recommended division action. In all cases, the recommendation shall be reflected by approval of the appropriate authority. Two approvals 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 violations 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 condition).
  2. Issue Summons to Appear according to the provisions in this policy.
  3. Recommend "Issue Warrant."
- C. A US shall review VRs no later than one business day after receipt. In the event the US is not available, for example they are away at training or on approved leave, the VR shall be transferred to another US. VRs that are incorrect, incomplete, or require additional investigation shall be returned to the PO within one business day with specific instructions for action. The PO will make the corrections and resubmit the VR within one business day of the return. The total time for a warrant decision shall not exceed five business days; this includes original submission to the US, corrections, returns, and resubmission of the VR to the Warrants Section.

- D. In reviewing the VR for a recommendation, the supervisor shall evaluate the severity of the alleged violations, the supervision history of the client, the prior application, and 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.

### VIII. INITIATING AND COMPLETING AN EVADER/ABSCONDER INVESTIGATION

POs must review and complete Section VIII.A–D, prior to determining evader or absconder status.

- A. POs must initiate and complete an investigation, including submitting a violation report, if necessary, within seven business days after they become aware that the client has:
  - 1. Failed to initially report after release from a detention facility;
  - 2. Moved from an approved residence; or
  - 3. Failed to report for a scheduled office, home, or field contact.

POs must document all investigative contacts, including missed contacts, in the OIMS Contacts screen within three business days of the contact.

- B. The investigation shall consist of the PO attempting to make at least one home contact within three business days after the missed contact or learning the client may have moved from an approved residence. If the PO is unable to make contact with the client, they shall leave written instructions at the client’s residence to report to the District Parole Office (DPO) the following business day. A home contact is not required if:
  - 1. The client resided in a contracted facility, Residential Reentry Center or In-patient Therapeutic Community, and the facility staff verify the client no longer lives at the residence; or
  - 2. An adult with reliable information confirms in person that the client no longer lives at the residence.
- C. If the client’s location is confirmed, even if the client is residing at an unapproved residence or there is no reliable information indicating the client moved and the client fails to report after the first investigative home contact, the PO shall:
  - 1. Conduct a second investigative home contact to the client’s last known residence within two business days after the missed contact and
  - 2. Leave written instructions to report to the DPO the following business day.
- D. In addition to the home contacts, the PO must attempt to locate the client by conducting investigative contacts, unless the client’s location is verified and documented in the OIMS. The PO must complete all investigative contacts and, if necessary, submit a VR

within seven business days. Required investigative contacts include, but are not limited to, the following:

1. The client (address, email address, text message, and all current phone numbers);
2. Sponsors (including all previous or attempted sponsors and excluding any Residential Reentry Center (RRC), Transitional Treatment Center (TTC), or in-patient facility);
3. Next of kin;
4. Employers (if applicable);
5. Persons listed on the client's Visitor's List (if the client was released within the last 24 months and limited to family members and close friends who have valid phone numbers or who live relatively close to the district parole office);
6. Law enforcement/Jails;
7. Hospitals; and
8. NCIC/TCIC inquiries.

E. If a client's location remains unknown after all applicable investigative contacts, the client is considered an absconder. If a client's location is known or there is no reliable information the client moved and the client fails to report after all applicable investigative contacts, the client is considered an evader. Prior to submitting a VR, the PO shall ensure all appropriate investigative contact information is entered in the OIMS including:

1. Evidence that the client knew and understood they were to report or be available for contacts on specific dates;
2. The date the client was to report or be available for a contact as well as dates of subsequent contact attempts made during the investigation;
3. The date of any attempted home visit or visit to a contracted facility to verify the client's whereabouts;
4. The method of the reporting instructions, such as e-mail, text, or written left at a specified location after the failed client contact;
5. Confirmation that the required investigative contacts were performed as described in Section VIII.C. of this policy; and
6. Any other investigative steps the PO has made to locate the client.

F. The PO will conclude the investigation by submitting a VR with an "Issue Warrant" recommendation or an "Issue Summons" recommendation, if applicable.

1. After receiving a VR for absconding or evading, the US shall attempt to contact the client by telephone. The US shall contact by telephone:
  - a. The client's sponsor, if applicable; and
  - b. The client's place of employment, if applicable.
2. If the US is able to contact the client, the US shall provide reporting instructions and not request a warrant.
3. If the US is unable to contact the client, the US shall process the VR by making an "Issue Warrant" recommendation or an "Issue Summons" recommendation, if applicable.

#### IX. WARRANTS SECTION REVIEW OF VIOLATION REPORTS

- A. Region Warrants Specialists (RWS) and Command Center analysts have the primary responsibility to review VRs received in the Warrants Section's work pool in the OIMS. The VR review shall consist of:
  1. Proper investigation of the allegations conducted by the PO and documented in the OIMS; and
  2. Accuracy and completeness of allegations according to the "Uniform Allegations Workbook."
- B. Once the review is completed and the decision rendered, a decision shall be entered into the OIMS. The decision may be:
  1. Issue warrant, at which time the RWS or Command Center analyst shall determine if the client 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 actions;
  4. Continue supervision with no further action;
  5. Continue supervision pending adjudication of charges; or
  6. Return for additional information or corrections.
- C. Once a warrant has been issued for a client who has absconded or is evading supervision, the PS shall attempt to contact the client by telephone twice within 30 days after the warrant issue date. The first contact attempt shall be on the 15th day following the warrant

issue date, and the second contact attempt shall be on the 30th day following the warrant issue date. If the 15th or 30th day falls on a weekend or holiday, the contact attempt shall be on the next business day. The PS shall contact by telephone:

1. The client's sponsor, if applicable; and
  2. The client's place of employment, if applicable.
- D. If the PS is able to contact the client, the PS shall provide reporting instructions for the client and instruct the PO to withdraw the warrant and apply interventions when the client reports to the DPO.

## X. EMERGENCY WARRANTS

An emergency warrant may be issued if time does not permit for the normal violation report process to occur, if the client is determined to be an immediate threat to public safety, or if the client is under Interstate Compact and is a "To Texas" case.

- A. Any PO series staff, the Office of the Inspector General, and law enforcement may request emergency warrants by calling the Warrant Section Director or an RWS/Program Specialist I (PS-I) and providing the following information:
1. Name and title of the requestor;
  2. Client name and SID;
  3. The reason for the request;
  4. Location of the violation; and
  5. A contact number for the Parole Division staff member;
- B. RWS/PS-I shall contact the Warrant Section Director or designee for approval to issue an emergency warrant.
- C. If no emergency warrant is issued, the RWS/Command Center staff shall notify the Parole Division staff member.
- D. If an emergency warrant is issued or a warrant is issued after hours, the PO shall ensure all allegations have been updated or added to the OIMS within three business days of warrant issuance. The only exception is if the warrant is withdrawn according to PD/POP-4.2.2, *Warrant Withdrawal/Return to Supervision*.

## XI. MONITORING AND DISPOSITION OF CRIMINAL CHARGES

- A. The PO is responsible for initiating the preliminary hearing process according to 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 time per month and within seven

business days following a client's scheduled 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 PO shall act according to the following circumstances within five business days and document the action in the OIMS.

1. No Warrant in Effect

Update the existing VR with the disposition information and enter a new recommendation.

- a. Apply an intervention,
- b. Initiate the hearing process, or
- c. Administratively close the VR, if appropriate.

2. Warrant in Effect

- a. Update the existing VR with the disposition information.
- b. Conduct a pre-hearing interview with the client to continue the hearing process; or
- c. Request to close the warrant according to PD/POP-4.2.2, *Warrant Withdrawal/Return to Supervision*, and apply an intervention if appropriate.

## XII. APPEAL OF A WARRANTS SECTION DECISION

If any member of the field staff does not agree with a decision, they shall notify 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.

## XIII. INTERSTATE COMPACT CLIENTS

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

- A. Processed according to Section II, Investigation of Violations, and
- B. Entered into the Interstate Compact Offender Tracking System according to PD/POP-3.10.4, *Supervision Procedures for Interstate Compact Clients*.

**NOTE:** The PO shall request a Texas Parole Division emergency warrant if the client is determined to be a threat to public safety. The PO shall withdraw the Texas Parole Division emergency warrant after receiving notice of warrant issuance by the sending state.

XIV. OVERSIGHT RESPONSIBILITIES

- A. Each Monday, the US shall view the Missed Contacts with No Warrant Issued Report and ensure that the parole office opens and completes a proper investigation.
- B. Two times a month, the PS shall view the Missed Contacts with No Warrant Issued Report and ensure that the parole office opens and completes a proper investigation.

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