

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE  
PAROLE DIVISION**



**POLICY AND OPERATING  
PROCEDURE**

**NUMBER: PD/POP-4.2.1**

**DATE: 08/31/15**

**PAGE: 1 of 19**

**SUPERSEDES: 06/15/11**

**SUBJECT:** PRE-HEARING AND HEARING PROCESS

**AUTHORITY:** TEXAS GOV'T CODE §§ 508.045, 508.048, 508.251, 508.252, 508.254, 508.256, 508.281, 508.2811, 508.282.

**PURPOSE:** To provide District Parole Office staff guidance on appropriate actions to be taken upon initiation of the revocation process. The revocation process shall be initiated upon issuance of a summons or when an offender is taken into custody on a pre-revocation warrant and is in custody in the state of Texas, or was taken into custody in the state of Texas and subsequently released on bond. This policy applies to offenders who:

- Had a summons decision rendered in accordance with PD/POP-4.1.1, *Processing Violations of the Rules and Conditions of Release*. (Refer to Section II, Revocation Process Initiated by Summons to Appear, in this policy.)
- Had a pre-revocation warrant issued in accordance with PD/POP-4.1.1, *Processing Violations of the Rules and Conditions of Release*, and the offender is currently in custody. (Refer to Section III, Revocation Process Initiated by Warrant or Due to Criminal Charges, in this policy.)
- Are currently in custody with adjudicated criminal charges and no pre-revocation warrant has been issued; however, the case has been processed in accordance with PD/POP-4.1.1, *Processing Violations of the Rules and Conditions of Release*. (Refer to Section III, Revocation Process Initiated by Warrant or Due to Criminal Charges, in this policy.)
- Had a pre-revocation warrant issued in accordance with PD/POP-4.1.1, *Processing Violations of the Rules and Conditions of Release*, the offender was arrested on a pre-revocation warrant, and subsequently released on bond. (Refer to Section IV, Revocation Process Initiated by Warrant Subsequent to Release from Custody on Bond, in this policy.)

## **PROCEDURE:**

### **I. REVOCATION PROCESS**

The revocation process can be initiated in three different ways:

- A. Not in custody: A Summons to Appear is issued requiring the offender to appear at a hearing; however, the offender is not taken into custody prior to the hearing (Section II, Revocation Process Initiated by Summons to Appear).
- B. In custody: The revocation process is initiated upon the execution of a pre-revocation warrant or adjudication of criminal charges, and there is not a pre-revocation warrant in effect. The parole officer shall request that a pre-revocation warrant be issued and executed unless:
  - 1. The offender cannot make bond; or
  - 2. The offender has received a new conviction and the new sentence will not be satisfied before the revocation process is completed. (Refer to Section III, Revocation Process Initiated by Warrant or Due to Pending Charges.)
- C. In custody, released on bond, and not interviewed while in-custody: The revocation process is initiated upon the offender's initial release on bond from custody, after initial parole warrant execution.

### **II. REVOCATION PROCESS INITIATED BY SUMMONS TO APPEAR**

The issuance of a summons after the submission of a violation report initiates the revocation process. The offender is required to attend a preliminary or revocation hearing without a pre-revocation warrant in effect. The offender is not in custody.

- A. Upon receipt of the decision to issue a summons, the parole officer shall:
  - 1. Contact the offender and schedule a date and time for the offender to report for the service of the summons. If the offender cannot be contacted or does not report as instructed within 14 calendar days, the Offender Information Management System (OIMS) Violation Report (VR) shall be updated by adding failure to report to the allegations and shall include a recommendation that a warrant be issued.
  - 2. Enter the date and complete the Region Director or designee sections of the summons—Section E of the Rights of Offender in the Revocation Process form. For the purposes of this policy, the designees may be the Assistant Region Director or the parole supervisor.
  - 3. Serve the summons to an offender at the District Parole Office (DPO) with a unit supervisor or parole supervisor present.

In locations such as satellite offices, contract halfway houses, or jails, the parole officer should request the presence of another parole officer or facility staff member.

4. Print two copies of the Rights of Offender in the Revocation Process form prior to the interview. The original shall be maintained by the parole officer and a copy provided to the offender upon completion of the interview. Any violations disposed of by the Board of Pardons and Paroles (BPP) on a prior VR shall not be included in the Rights of Offender in the Revocation Process form.
5. Begin the interview by reading Section A of the Rights of Offender in the Revocation Process form without adding to or subtracting from information contained in the statement of rights. Do not offer any promises about the disposition of the parole violation.
6. After the Rights of Offender in the Revocation Process form, Section A, have been read, require the offender to sign and date the form. The parole officer shall sign and date the form as a witness to the offender's signature. If the offender refuses to sign the form, the parole officer shall note the offender's refusal on the signature line of the form, sign and date the form, and advise the offender the applicable hearing will be conducted.
7. Advise the offender of the alleged violations (Section B of the Rights of Offender in the Revocation Process form). If allegations are subsequently changed or added to this page, the offender and the parole officer shall both initial and date the changes or addition(s).
8. Review the hearing options (Sections C and D of the Rights of Offender in the Revocation Process form). The offender may choose to waive the preliminary hearing, revocation, or both. An opportunity to waive the hearings shall not be given to an offender who is not competent to understand the allegations. For the purpose of this policy, "not competent to understand" means an offender who has an IQ of 70 or below, is currently on the Special Needs Offender Program (SNOP) caseload, or has an active psychiatric diagnosis.
9. Update the OIMS (PR Interview screen) within one (1) business day upon returning to the designated headquarters after conducting the interview.

B. If the offender:

1. Requests a hearing, go to Section IX of this policy—Criteria for Scheduling Hearing/Scheduling of a Hearing.
2. Elects to waive the hearing process, go to Section VII of this policy—Waiver of Hearings.
3. Elects Conditional Waiver of the Revocation Hearing Process, go to Section VIII of this policy— Conditional Waiver of Revocation Hearing Process.

### III. REVOCATION PROCESS INITIATED BY WARRANT OR DUE TO CRIMINAL CHARGES

The revocation process shall be initiated when an offender is in custody on a pre-revocation warrant or due to adjudicated criminal charges in the State of Texas.

A. Upon notification of warrant execution, the warrant shall be reviewed to determine if warrant withdrawal is appropriate. The warrant may be withdrawn as a result of a case staffing. The revocation hearing process will begin with a preliminary hearing for an offender who is in custody on a new pending charge, or allegedly engaged in criminal conduct, but has no formal charges pending. The revocation hearing process will begin with a revocation hearing for an offender who is in custody on technical violations only, or who has an adjudicated charge occurring after release to supervision.

1. The parole officer is responsible for interviewing the offenders in a county jail, state jail, or Federal Correctional Institution (FCI) located in the state of Texas. If an offender is arrested out of State and the pre-revocation warrant has not been confirmed, or an unrevoked parole or mandatory release violator returns to the Texas Department of Criminal Justice Correctional Institutions Division (TDCJ CID) before the parole officer conducts the interview, notice shall be sent to the Warrants Section by mainframe e-mail at NOA\_RESP. The notice shall contain the offender's SID number, name, warrant number, and the offender's location. Warrants Section staff shall coordinate with the BPP staff to ensure the revocation process is completed.
2. The parole officer may be required to appear before the magistrate in order to provide information concerning bond eligibility, as defined in PD/POP-4.1.1, *Processing Violations of the Rules and Conditions of Release*.
3. The interview shall be completed no later than five (5) calendar days of the offender's arrest.
4. The parole officer shall, prior to interviewing the offender:
  - a. Contact the holding facility and obtain the necessary information about any new violations against the offender. When providing a copy of the pre-revocation warrant to the holding facility, the parole officer shall ensure the bond eligibility information noted on the bottom of the first page of the warrant is accurate.
  - b. Add any allegations to the OIMS-VR as required, including failure to report to the parole officer, failure to pay supervision fees, or new criminal allegations. Any violation(s) disposed of by the BPP on a prior VR shall not be included in the Rights of Offender in the Revocation Process form.
  - c. Print two copies of the Rights of Offender in the Revocation Process form prior to the interview. The original shall be maintained by the parole officer and a copy provided to the offender upon completion of the interview.

- d. 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 all documents thereafter.
5. During the pre-revocation interview, the parole officer shall begin the interview by reading the offender's rights during the revocation process (Section A of the Rights of Offender in the Revocation Process form) without adding to or subtracting from information contained in the statement of rights. The parole officer shall not offer any promises about the disposition of the parole violation.
6. After the Rights of Offender in the Revocation Process form, Section A, have been read, require the offender to sign and date the form. The parole officer shall sign and date the form as a witness to the offender's signature. If the offender refuses to sign the form, the parole officer shall note the offender's refusal on the signature line of the form, sign and date the form, and advise the offender the applicable hearing will be conducted.
7. Advise the offender of the alleged violations (Section B of the Rights of Offender in the Revocation Process form). If allegations are changed or subsequently added to this page, the offender and the parole officer shall both initial and date the changes or addition(s).
8. Review the hearing options (Sections C and D of the Rights of Offender in the Revocation Process form). The offender may choose to waive the preliminary hearing, revocation, or both. An opportunity to waive the hearings shall not be given to an offender who is not competent to understand the allegations. For the purpose of this policy, "not competent to understand" means an offender who has an IQ of 70 or below, is currently on the Special Needs Offender Program (SNOP) caseload, or has an active psychiatric diagnosis.
9. Update the OIMS (PR Interview screen) within one (1) business day upon returning to the designated headquarters after conducting the interview.
10. For those offenders who were taken into custody on a pre-revocation warrant and are eligible for release on bond, the parole officer shall check the custody status of the offender every five (5) business days.

B. If the offender:

1. Is released on bond, go to Section IV of this policy—Revocation Process Initiated by Warrant Subsequent to Release from Custody on Bond.
2. Requests a hearing, go to Section IX of this policy—Criteria for Scheduling Hearings/Scheduling of a Hearing.
3. Elects to waive the hearing process, go to Section VII of this policy—Waiver of Hearings.

4. Elects Conditional Waiver of the Revocation Hearing Process, go to Section VIII of this policy—Conditional Waiver of Revocation Hearing Process.

#### IV. REVOCATION PROCESS INITIATED BY WARRANT SUBSEQUENT TO RELEASE FROM CUSTODY ON BOND

- A. In the event an offender is released on bond and is not eligible for release, the parole officer shall request the warrant be republished in the National Crime Information Center/Texas Crime Information Center (NCIC/TCIC) via AUTLETS and attempt to have the offender taken into custody.
- B. Prior to release from custody, offenders shall be instructed to report to the parole office no later than the end of the next business day after release.
- C. Action shall be taken in accordance with PD/POP-4.1.1, *Processing Violations of the Rules and Conditions of Release*, in the event an offender fails to report as instructed.
- D. Upon reporting to the office, the parole officer shall:
  1. Add any allegations to the OIMS-VR as required, including failure to report to the parole officer or failure to pay supervision fees. Any violation(s) disposed of by the BPP on a prior VR shall not be included in the Rights of Offender in the Revocation Process form.
  2. Print two copies of the Rights of Offender in the Revocation Process form prior to the interview. The original shall be maintained by the parole officer and a copy provided to the offender upon completion of the interview.
  3. Conduct an interview by reading Section A of the Rights of Offender in the Revocation Process form without adding to or subtracting from information contained in the statement of rights. The parole officer shall not offer any promises about the disposition of the parole violation.
  4. Have the offender sign and date the form to affirm the offender's rights have been read. The parole officer shall sign and date the form as a witness to the signature. If the offender refuses to sign the form, the parole officer shall note the offender's refusal on the signature line of the form, sign and date the form, and advise the offender the applicable hearing will be conducted.
  5. Advise the offender of the alleged violations (Section B of the Rights of Offender in the Revocation Process form). If allegations are changed or added to this page, the offender and the parole officer shall both initial and date the change(s) or addition(s).
  6. Review the hearing options (Sections C and D of the Rights of Offender in the Revocation Process form). The offender may choose to waive the revocation hearing. An opportunity to waive the hearings shall not be given to an offender who is not competent to understand the allegations.

For the purpose of this policy, “not competent to understand” means an offender who has an IQ of 70 or below, is currently on the Special Needs Offender Program (SNOP) caseload, or has an active psychiatric diagnosis

7. Update the OIMS (PR Interview screen) within one (1) business day after conducting the interview.

E. If the offender:

1. Requests a hearing, go to Section IX of this policy—Criteria for Scheduling Hearings/Scheduling of a Hearing, Section B.
2. Elects to waive the hearing process, go to Section VII of this policy—Waiver of Hearings.
3. Elects Conditional Waiver of the Revocation Hearing Process, go to Section VIII of this policy—Conditional Waiver of Revocation Hearing Process.

#### V. OFFENDERS WHO ARE INITIALLY ELIGIBLE FOR BOND AND SUBSEQUENTLY BECOME NOT ELIGIBLE FOR BOND

In the event an offender is initially determined to be eligible for release on bond and subsequently becomes ineligible for release on bond (i.e., new criminal charges or absconds supervision), the parole officer shall:

- A. Update the existing violation report in accordance with PD/POP-4.1.1, *Processing Violations of the Rules and Conditions of Release*.
- B. Provide notice of the change in status to AUTLETS.
- C. Provide a copy of the pre-revocation warrant reflecting the updated bonding information to the jail, if not previously provided.

Upon notification of the change in status, the Warrants Section shall notify the magistrate, the bonding company, and the jail (if in custody), as appropriate, of the change in status.

#### VI. OFFENDERS WHO ARE INITIALLY NOT ELIGIBLE FOR BOND AND SUBSEQUENTLY BECOME ELIGIBLE FOR BOND

In the event an offender is determined to be not eligible for release on bond and subsequently becomes eligible for release on bond (i.e., non-violent criminal charges are dropped or dismissed), the parole officer shall:

- A. Review for warrant withdrawal and withdraw the warrant if the decision is not to proceed with the revocation process.

- B. Update the violation report in accordance with PD/POP-4.1.1, *Processing Violations of the Rules and Conditions of Release*, if the decision is to proceed with the revocation process. The parole officer shall also provide notice of the change in status to AUTLETS.
- C. Provide a copy of the pre-revocation warrant reflecting the updated bonding information to the jail, if not previously provided.

Upon notification of the change in status, the Warrants Section shall notify the jail of the change in status.

## VII. WAIVER OF HEARINGS

- A. The offender may choose to waive the preliminary hearing, the revocation hearing, or both hearings at the time of the initial pre-hearing interview. An opportunity to waive one or both of the hearings shall not be given to an offender who is not competent to understand the allegations. In the event the offender elects to waive the hearings, the parole officer shall:
  - 1. Instruct the offender to indicate the waiver by signing Section C of the Rights of Offender in the Revocation Process form.
  - 2. Sign and date the form as a witness to the offender's signature in Section C of the Rights of Offender in the Revocation Process form.
- B. At the time of a subsequent interview or at the preliminary hearing where the parole panel or its designee has found probable cause, the offender's signature, acknowledging his informed consent, is required in Section C of the Rights of the Offender in the Revocation Process form for a waiver to be accepted.
- C. Waiver Processing

Within three (3) business days of the interview, the parole officer or analyst shall:

- 1. Prepare the "waiver packet," which shall include the Rights of Offender in the Revocation Process form, the release certificate, the Adjustment Statement (PSV-32B), and documents that establish proof of the alleged violation, including indictment or information, judgment and sentence, statements, affidavits, and all VRs.
  - 2. Submit the packet to the unit supervisor or regional designee for review.
- D. Waiver Packet

The unit supervisor or region designee shall review and approve the waiver packet the same day it is received. The waiver packet shall be forwarded within one (1) business day to the region designee for scanning and attachment to the OIMS. The packet shall be scanned into the OIMS within two (2) business days of receipt of the packet from the parole officer.

The OIMS—PR Interview screen shall be updated within one (1) business day of verifying the packet was scanned into the OIMS.

- E. A hearing shall be scheduled for an offender who changes his mind after waiving a hearing, provided the BPP or its designee has not reviewed and responded to the alleged violations.

### VIII. CONDITIONAL WAIVER OF REVOCATION HEARING PROCESS

- A. At the time of the initial pre-hearing interview, the offender may accept the conditional waiver of the revocation hearing process and voluntarily agree to placement in an intermediate sanction facility (ISF) or a substance abuse felony punishment facility (SAFPF). This conditional waiver shall resolve the alleged violations depending on the TDCJ-PD recommendation and the BPP approval of the recommendation. An offender cannot agree to accept a Conditional Waiver of the Revocation Hearing if there are pending law violations or the offender's sentence on a new charge has not been completed.
- B. The parole officer shall read the offender's rights to a conditional waiver of the Revocation Hearing process for ISF or SAFPF placement. If the offender understands, accepts, and voluntarily agrees to confinement in an ISF or SAFPF and agrees to successfully complete the program, the offender shall indicate such by signing and dating the Rights of Offender in the Revocation Process form and Conditional Waiver—Notice of Alternate Action form.

The parole officer shall witness the offender's signature and sign and date the form, below the offender's signature, indicating the parole officer witnessed the signature.

- C. Refer to Section VII.C and D of this policy for waiver processing.

### IX. CRITERIA FOR SCHEDULING HEARINGS/SCHEDULING OF A HEARING

The appropriate hearing shall be scheduled if the offender does not waive either or both of the hearings. The hearing process shall begin with a preliminary hearing for an offender who is in custody on new pending charges, or allegedly engaged in criminal conduct, but has no formal charges pending. The hearing process shall begin with a revocation hearing for an offender who is in custody on technical violations only, or who has an adjudicated offense occurring after release on supervision.

- A. A preliminary hearing shall be scheduled for an offender who is in custody on a pre-revocation warrant, unless warrant withdrawal is more appropriate when:
  - 1. The offender is:
    - a. Accused of a new offense;

- b. Accused of a new offense but is later "no-billed," or the charge is dismissed;
  - c. Allegedly engaged in criminal conduct, but has no formal charges pending; or
  - d. Arrested on a new criminal charge.
2. The offender who is entitled to a preliminary hearing does not sign any portion of the Rights of Offender in the Revocation Process form; or
  3. The offender who is entitled to a preliminary hearing is mentally incapable of understanding his rights.

To guarantee due process and fundamental fairness in such cases, a preliminary hearing shall be scheduled if there is a question of whether the offender is capable of comprehending, making decisions, and speaking effectively for himself due to a mental disability, physical disability, or other cause, including the need for an interpreter for the deaf.

B. A revocation hearing shall be scheduled in the following circumstances for an offender who is in custody on a pre-revocation warrant or released on bond, unless warrant withdrawal is more appropriate:

1. The offender is alleged to have committed technical violations only.
2. The offender, following a trial or a plea of guilty or nolo contendere for a felony or misdemeanor offense, has been:
  - a. Sentenced to community supervision, including deferred adjudication; or
  - b. Sentenced to time in a penal institution.
3. An offender who was entitled to a preliminary hearing waived that hearing but not the revocation hearing, and the parole panel or BPP designee, upon review of the waiver packet, decides to proceed to a revocation hearing.
4. A preliminary hearing was held, the decision of the parole panel or its designee is to proceed to a revocation hearing, and the offender requests the revocation hearing or does not choose to waive the hearing.
5. The offender is mentally incapable of understanding the revocation process. To guarantee due process and fundamental fairness, a revocation hearing shall be provided if there is a question of whether the offender is capable of comprehending, making decisions, and speaking, including the need for an interpreter for the deaf.

- C. Staff shall schedule hearings in accordance with the following deadlines:
1. For offenders being held in a county jail, municipal jail, or released on bond, the parole officer shall schedule the hearing within one (1) business day of the initial or subsequent interview.
  2. For offenders who have been transferred to a TDCJ-operated or contracted facility, a hearing shall be scheduled within five (5) business days of the initial interview.
- D. To schedule a hearing, the parole officer or analyst shall:
1. Notify the Scheduling Unit of the BPP at the time the hearing is requested if the offender has any mental or physical disabilities that might impair the offender's self-representation, including problems with reading, speaking, or understanding the English language, or if the offender is taking medications that could cause impairment. Upon receipt of this information, the BPP staff will determine whether an appointed attorney is required in accordance with the BPP policies.
  2. Complete the Hearing Schedule on the appropriate Hearing Period on the OIMS.
  3. Contact the Scheduling Unit of the BPP by telephone at 888-839-7773 for a hearing date, and provide the following information:
    - a. The offender's name, date of birth, and location.
    - b. The offender's warrant number; TDCJ, Parole in Absentia (PIA), or Out-of-State (OOS) number; System Person number (SPN) for Harris County cases; and booking number for Dallas County cases.
    - c. The date the warrant was executed, the date of the preliminary or revocation interview, the status and disposition of all the alleged law violation(s), including:
      - i. Conviction date;
      - ii. Sentence completion date;
      - iii. Date the sheriff provided notification of final disposition;
      - iv. Type of hearing preliminary, revocation, mitigation, summons, or reopening; and
      - v. Location of the hearing.
    - d. Whether a determination has been made regarding appointment of an attorney. This information may be obtained from the waiver packet or from the HS-135 in cases where a preliminary hearing has already been held.

- e. The name of the parole officer.
  - f. The nature of the alleged violation(s) including both the rule number and the allegation, the offender's instant offenses, and the offender's discharge date.
  - g. If the parole officer contacts the Scheduling Unit more than seven calendar days from the date the warrant was executed, the parole officer may be required to provide a written explanation for the delay in scheduling the hearing.
- E. Hearing Date: The parole officer or analyst shall obtain the date, time, and location of the hearing from the BPP Scheduling Unit. The parole officer or analyst shall enter this information on the Rights of Offender in the Revocation Process form.
- F. Hearing Notification
- 1. Offenders in custody—The parole officer shall make timely notification to the offender of the allegations, date, time, and location of the hearing. A copy of the Rights of Offender in the Revocation Process form with the scheduled hearing information shall be given to the offender at least three (3) calendar days prior to a preliminary hearing and at least five (5) calendar days prior to a revocation or mitigation hearing.
 

**Note:** Hearings will proceed as scheduled in the event the offender is released from custody on bond **after** a hearing has been scheduled. The offender shall be provided notice in the event there is a substantial change in the hearing information, such as a change in the location of the hearing.
  - 2. Offenders released on bond—The parole officer shall notify the offender of the allegations, date, time, and location of the hearing. A copy of the Rights of Offender in the Revocation Process form with the scheduled hearing information shall be given to the offender prior to the offender departing the DPO, within the required time frame noted in IX.F.1 above.
  - 3. In the case of a summons, the parole officer shall provide the scheduled summons hearing information to the offender at the time of a parole visit.

## X. HEARING PREPARATION

- A. In the event the offender is released on bond and subsequently becomes ineligible for release on bond prior to a hearing being conducted (i.e. arrested on new criminal charges), the parole officer shall:
- 1. Notify AUTLETS of the change in status.
  - 2. Within three (3) business days, update the existing violation report with the new allegations and proceed with the process in accordance with the above.

The Warrants Section shall republish the warrant in the NCIC/TCIC, and notify the appropriate court and bonding company of the change in status. The Warrants Section shall also confirm the warrant with the jail and advise the offender is not eligible for release on bond.

B. Witnesses

1. The parole officer shall obtain a list of the names, addresses, and phone numbers of the offender's witnesses, who must be subpoenaed to attend the hearing.
2. The parole officer shall determine which state witnesses are needed to support the alleged violations by reviewing all appropriate documents, (e.g., VRs, Rights of Offender in the Revocation Process form, offense report, affidavit, and statements). The list of witnesses shall be provided to the offender within three (3) calendar days prior to a preliminary hearing and five (5) calendar days prior to a revocation hearing.

A preliminary hearing with an alleged pending criminal charge(s) does not require witnesses to establish probable cause; however, the parole officer shall obtain certified court documents such as an indictment or information when available, and statements and affidavits sufficient for establishing probable cause. The offender has the right to confront and cross-examine witnesses. The parole officer shall request subpoenas for any witnesses identified by the offender.

3. The parole officer shall request a subpoena, on the OIMS, for all the witnesses requested by the offender who need a subpoena or designated by the parole officer in accordance with established policy. The parole officer shall submit the request as soon as possible and no later than three (3) calendar days of scheduling the hearing.
4. Revocation Hearing for Mitigation

At a revocation hearing after a conviction for a new felony offense, documents confirming the offender has been convicted, such as certified copies of the judgment and sentence are sufficient proof for the evidence phase of the hearing. In these situations, no witnesses shall be called to support such violations. A subpoena may be requested if:

- a. The offender requests a subpoena for character witnesses for the adjustment phase of the hearing; or
- b. The Rights of Offender in the Revocation Process form also contains allegations of administrative violations of the conditions of release, and witnesses are needed to testify regarding such allegations. Subpoena requests shall be submitted in accordance with established policy.

5. Subpoena

If the parole panel issues a subpoena, the parole officer or region designee shall personally deliver a copy of the subpoena to the witness named in the subpoena. When subpoenaing law enforcement officers, the subpoena may be submitted to that agency's liaison office.

C. Court Documents and Other Evidence

The parole officer shall be prepared to submit documents and other evidence in support of the allegations at the hearing, even if the offender previously admitted to the violations, as the offender may deny the allegations during the hearing.

The parole officer shall not rely solely on witness testimony to prove the allegation(s) and shall have all statements, affidavits, certified court documents such as complaints, indictments, information, judgment and sentence, and order of probation available for introduction at the hearing.

D. Additional/Supplemental Information

The parole officer shall review all information concerning the offender's adjustment while on supervision. If a community supervision or federal probation officer is also supervising the offender, the parole officer shall contact the probation officer for a status report on the offender's adjustment on supervision and provide that information to the hearing officer. The officer may attach the prior history portion of the case summary to the PSV-32B.

E. Parole Officer's Appearance at Hearings

Offenders have the right to confront their accusers. The supervising parole officer may be required to attend preliminary and revocation hearings, whenever the parole officer's testimony and cross-examination regarding administrative violations of the conditions of release is requested unless:

1. The sole basis for revocation is a new conviction; or
2. If the supervising parole officer is not available as defined above, the unit supervisor or designee shall prepare a business record affidavit.

F. Hearing Documents

1. The parole officer shall provide the offender and his attorney, if one is retained or appointed, with all of the documents that will be presented in the hearing including the names of all witnesses who have been subpoenaed or requested to appear. These documents and witness names shall be provided to the offender and the offender's attorney, if one is retained or appointed three (3) calendar days prior to a preliminary hearing and five (5) calendar days prior to a revocation hearing.

2. Offense or arrest reports shall not be submitted as evidence at a hearing unless specifically approved for release by the law enforcement agency. Parole officers should submit documents that are public record such as a criminal complaint, indictment, judgment, or sentence.
3. On the same date the hearing documents are provided to the offender, a copy of the packet including the Rights of Offender in the Revocation Process form shall be provided to the hearing officer to allow time to prepare for the hearing.

## XI. CONDUCTING THE HEARING

### A. Preliminary Hearing or Revocation Hearing

1. A BPP hearing officer will facilitate the hearing by instructing the parole officer to provide the evidence and any additional information or explanation regarding the alleged violations and to present the witnesses who have been called to testify.

If the hearing is conducted in a TDCJ unit, the parole officer may be required to be present in order to introduce evidence or be available to respond to questions. If the parole officer is not present, the hearing officer may introduce the information contained in the packet.

2. After the hearing officer explains the purpose of the hearing and the offender's rights, the hearing officer will request the Certificate of Release. The hearing officer will then begin the evidence phase of the hearing by requesting the offender admit or deny the allegations. If the offender denies the allegations, the hearing officer will then request the parole officer produce all evidence related to the alleged violations including, but not limited to, documents or witness testimony. The hearing officer will then ask the offender or the offender's attorney, if represented by counsel, to present any evidence or witness testimony in defense of the allegations. If the offender admits the allegations, the hearing officer will usually proceed to the adjustment phase of the hearing, but in some cases the hearing officer may, at the hearing officer's discretion, request evidence to be presented.
3. Once the evidence has been admitted into the record, the hearing officer will determine whether sufficient evidence has been presented to find probable cause or sustain the allegation. The offender will be asked to provide a release plan either at this point or after the adjustment phase.
4. If the hearing officer determines there is sufficient evidence to proceed to the adjustment phase of the hearing or if the offender has admitted the allegations, the hearing officer will request any documents or testimony regarding the offender's adjustment on parole. The parole officer shall present all relevant documents regarding the offender's adjustment while on supervision.

5. Once the adjustment evidence is admitted, the parole officer may be asked for his recommendation. At a preliminary hearing, a parole officer may recommend to continue on supervision with the same or modified conditions, return to the sending state (Interstate Compact cases), continue warrant in effect pending adjudication of charges or proceed to revocation hearing.

At a revocation hearing, the parole officer may recommend to continue on supervision with the same or modified conditions, transfer to an ISF or SAFPF as outlined in PD/POP-4.3.1, *Intermediate Sanction Facility (ISF)* or revocation.

6. At the conclusion of a preliminary hearing, the hearing officer may ask the offender whether the offender wants to waive the revocation hearing.
7. After the recommendation is received, the hearing officer shall close the hearing and provide information as to when the decision will be made by the parole panel.

B. Hearing Conducted by Summons or the Offender Was Released On Bond

1. In the event an offender who was released from custody on bond fails to report for a scheduled hearing, or an offender fails to report for a summons hearing, the parole officer shall conduct an investigation in accordance with PD/POP 4.1.1, *Processing Violations of the Rules and Conditions of Release*. The hearing shall be rescheduled if the offender is located. If the offender cannot be located, the parole officer shall contact the Warrants Section and request:
  - a. The Warrants Section republish the existing warrant and notify the appropriate court, bonding company, and jail of the offender's failure to report to the hearing.
  - b. Warrant issuance if the offender failed to report for a scheduled summons hearing.
2. A summons hearing or a hearing for an offender released on bond shall be conducted in the county jail in the same manner as listed in Section X—Hearing Preparation.
3. At the conclusion of a summons hearing, a warrant shall not be requested. A warrant will be issued dependent upon the BPP decision, unless circumstances arise requiring warrant issuance. At the conclusion of a hearing for an offender released on bond, the warrant shall not be republished until a final BPP decision or circumstances arise requiring the warrant to be republished. The parole officer shall instruct the offender to report to the DPO in 10 business days and thereafter every five (5) business days until the final BPP action is received. An investigation in accordance with PD/POP-4.1.1, *Processing Violations of the Rules and Conditions of Release* shall be initiated in the event the offender fails to report at any time after the hearing.

### C. Mitigation Hearing for a New Offense

The hearing shall be conducted in accordance with the procedures described in Section III—Revocation Process Initiated by Warrant or Due to Criminal Charges. Certified documents confirming the offender has been convicted of a new felony offense are sufficient proof for the evidence phase of the hearing in relation to the alleged violations involving the new offenses. The offender may call character witnesses to testify on the offender's behalf.

If violations that are not related to the new conviction are also alleged, such as administrative violations of the conditions of release, the evidence phase of the hearing shall proceed in accordance with established policy.

## XII. DECISIONS

Hearing Operations will forward a copy of the document signed or initialed by the parole panel members. If a hearing was conducted, a notice of the hearing report with the findings of fact and conclusions of law shall be sent to the supervising parole officer by email.

### A. Non-Revocation

If the parole panel's decision is:

1. Continue Supervision—The parole officer shall follow the procedures outlined in PD/POP-4.2.2, *Warrant Closure/Return to Supervision*, and ensure the warrant is withdrawn within three (3) business days. If the parole panel's decision was based upon a hearing or waiver obtained after the issuance of a summons, the parole officer shall resume supervision.
  - a. If the decision was a result of a Summons Hearing, the violation report shall be administratively closed within three (3) business days.
  - b. If the decision was the result of a hearing for an offender that was released on bond, the warrant shall be withdrawn within three (3) business days.
2. Continue Supervision Pending Adjudication of Charges—The warrant will be withdrawn and the parole officer shall initiate the revocation process as outlined in Section III of this policy upon adjudication of the criminal charges.

### B. Proceed to Revocation

If the hearing officer finds probable cause, the parole officer shall conduct an interview and follow the procedures outlined in this policy.

In the event the offender has pending criminal charges, the Revocation Hearing shall be scheduled within two (2) business days of the parole officer learning the charges have been adjudicated.

C. ISF/SAFPF

1. If the offender is in custody and the decision is to transfer the offender to an ISF or SAFPF, the parole officer shall complete an ISF transfer packet in accordance with PD/POP-4.3.1, *Intermediate Sanction Facility (ISF)*.
2. If the offender is not in custody and there is no warrant in effect, the Warrants Section shall ensure a pre-revocation warrant is issued within one (1) business day. The parole officer shall have the offender arrested the next time the offender reports.
3. If the offender is not in custody due to being released on bond, the Warrants Section shall ensure the existing pre-revocation warrant is published in the NCIC/TCIC within one (1) business day, and the parole officer shall have the offender arrested the next time the offender reports.
4. Upon arrest, if it has been greater than 90 days since the BPP action date, the Warrants Section shall review the case to determine if:
  - a. The transfer of the offender to an ISF is still appropriate; or
  - b. Notification to the parole officer to proceed to another hearing to include additional allegations is appropriate.

D. Revoke

1. If the offender is in custody and the decision is to revoke, the parole officer shall obtain the Proclamation of Revocation and Warrant of Arrest and the Hearing/Waiver Results from the OIMS. A copy of the Proclamation of Revocation and Warrant of Arrest and the Hearing/Waiver Results shall be provided to the offender within three (3) business days of receipt of notification. The parole officer shall require the offender to sign and date the form to acknowledge receipt of the notification and the parole officer shall witness this signature. If the offender refuses to sign the form, the parole officer shall note the offender's refusal on the signature line of the form, and sign and date the form on the witness line. The signed copy of the Hearing/Waiver Results form shall be scanned into the OIMS.

In cases where the offender is in the custody of a county jail, one (1) copy of the Proclamation of Revocation and Warrant of Arrest shall be delivered to the sheriff's office within three (3) business days of receipt of notification. If the offender is in a state jail, a copy of the Proclamation of Revocation and Warrant of Arrest shall be delivered to the appropriate records office within three (3) business days of receipt of notification.

2. If the offender is not in custody and the decision is to revoke, the Warrants Section shall enter the Proclamation of Revocation and Warrant of Arrest ("white warrant") in the NCIC/TCIC. Upon confirmation of the warrant, the parole officer shall proceed with actions noted in Section XII.D.1 above.

E. Interstate Compact Cases

If the decision by the sending state on an Interstate Compact case is to return the offender to the sending state, the parole officer shall monitor the case until the time the offender is retaken by the sending state.

XIII. DEADLINE FOR DISPOSITION

If a BPP decision is not received within (15) calendar days of the submission of the waiver or the hearing completion date, the parole officer shall contact the appropriate BPP office to ascertain the status of the disposition.

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Stuart Jenkins  
Director, Parole Division