

**THE INS AND OUTS OF TYC**  
**INTAKE, PROCESSING, LENGTHS OF STAY, AND RELEASE DECISIONS**  
**NUTS AND BOLTS OF JUVENILE LAW – JULY 2010**

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**Introduction**

The Texas Youth Commission is the state’s juvenile corrections agency, responsible for the rehabilitation of the state’s most serious youthful offenders. As of June 8, 2007, youth may only be committed to TYC if adjudicated for a felony offense (Texas Family Code §54.04). Youth may be sent to TYC with determinate or indeterminate sentences, depending on the circumstances. The purpose of this paper is to guide practitioners through the TYC process as it relates to intake, minimum lengths of stay, release decisions, parole, and discharge.

**Intake and Assessment**

Once a county commits a youth to TYC, the juvenile court must assign an officer or other suitable person to escort the youth to the proper TYC intake facility. If the youth is a female, the escorting person must be a female. For males, the proper TYC intake facility is the McLennan County Juvenile Correctional Facility – Unit I, in Mart. For females, it is the Ron Jackson State Juvenile Correctional Complex – Unit I, in Brownwood. The county is responsible for the costs of transporting the youth (Texas Human Resources Code §61.064).

In addition to physically taking the youth to TYC, the county is responsible for providing certain information to TYC. The county must provide TYC with a certified copy of the order committing the youth to TYC and must make available all pertinent information related to the case in the county’s possession (Texas Human Resources Code §61.065). The county is also required to send copies of the following:

1. the petition and the adjudication and disposition orders for the youth, including the youth’s thumbprint; [For determinate commitment youth, include the number of days the youth is to receive credit for time spent in detention];
2. if the commitment is a result of revocation of probation, a copy of the conditions of probation and the revocation order;
3. the social history report for the youth;
4. any psychological or psychiatric reports concerning the youth;
5. the contact information sheet for the youth’s parents or guardian;
6. any law enforcement incident reports concerning the offense for which the youth is committed;
7. any sex offender registration information concerning the youth;
8. any juvenile probation department progress reports concerning the youth;
9. any assessment documents concerning the youth;
10. the computerized referral and case history for the youth, including case disposition;
11. the youth’s birth certificate;

12. the youth's social security number or social security card, if available;
13. the name, address, and telephone number of the court administrator in the committing county;
14. Title IV-E eligibility screening information for the youth, if available;
15. the address in the committing county for forwarding funds collected to which the committing county is entitled;
16. any of the youth's school or immunization records that the committing county possesses;
17. any victim information concerning the case for which the youth is committed; and
18. any of the youth's pertinent medical records that the committing court possesses (Texas Human Resources Code §61.0651).

Once the youth arrives at the TYC facility, the intake and assessment process begins. During orientation and assessment, staff work with youth to determine their strengths and needs. Medical, emotional, educational, and psychological needs are evaluated. Each youth is assessed to determine if he is in need of specialized treatment. TYC offers the following specialized treatment programs: Capital and Serious Violent Offenders Treatment Program, Sexual Behavior Treatment Program, Mental Health, and Alcohol and Other Drugs Treatment Program. The end result for each youth is an individualized treatment plan that is evaluated and retooled as necessary while youth moves through TYC.

### **Placement Decisions**

The following factors are considered, in order, when determining where a youth will be placed while in TYC: gender, treatment needs, risk factors, and proximity to home.

TYC facilities house all males or all females, with the exception of the Corsicana Residential Treatment Center, which houses both. Of the available facilities for each gender, the youth will be assigned to one that provides services to best meet their treatment needs. The youth's risk to re-offend is computed and combined with information about past runaway attempts and facility escapes as well as behavior while at the intake unit (or on parole if the youth has returned to a TYC facility as a result of a parole revocation hearing); this information is used to determine if the youth must be placed in a high-restriction facility or if he is eligible for placement in a medium-restriction facility. Only youth committed for a low-severity offense (described herein) are eligible for initial placement in a medium-restriction facility.

After those three factors are considered and appropriate and available placements are determined, TYC makes every attempt to place the youth at the facility closest to his home (Texas Administrative Code §85.21).

In addition to decisions regarding which facility a youth will be placed at, youth are also assessed for particular risks and vulnerabilities to ensure the safest placement available for all youth. The assessment includes factors such as evidence-based criminogenic factors in the youth's history indicating a risk to others; age and physical stature or youth; potential vulnerability to sexual victimization; likelihood of sexually aggressive behavior; and special needs such as medical needs; disabilities; mental health; or suicide risk (Texas Administrative Code §85.24).

**Determining Minimum Length of Stay/Minimum Period of Confinement**

In addition to having their needs evaluated, youth committed to TYC with an indeterminate sentence are assigned a minimum length of stay while at intake (MLOS). TYC, not the court, determines the youth’s minimum length of stay. The minimum length of stay is the minimum amount of time a youth must remain in a TYC residential program before having the opportunity to be released on parole.

The law requires that TYC assign the minimum length of stay based on the severity of the committing offense and the danger the youth poses to the community (Human Resources Code 61.062). The severity of the committing offense is assessed by the offense level, with three aggravating factors that increase the severity. Those factors are whether the offense was against a person, a sexual offense, or an offense in which a weapon was present.

A youth committed to TYC for a capital offense or a first degree offense with one of the aggravating factors present will be considered to have committed a high severity offense; if no aggravating factor is present, the offense will be considered a moderate severity offense. Youth committed for second degree felony murder, manslaughter, or sexual assault will be considered to have committed a high severity offense; no assessment of aggravating factors is necessary because those offenses inherently contain at least one aggravating factor. Youth committed for any other second degree felony, third degree felony, or state jail felony offense with aggravating factors will be considered to have committed a moderate severity offense; those offense levels with no aggravated factors will be considered low severity offenses.

The danger the youth poses to the community is assessed using evidence-based factors that are linked to higher instances of recidivism. These include the number of referrals to juvenile court of felony and misdemeanor offenses, the number of felony referrals for offenses against a person, the number of adjudications for felony and misdemeanor offenses, age at first commitment to TYC, and whether or not the youth was ever in a residential placement prior to TYC. The youth will be assigned a certain number of points based on his history; those points will determine if his assessment rating in the area of danger to the community is high, medium, or low.

The number of referrals and adjudications is counted by date, not by number of offenses. Therefore, if a youth is referred to juvenile court on July 1, 2010, for four felony and misdemeanor offenses, that will count as one referral. Likewise, if a youth is adjudicated on July 1, 2010, for three offenses, that will count as one adjudication. (Texas Administrative Code §85.25, TYC Form CCF-040).

The following chart shows the minimum lengths of stay related to a youth’s offense severity level and risk assessment rating.

	<b>High Severity Offense</b>	<b>Moderate Severity Offense</b>	<b>Low Severity Offense</b>
<b>High Risk Assessment</b>	24 months	15 months	12 months
<b>Medium Risk Assessment</b>	18 months	12 months	9 months
<b>Low Risk Assessment</b>	15 months	12 months	9 months

It must be noted that although the minimum length of stay is assigned to the youth at intake, the information relied upon to compute the minimum length of stay is information known to the county and accessible to the defense attorney. Therefore, the minimum length of stay can and should be computed in advance of the adjudication and disposition hearings so that the youth and his family will be prepared for what it will be and so that any plea bargaining decisions can be made with an understanding of the minimum length of stay that will be assigned.

Youth committed to TYC with a determinate sentence have a minimum period of confinement (MPC) established by law. The minimum period of confinement is the minimum amount of time a youth must spend in a high restriction facility prior to being released to parole. For youth committed for capital murder, the MPC is ten years. For youth committed for a first degree felony or an aggravated controlled substance felony, the MPC is three years. For youth committed for a second degree felony, the MPC is two years. For youth committed for a third degree felony, the MPC is one year (Texas Human Resources Code §61.081).

### **Release Decisions – Program Completion**

The completion of the minimum length of stay or minimum period of confinement does not guarantee the youth will be released at that time. More is required of the youth to be released than simply “doing time.”

Although there are specific rules that apply to youth with determinate commitments, in general both indeterminate and determinate commitment youth will be released to parole (TYC or TDCJ) if they complete the TYC rehabilitation program and any assigned specialized treatment programs before the expiration of their minimum length of stay or minimum period of confinement.

The specific program completion requirements for indeterminate commitment youth is as follows:

1. No major rule violation confirmed through a due process hearing in the past 30 days;
2. Participation in or completion of assigned specialized treatment programs or curriculum;
3. Completion of rehabilitation program requirements by being assigned to the highest stage of the assigned rehabilitation program. To reach the highest stage, youth must consistently participate in academic and workforce development programs commensurate with the youth’s abilities, participate in skills development groups, and consistently demonstrate learned skills; and
4. Completion of a community re-integration plan that demonstrates the youth’s understanding of his risk and protective factors, development of skills to reduce risk factors and increase protective factors, identification of goals and a plan of action to achieve those goals, and identification of obstacles that may hinder successful re-entry and plans to deal with those obstacles (Texas Administrative Code §85.55).

The only difference in program completion requirements for determinate commitment youth is that such youth must have no major rule violations confirmed in the past 90 days (Texas Administrative Code §85.59).

If a youth meets the requirements for program completion by the time his minimum length of stay or minimum period of confinement is completed, he will be released to TYC parole (or TDCJ –

Parole if a determinate commitment youth of a certain age, information that will not be dealt with in this paper).

### **Release Decisions without Program Completion – Determinate Commitments**

Determinate commitment youth who do not complete their minimum period of confinement before age 19 must go to the committing court for a hearing to determine if the youth will be released to TDCJ – Parole or transferred to TDCJ – Institution Division. An exception is determinate commitment youth committed for capital murder who have met program completion criteria and completed at least three years of the minimum period of confinement; these youth may be transferred to TDCJ – Parole without a transfer hearing (Texas Administrative Code §85.69).

Determinate commitment youth who complete their minimum periods of confinement before age 19 but do not complete TYC program requirements may be transferred to TDCJ - Parole or may be taken to court for a transfer hearing, if certain criteria are present.

TYC may request a transfer hearing for determinate commitment youth in high-restriction facilities if the youth is at least 16 years of age and:

1. has spent at least six months in a high restriction facility;
2. has not completed his sentence; and
3. has met at least one of the following behavior criteria:
  - a. committed a felony or class A misdemeanor;
  - b. committed major rule violations confirmed through a Level I or II due process hearing on three or more occasions;
  - c. has engaged in chronic disruption of program (five security admissions or extensions in one month or ten in three months); or
  - d. has demonstrated an inability to progress in his rehabilitation program due to persistent non-compliance with objectives; and
4. alternative interventions have been tried without success; and
5. the youth’s conduct indicates the welfare of the community requires the transfer.

TYC may request a transfer hearing for determinate commitment youth whose TYC-parole has been revoked or who have been adjudicated for or convicted of a new felony committed while on parole status if the youth is at least 16 years of age, has not completed his sentence, and his conduct indicates the welfare of the community requires the transfer (Texas Administrative Code §85.65).

### **Release Decisions without Program Completion – Indeterminate Commitments**

Youth with an indeterminate sentence who do not complete TYC’s rehabilitation program prior to the expiration of the minimum length of stay may have their stay in TYC extended by the Texas Youth Commission’s statutorily required Parole Review Panels (Panel). The Panel was created in 2007 via SB 103’s addition of Section 61.0815 to the Texas Human Resources Code. Since its inception in 2007, the Panel has conducted approximately 5500 reviews of youth committed to TYC without a determinate sentence who have reached their minimum length of stay without completing TYC’s rehabilitation program.

Texas Human Resources Code §61.0815 requires:

1. Indeterminate sentenced youth who have completed the established minimum length of stay must be reviewed by a Panel.
2. The Panel must consist of an odd number of central office employees appointed by the Executive Director.
3. No Panel member may be involved in the supervision of youth.
4. The Panel determines if the youth should be released to parole supervision, discharged from TYC custody, or extended in residential placement.
5. Any decision to extend a youth's length of stay must be made by a majority vote of the Panel on the basis of:
  - a. clear and convincing evidence
  - b. that the youth is in need of further rehabilitation and
  - c. TYC is the most suitable location for such rehabilitation.

Based upon the above statutory requirements, the Panel only reviews youth who have completed their minimum lengths of stay and have not been released by the facility as "program complete," as described above.

Due to the statutory requirement that the Panel consist of an odd number of TYC – Central Office employees, the decision Panels are structured to each consist of three persons. Whenever possible, these three voting members represent each of the three areas upon which the review decision should be made. One member is an attorney, whose primary function is to ensure the criteria of clear and convincing evidence is met and review the decision for legal sufficiency. One member of the Panel is a mental health professional, whose primary function is to review the youth's treatment and mental health history. One member is a program specialist, whose primary function is to be familiar with the available treatment services.

Although each member has a primary focus area, these areas overlap and all three Panel members must be able to review the entirety of the youth's progress. Each Panel member reviews the youth's record and votes for one of the three possible choices. The final decision must be made by a majority vote of the three Panel members.

Additional Panel staff members include support personnel and youth advocates who explain the Panel process to youth and ensure youth have a means of providing information to the Panel.

The Panel's operating rules are enumerated in Texas Administrative Code §85.57. That policy outlines the factors the Panel may consider in making the release or extension decision.

Although many factors are considered, the Panel focuses on two primary areas under consideration. The first is the degree and quality of the youth's participation in available treatment programs, as evidenced by the youth's efforts to reduce individual risk factors and increase individual protective factors. The second is the youth's behavior while at TYC, as evidenced by the number and frequency of rule violations confirmed through a due process hearing, including serious rule violations, aggressive incidents, or criminal conduct as well as incidents that demonstrate conduct similar to the youth's criminal conduct prior to TYC commitment. The length of time spent in a residential program relative to the youth's conduct is also taken into consideration.

The Panel, as a matter of logistics, makes its decisions based upon information received from facility staff, the youth, the youth's family, the victim(s) of the youth, and information available in the agency's computer system. Information from the youth, parent/guardian, and/or victim may be submitted in writing and youth may request assistance from TYC staff members, volunteers, or advocates in communicating with the Panel. The parent/guardian, victim(s), or person representing the youth may make a written request for personal communication with the Panel. Additionally, at its discretion, the Panel may interview the youth or others with information relevant to the youth's rehabilitative needs. A youth's refusal to speak to the Panel will not be held against him when making the release decision.

HRC §61.0815 requires that the Panel designate a specific additional length of time if youth are extended, provide notice to the youth and family of that decision, review the youth again at the end of that time period, reconsider its decision if requested by certain enumerated persons, and maintain statistical data on its decisions. (See attached documents for statistical data.)

The youth, the youth's parent/guardian, the youth's designated advocate, the youth's victim(s), a TYC employee, an employee of a TYC contractor, or a person who provides volunteer services at a TYC facility may submit a request for reconsideration of an extension order.

The facility superintendent (or appropriate staff from a contract care facility) may request reconsideration of a release or discharge order at any time prior to the youth's release or discharge if new information becomes available or the youth is alleged to have committed a major rule violation of which the Panel was unaware at the time of its original decision. The facility must provide the youth a copy of the request for reconsideration. The youth may provide information to the Panel concerning the reason(s) for the request.

Youth who are extended are reviewed at the end of each extension period using the same criteria and following the same procedural rules.

### **Transition Movement**

Indeterminate commitment youth who do well in the rehabilitation program may be eligible to transition to a medium restriction program prior to the expiration of their minimum lengths of stay. To be eligible, youth must complete a certain portion of their minimum lengths of stay, must complete the TYC rehabilitation program, and must have a draft community reintegration plan that demonstrates his understanding of his risk and protective factors; development of skills, abilities, and knowledge to reduce risk factors and increase protective factors; identification of goals and a plan of action to achieve goals in the medium restriction placement; and identification of obstacles that may hinder successful community re-entry and a plan to address those obstacles while in the medium restriction placement (Texas Administrative Code §85.45).

Youth who do well in transition are then released to parole. Youth who violate facility rules while in transition placement may be returned to a TYC high-restriction placement via a TYC administrative due process hearing (Texas Administrative Code §95.3 and Texas Administrative Code §95.55). Additionally, youth may violate a rule such that they lose release eligibility but are not returned to high restriction; in such cases, these youth will be reviewed by the Panel.

## Parole

Youth who are released prior to being discharged are placed on TYC parole. TYC has parole officers and contract parole officers throughout the state who provide community supervision to the youth and assist them in transitioning back into the community.

Youth are required to follow all laws and to follow their conditions of parole, which typically include not using drugs or alcohol; not possessing any weapon, even legal ones; reporting to the parole officer, going to school or working (or looking for work), complying with curfew, performing community service, attending assigned aftercare services, and otherwise engaging in 40 hours of constructive activity per week. Youth who comply with these terms may be successfully discharged from TYC prior to turning 19 (discharge criteria is discussed below).

Youth who do not comply with these terms are subject to having their parole revoked through a two-part TYC due process administrative hearing (Texas Administrative Code §§95.4 and 95.51). TYC has attorneys who serve as administrative law judges in these hearings. Youth are appointed a defense attorney, who is a non-TYC employee who contracts with TYC to serve as a defense attorney.

The first part of the hearing is called fact-finding, and is like the adjudication part of a court hearing. In fact-finding, the parole officer must first prove by a preponderance of evidence that the youth violated a law or one of his conditions of parole. With limited exceptions, the Texas Rules of Civil Evidence are applicable in the fact-finding portion of the hearing, including hearsay, which means live witnesses with personal knowledge of the facts must come to the hearing and testify and be subject to cross-examination.

If a violation is proven, the hearing proceeds to disposition. In disposition, the parole officer must prove by a preponderance of evidence that revocation of parole is in the best interest of the youth and/or community and/or that the youth is in need of further rehabilitation at a TYC or contract facility. In making this decision, the administrative law judge considers: the severity of the offense(s) proven at the hearing; any behavioral or adjustment issues the youth has had on parole and the steps taken by the parole officer to address those issues; whether or not the youth's conduct on parole presents a threat to persons or property; reasons the youth is in need of services offered at a TYC or contract placement; whether appropriate community-based alternatives have been exhausted; any impact statements written by victim(s) (of offense that is subject of parole revocation hearing, not of original offense); any participation in constructive activity, and any extenuating circumstances.

If the administrative law judge determines parole revocation is appropriate, the youth will be assigned a minimum length of stay based on the most serious offense proven at the hearing. For a felony offense, the youth will be assigned a 9-month minimum length of stay. For a misdemeanor offense, the youth will be assigned a 6-month minimum length of stay. For a technical parole violation, the youth will be assigned a 3-month minimum length of stay. The exception is that if the administrative law judge finds there are extenuating circumstances but still determines parole revocation is appropriate, the youth will be assigned a lower minimum length of stay (Texas Administrative Code §85.25). If the youth is recommitted to TYC for the same conduct for which his parole was revoked, he will be given credit toward his recommitment minimum length of stay for all time spent in TYC as a result of the revocation.

Youth returned to TYC through a parole revocation hearing undergo the same process for release as other youth, as described above.



## **Discharge**

There are a variety of ways youth may be discharged from TYC. Regardless of success or failure in the program, all youth will be discharged on or immediately before reaching age 19, which is when TYC's jurisdiction ends.

Determinate commitment youth will be discharged when their sentence ends (if before age 19) or when transferred to TDCJ - Parole or TDCJ - Institutional Division.

Indeterminate commitment youth who were not committed to TYC for a high-severity offense (or classified as a Type A Violent Offender prior to February 1, 2009) may be discharged from TYC prior to age 19 if they successfully complete parole. To successfully complete parole, the youth must complete the pre-discharge level of parole surveillance and supervision, comply with his conditions of parole, complete 60 hours of community service, complete 40 hours of constructive activity for at least 30 days, and have no pending delinquency petitions or criminal charges (Texas Administrative Code §85.95).

The same youth, while on parole, may also be discharged to enlist in the military, to obtain appropriate services (if 18 years old), if they have successfully completed parole a different placement state or when court action has been taken in that state, or for other special circumstances. All such discharges require approval of the executive director.

Youth on parole will also be discharged if placed on actively supervised adult probation or sentenced to at least six months in state or county jail for conduct that occurred while on parole status. Youth will be discharged if sentenced to TDCJ – Institutional Division. If representing a youth in adult court who is also on TYC parole, it is important to understand how the two systems work together in order to advise the youth on the best course of action for him to take.

In conclusion, the process through TYC, though consistent for all, is in many ways individualized to a youth's particular circumstances. For additional information on what a youth who may be sent to TYC can expect, please contact one of the authors of this paper, who can answer your questions or put you in touch with someone who can.

**Cited Authorities**

Texas Family Code §54.04

Texas Human Resources Code §61.064

Texas Human Resources Code §61.065

Texas Human Resources Code §61.0651

Texas Human Resources Code §61.062

Texas Human Resources Code §61.081

Texas Human Resources Code §61.0815

***Attached***

Texas Administrative Code §85.21 Intake and Assessment

Texas Administrative Code §85.24 Safe Housing

Texas Administrative Code §85.25 Minimum Lengths of Stay/Minimum  
Periods of Confinement

Texas Administrative Code §85.45 Transition Movement

Texas Administrative Code §85.55 Program Completion – Indeterminate Commitments

Texas Administrative Code §85.57 Release Review Panel

Texas Administrative Code §85.59 Program Completion – Determinate Commitments

Texas Administrative Code §85.69 Program Completion – Determinate/Capital Murder

Texas Administrative Code §85.95 Parole Completion and Discharge

Texas Administrative Code §95.3 Rules and Consequences for Youth in Facilities

Texas Administrative Code §95.4 Rules and Consequences for Youth on Parole

Texas Administrative Code §95.51 Level I Due Process Hearings (Parole Revocation)

Texas Administrative Code §95.55 Level II Due Process Hearings

**Other Attachments**

TYC Form CCF-040

Calculating Minimum Length of Stay

Review Panel Statistics

Checklist for Counties Committing Youth to TYC

## **CHECKLIST FOR COUNTY SENDING YOUTH TO TYC**

When committing a youth to TYC, the following items (or copies thereof) must be sent to TYC per Human Resources Code 61.065 and 61.0651:

- \_\_\_\_\_ Certified copy of the order committing the youth to
- \_\_\_\_\_ Petition, adjudication, and disposition orders including youth's thumbprint
- \_\_\_\_\_ Copy of the conditions of probation and revocation order (if probation revocation resulted in commitment)
- \_\_\_\_\_ Social history report for youth
- \_\_\_\_\_ Psychological or psychiatric reports concerning youth
- \_\_\_\_\_ Contact information sheet for parents/guardian of youth
- \_\_\_\_\_ All law enforcement incident reports concerning the committing offense
- \_\_\_\_\_ Any sex offender registration information concerning the youth
- \_\_\_\_\_ Juvenile probation department progress reports concerning the youth
- \_\_\_\_\_ Any assessment documents concerning the youth
- \_\_\_\_\_ The computerized referral and case history, including case disposition
- \_\_\_\_\_ The youth's birth certificate
- \_\_\_\_\_ The youth's social security number or social security card, if available
- \_\_\_\_\_ Name, address, and telephone number of the court administrator in the committing county
- \_\_\_\_\_ Title IV-E eligibility screening information for the youth, if available
- \_\_\_\_\_ The address in the committing county for forwarding funds collected to which the committing county is entitled
- \_\_\_\_\_ Any of the youth's school or immunization records that the committing county possesses
- \_\_\_\_\_ Any victim information concerning the committing case
- \_\_\_\_\_ Any of the youth's pertinent medical records that the committing court possesses

**In addition to the above, the county must make available to TYC all pertinent information related to the case that is in the county's possession.**

Youth Information				
Youth Name (Last, First, MI)	TYC Number	Home Region	Caseworker	Committing Offense

SEVERITY OF COMMITTING OFFENSE		
<b>Felony Level:</b> <input type="checkbox"/> 1 <sup>st</sup> Degree/Capital <input type="checkbox"/> 3 <sup>rd</sup> Degree <input type="checkbox"/> 2 <sup>nd</sup> Degree <input type="checkbox"/> State Jail	<b>Presence of:</b> Felony Sex Offense*: <input type="checkbox"/> Yes <input type="checkbox"/> No Felony against Person*: <input type="checkbox"/> Yes <input type="checkbox"/> No Weapon or Firearm: <input type="checkbox"/> Yes <input type="checkbox"/> No	
	<b>Weapon, sexual felony and/or felony against person <u>PRESENT</u></b>	<b>Weapon, sexual felony and/or felony against person <u>NOT PRESENT</u></b>
1 <sup>st</sup> Degree/Capital	High	Moderate
2 <sup>nd</sup> Degree: Murder, Manslaughter, Sexual Assault	High	N/A
2 <sup>nd</sup> Degree: All Others	Moderate	Low
3 <sup>rd</sup> Degree	Moderate	Low
State Jail	Moderate	Low

<b>SEVERITY RATING:</b>  <input type="checkbox"/> High <input type="checkbox"/> Moderate <input type="checkbox"/> Low
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ASSESSMENT FACTORS	Answer	Value	Score
1 Number of felony and/or misdemeanor referrals to juvenile court:	<input type="checkbox"/> 1	0	
	<input type="checkbox"/> 2	1	
	<input type="checkbox"/> 3	2	
	<input type="checkbox"/> 4	3	
	<input type="checkbox"/> 5	4	
	<input type="checkbox"/> 6 or more	5	
2 Number of referrals for offenses against person *	<input type="checkbox"/> 0	0	
	<input type="checkbox"/> 1	1	
	<input type="checkbox"/> 2 or more	2	
3 Number of felony and/or misdemeanor adjudications:	<input type="checkbox"/> 1	0	
	<input type="checkbox"/> 2	1	
	<input type="checkbox"/> 3	2	
	<input type="checkbox"/> 4 or more	3	
4 Age at commitment	<input type="checkbox"/> 17	0	
	<input type="checkbox"/> 16	1	
	<input type="checkbox"/> 15	2	
	<input type="checkbox"/> 10 - 14	3	
5 Any residential placements prior to TYC commitment	<input type="checkbox"/> No	0	
	<input type="checkbox"/> Yes	1	
<b>Total Score →</b>			

<b>ASSESSMENT RATING LEVEL:</b>  <input type="checkbox"/> High (12+) <input type="checkbox"/> Medium (6-11) <input type="checkbox"/> Low (0-5)
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		Severity Rating		
		High	Moderate	Low
Assessment	High	<input type="checkbox"/> 1	<input type="checkbox"/> 3	<input type="checkbox"/> 4
	Medium	<input type="checkbox"/> 2	<input type="checkbox"/> 4	<input type="checkbox"/> 5

Minimum Length of Stay:
1 → 24 months
2 → 18 months
3 → 15 months

<b>MINIMUM LENGTH OF STAY:</b>
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Low	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	4 → 12 months 5 → 9 months	<b>MONTHS</b>
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\_\_\_\_\_  
Printed Name/Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

<p><b>Felony Sex Offenses:</b> (from Code of Criminal Procedure, §62.001)</p> <ul style="list-style-type: none"> <li>• online solicitation of a minor; or</li> <li>• committing, attempting to commit, conspiracy to commit, or solicitation to commit: <ul style="list-style-type: none"> <li>○ indecency with a child</li> <li>○ sexual assault</li> <li>○ aggravated sexual assault</li> <li>○ prohibited sexual conduct</li> <li>○ compelling prostitution</li> <li>○ sexual performance of a child</li> <li>○ possession or promotion of child pornography</li> <li>○ aggravated kidnapping if the actor intended to violate or abuse the victim sexually</li> <li>○ burglary if the actor intended to commit any of the following: indecency with a child, sexual assault, aggravated sexual assault, prohibited sexual conduct, or aggravated kidnapping</li> </ul> </li> </ul>
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<p><b>Felony Offenses against Person:</b></p>		
<ul style="list-style-type: none"> <li>• abandoning or endangering a child</li> <li>• aggravated assault</li> <li>• aggravated kidnapping</li> <li>• aggravated robbery</li> <li>• aggravated sexual assault</li> <li>• agreement to abduct from custody</li> <li>• aiding suicide</li> <li>• arson (resulting in bodily injury)</li> <li>• assault</li> <li>• burglary (with intent to commit other violent offense)</li> <li>• capital murder</li> <li>• criminally negligent homicide</li> <li>• deadly conduct</li> <li>• enticing a child</li> <li>• escape (resulting in bodily injury)</li> </ul>	<ul style="list-style-type: none"> <li>• evading arrest (resulting in bodily injury)</li> <li>• failure to stop and render aid/personal injury</li> <li>• harassment</li> <li>• harassment by persons in secure correctional facilities</li> <li>• hazing</li> <li>• incest</li> <li>• indecency with a child</li> <li>• injury to child, elderly or disabled individual</li> <li>• intoxication assault</li> <li>• intoxication manslaughter</li> <li>• kidnapping</li> <li>• manslaughter</li> <li>• murder</li> </ul>	<ul style="list-style-type: none"> <li>• obstruction or retaliation</li> <li>• racing on a highway (resulting in bodily injury)</li> <li>• robbery</li> <li>• sale or purchase of child</li> <li>• sexual assault</li> <li>• sexual performance of a child</li> <li>• smuggling aliens (resulting in bodily injury)</li> <li>• stalking</li> <li>• tampering with a consumer product</li> <li>• terroristic threat</li> <li>• theft (from the person)</li> <li>• threatening a US President</li> <li>• unlawful restraint</li> <li>• unlawful transport</li> <li>• use of deadly weapon</li> </ul>

# REVIEW PANEL SUMMARY REPORT

## Review Panel Summary for FY 2009

Section 61.0815 of the Texas Human Resources Code requires that a Release Review Panel comprised of Central Office employees review information about each youth assigned an indeterminate sentence, at the completion of the assigned minimum length of stay. The Release Review Panel may choose to discharge a youth, release a youth to parole, or extend the youth's stay in residential placement.

Section 61.0815 of the Texas Human Resources Code also requires the Texas Youth Commission to maintain statistics of reviews and extensions granted by the Release Review Panel. Reviews are conducted by the Release Review Panel at the completion of a youth's minimum length of stay. Data was collected and recorded into tables per fiscal year.

For additional information about the statistics, please call (512) 424-6174.

## Review Panel Reviews by Type

Initial reviews are completed after a youth has fulfilled the original minimum length of stay given at the time of admission. Initial reviews result in a decision to discharge a youth from TYC, release to TYC parole, or extend a youth's stay in a TYC facility. The extension review is completed if the result of the initial review is to extend a youth in TYC. This review will be completed after the extension period expires. A reconsideration review is an appeal of an initial or extension review decision and can result in discharge from TYC, release to TYC parole, a reduction of the extension period, or upholding the original decision.

Month	Initial		Extension		Reconsideration		Total	
	#	Row %	#	Row %	#	Row %	#	Row %
<b>September 2008</b>	68	<b>48.6%</b>	52	<b>37.1%</b>	20	<b>14.3%</b>	140	<b>100%</b>
<b>October 2008</b>	80	<b>44.4%</b>	72	<b>40.0%</b>	28	<b>15.6%</b>	180	<b>100%</b>
<b>November 2008</b>	58	<b>40.3%</b>	67	<b>46.5%</b>	19	<b>13.2%</b>	144	<b>100%</b>
<b>December 2008</b>	85	<b>50.6%</b>	72	<b>42.9%</b>	11	<b>6.5%</b>	168	<b>100%</b>
<b>January 2009</b>	97	<b>57.1%</b>	63	<b>37.1%</b>	10	<b>5.9%</b>	170	<b>100%</b>
<b>February 2009</b>	80	<b>49.1%</b>	75	<b>46.0%</b>	8	<b>4.9%</b>	163	<b>100%</b>
<b>March 2009</b>	87	<b>45.1%</b>	98	<b>50.8%</b>	8	<b>4.1%</b>	193	<b>100%</b>
<b>April 2009</b>	80	<b>49.1%</b>	76	<b>46.6%</b>	7	<b>4.3%</b>	163	<b>100%</b>
<b>May 2009</b>	75	<b>36.9%</b>	110	<b>54.2%</b>	18	<b>8.9%</b>	203	<b>100%</b>
<b>June 2009</b>	69	<b>39.2%</b>	94	<b>53.4%</b>	13	<b>7.4%</b>	176	<b>100%</b>
<b>July 2009</b>	62	<b>39.0%</b>	81	<b>50.9%</b>	16	<b>10.1%</b>	159	<b>100%</b>
<b>August 2009</b>	84	<b>52.5%</b>	61	<b>38.1%</b>	15	<b>9.4%</b>	160	<b>100%</b>

Month	Initial		Extension		Reconsideration		Total	
	#	Row %	#	Row %	#	Row %	#	Row %
<b>Total</b>	<b>925</b>	<b>45.8%</b>	<b>921</b>	<b>45.6%</b>	<b>173</b>	<b>8.6%</b>	<b>2019</b>	<b>100%</b>



## Review Panel Decision Distribution

The table depicts the distribution of decisions made by the Release Review Panel for the total number of reviews in fiscal year 2009. Along with the initial and extension reviews, reconsideration reviews were also included in the total number of monthly reviews completed. Along with the initial and extension reviews, reconsideration reviews were also included in the total number of monthly reviews completed.

Month	Discharge		Extend		Release		Reduce		Uphold		Total	
	#	Row %	#	Row %	#	Row %	#	Row %	#	Row %	#	Row %
September 2008	3	2.1%	83	59.3%	37	26.4%	8	5.7%	9	6.4%	140	100%
October 2008	1	0.6%	114	63.3%	40	22.2%	7	3.9%	18	10.0%	180	100%
November 2008	4	2.8%	87	60.4%	35	24.3%	8	5.6%	10	6.9%	144	100%
December 2008	4	2.4%	103	61.3%	52	31.0%	6	3.6%	3	1.8%	168	100%
January 2009	1	0.6%	112	65.9%	50	29.4%	4	2.4%	3	1.8%	170	100%
February 2009	1	0.6%	109	66.9%	46	28.2%	6	3.7%	1	0.6%	163	100%
March 2009	4	2.1%	127	65.8%	56	29.0%	4	2.1%	2	1.0%	193	100%
April 2009	1	0.6%	112	68.7%	46	28.2%	1	0.6%	3	1.8%	163	100%
May 2009	3	1.5%	117	57.6%	71	35.0%	6	3.0%	6	3.0%	203	100%
June 2009	4	2.3%	98	55.7%	63	35.8%	3	1.7%	8	4.5%	176	100%
July 2009	2	1.3%	82	51.6%	64	40.3%	6	3.8%	5	3.1%	159	100%
August 2009	8	5.0%	79	49.4%	61	38.1%	4	2.5%	8	5.0%	160	100%
<b>Total</b>	<b>36</b>	<b>1.8%</b>	<b>1223</b>	<b>60.6%</b>	<b>621</b>	<b>30.8%</b>	<b>63</b>	<b>3.1%</b>	<b>76</b>	<b>3.8%</b>	<b>2019</b>	<b>100%</b>

Additional information is available on TYC's internet webpage at:

[http://www.tyc.state.tx.us/research/reviewpanelsummary\\_fy2009.html](http://www.tyc.state.tx.us/research/reviewpanelsummary_fy2009.html)



# General Administrative Policy Manual

**GAP.85.21**

**Chapter: Admission, Placement, Release, and Discharge**  
**Subchapter: Placement Planning**  
**Rule: Placement Assignment System**

**Effective Date: 9/1/09, T-99**

Replaces: GAP.85.21

Dated: 11/1/06, T-82

ACA Standard(s):4-JCF-3A-03, 3A-04, 5B-01, 5C-03

Statute(s): Human Resources Code §61.061

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## I. RULE

### a. Purpose.

The purpose of this rule is to establish an objective system of assigning youth to the most appropriate placement considering the Texas Youth Commission's responsibilities to provide for public protection and promotion of rehabilitation.

### b. General Provisions.

1. This rule applies to placement decisions made upon:
  - A. release from an intake unit on initial commitment to TYC; and
  - B. return to a residential facility from a parole placement.
2. Youth may be assigned to subsequent residential placements based on changing treatment needs, progress in rehabilitation programming, safety issues, or overpopulation concerns. For more information on transfers between facilities and transitions to less restrictive placements, see [§85.45](#) of this title.
3. Placements described in this rule will be to a facility of high or medium restriction. For more information on facility restriction levels, see [§85.27](#) of this title.

### c. Placement System Factors.

Placement decisions will be based on factors including but not limited to those listed in paragraphs (1) – (4) of this subsection, with each factor given priority in the order listed.

1. **Gender** – Facilities are authorized to house males only, females only, and in certain facilities which provide specialized treatment services, both genders. Absent a specialized treatment need which can only be met at a co-educational facility, youth will be assigned to male-only or female-only placements. Youth in coeducational facilities have equal access to agency programs and activities.
2. **Treatment Needs** – Of the placements available for the youth's gender, youth will be assigned to the placement that is best suited to meet the youth's individual

treatment needs. Youth with the highest need for any of the following specialized treatment services will be assigned to a placement that provides those services: mental health, mental retardation, sexual behavior, capital/violent offender, or chemical dependency. Whenever possible, youth with co-occurring specialized treatment needs will be assigned to placements providing each indicated type of treatment. See [§87.51](#) of this title for more information on the assessment of specialized treatment needs. Age and medical restrictions will also be considered in determining an appropriate placement assignment.

3. **Risk Assessment** – Of the placements available for the youth’s gender and treatment needs, youth are assigned to a high or medium restriction facility based on a risk assessment. The youth’s risk to re-offend is evaluated based on offense history, age at first referral to juvenile court, and other criminogenic factors. The assessment of risk to re-offend is combined with information about past facility escapes and behavior while at the intake unit or on parole and used to determine the required facility restriction level.

**A. Placement upon Initial Commitment to TYC.**

- i. Non-sentenced offenders with a committing offense of high or moderate severity and all sentenced offenders will initially be assigned to a program of high restriction.
- ii. Non-sentenced offenders with a committing offense of low severity will initially be assigned to a program of either high or medium restriction, depending on the results of the risk assessment and other factors identified in this rule.

**B. Placement upon Disciplinary Transfer from Parole to a Residential Facility.**

- i. Following a Level I due process hearing held in accordance with [§95.51](#) of this title, non-sentenced offenders found to have engaged in felony-level conduct while on parole and all sentenced offenders will be assigned to a program of high restriction.
- ii. Following a Level I due process hearing, non-sentenced offenders found to have engaged in misdemeanor-level conduct or violated conditions of parole which are not law violations will be assigned to a program of either high or medium restriction, depending on the results of the risk assessment and other factors identified in this rule.

4. **Proximity to Home** – Of the placements available for the youth’s gender, treatment needs, and risk assessment score, youth will be assigned to the placement closest to the youth’s approved home location. See [§85.71](#) of this title for more information on the criteria and process for approving a youth’s home. In cases where the closest placement is at or above established population capacity, the youth will be assigned to the next closest appropriate placement.

**d. Waivers.**

Except for non-sentenced offenders with a committing offense of high severity and

sentenced offenders, the placement restriction level required under this rule may be waived by the executive commissioner or designee. A designated restriction level may be waived in order to provide specialized treatment or when it is determined that a youth has a disability or special medical condition that would prevent the youth from functioning in the designated restriction level.

e. **Parent Notification.**

Parents or guardians of youth under the age of 18 will be notified of all placement assignments. Youth 18 or older must give consent to disclose any placement information to a parent.


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## II. MANAGEMENT REQUIREMENTS.

a. **Placement Assignment Responsibility.**

The CPU at the Ron Jackson State Juvenile Correctional Complex makes initial placement decisions for all females committed to TYC. The CPU at the McLennan County State Juvenile Correctional Facility makes initial placement decisions for all males committed to TYC.

b. **Process for Assignment upon Initial Commitment.**

1. After the orientation and assessment process is complete, the youth's master file is submitted to CPU.
2. CPU staff review the placement system factors and determine a tentative placement assignment.
  - A. Treatment needs and risk level are determined using the Placement Assignment form,  [CCF-060](#).
  - B. Proximity to home is based on the youth's home county at the time of placement.
  - C. Other factors, such as the youth's minimum length of stay, English proficiency, and educational achievement are considered.
3. CPU staff review the treatment needs, placement assessment rating, placement recommendations, and confidence rating in the automated diagnostic placement assistance program. If the program assignment differs from the two automated placement recommendations, a waiver must be completed and approved by the CPU administrator. The waiver must document who requested the waiver, the justification for the waiver request, and who approved the waiver request. The following factors may indicate a waiver should be considered.
  - A. Confidence Score - When the placement recommendation has a low confidence score of 70% or below, this may indicate a waiver should be considered.
  - B. Contract Care or Halfway House Placement - All initial placements to Contract Care or HWH programs require a waiver.

4. CPU staff reviews facility population figures. If the recommended facility is over the operational capacity or a placement moratorium is in place, alternative placement options must be identified.
5. CPU staff assigns the youth to a placement.
6. CPU staff completes and enters a Youth Movement form, [CCF-118](#), and then enters the data on the transportation schedule. A transport confirmation email is then sent to the sending and receiving locations.

**c. Process for Assignment upon Parole Revocation.**

1. Following the Level I due process hearing, designated parole or halfway house staff submit a request to CPU for facility placement and transportation on the Hearing Assignment Request form, [LS-277](#). If the requesting staff member suspects that the youth's specialized treatment needs have changed while in the community, a request for a new specialized treatment needs assessment may be included with the request to CPU.
2. CPU staff reviews and considers the following factors when making the assignment:
  - A. gender;
  - B. minimum length of stay;
  - C. age;
  - D. prior placements;
  - E. prior treatment needs;
  - F. prior treatment received;
  - G. behavior while on parole.
3. CPU staff assigns the youth to a placement and enters the data on the transportation schedule. A transport confirmation email is then sent to the sending and receiving locations.
4. The sending location will complete the CCF-118 form and file it in the youth's masterfile. Data entry depends on when the youth moves:
  - A. If the youth is moved on the same day as the revocation hearing, the receiving facility will change the location code for the CCF-118 to their location after the Level I Hearing Report, [CCF-160](#), has been entered.
  - B. If the youth is moved after the date of the revocation hearing, the sending facility enters the new CCF-118.

**INITIAL PLACEMENT CHART**

<b>Type of Offender</b>	<b>Offense Severity (from CCF-040)</b>	<b>Placement Risk Score (from CCF-060 Section C)</b>	<b>Facility Restriction Level</b>
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Sentenced	Any	Any	High
Non-Sentenced	High	High	High
	High	Moderate	High
	High	Low	High
	Moderate	High	High
	Moderate	Moderate	High
	Moderate	Low	High
	Low	High	High
	Low	Moderate	High/Medium
	Low	Low	High/Medium

**PLACEMENT CHART FOR RETURN TO RESIDENTIAL FACILITY FOLLOWING PAROLE REVOCATION**

Type of Offender	Most Serious Offense Proven at Hearing	Placement Risk Score (from CCF-060 Section D)	Facility Restriction Level
Sentenced	Any	Any	High
Non-Sentenced	Felony	High	High
	Felony	Moderate	High
	Felony	Low	High
	Misdemeanor	High	High
	Misdemeanor	Moderate	High/Medium
	Misdemeanor	Low	High/Medium
	Technical Violation Only	High	High/Medium
	Technical Violation Only	Moderate	High/Medium
	Technical Violation Only	Low	High/Medium



# General Administrative Policy Manual

GAP.85.24

**Chapter: Admission, Placement, Release, and Discharge**  
**Subchapter: Placement Planning**  
**Rule: Assessment for Safe Housing Placement**

**Effective Date: 8/1/09, T-98**  
New

ACA Standard(s): 4-JCF-3A-05, 3D-03, 5B-01, 5B-02, 5B-05  
Statute(s): Human Resources Code §61.061

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## I. RULE

### a. Policy.

The Texas Youth Commission (TYC) uses an objective system to assess the threat of harm posed by a youth to others and a youth's potential vulnerabilities to make housing and supervision assignments.

### b. Applicability.

This rule applies to high and medium restriction TYC facilities.

### c. Definitions.

**Safe Housing Assessment** – an instrument designed to determine the appropriate housing assignment at a youth's assigned facility and level of supervision for an individual youth. The assessment considers factors including, but not limited to, the following:

1. evidence-based criminogenic factors in a youth's history that indicate level of risk to others;
2. age and physical stature of youth;
3. potential vulnerability to sexual victimization or likelihood of sexually aggressive behavior; and
4. special needs including medical needs, suicide risk, disabilities, mental health or other placement concerns.

### d. General Provisions.

1. Each facility must establish a written housing plan that describes the housing levels allowed, staffing requirements, security level, and programming schedule of each housing unit.
2. TYC will conduct a safe housing assessment for each youth upon arrival to the intake unit and prior to facility transfer. Safe housing assessments will be conducted at specified intervals thereafter, and may be conducted at any time as indicated by youth needs, serious incidents, or facility security needs.

3. Youth will be assigned to housing units based on the results of the safe housing assessment. Placement within the housing unit may also be determined by the results of the safe housing assessment.
4. Unless it is determined necessary to ensure youth safety, a youth 14 years of age or younger shall not be assigned to the same dormitory as a youth 17 years of age or older.
5. Male and female youths shall not occupy the same sleeping room.
6. Unless otherwise approved on a case-by-case basis by the division director over residential services or his/her designee, youth who have a reportable adjudication for a sex offense, as defined in Chapter 62, Code of Criminal Procedure, shall be assigned to an open bay dorm with direct line of sight supervision or a single-occupant room.


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## II. MANAGEMENT REQUIREMENTS

### a. Housing Plans.

1. The superintendent must develop a housing plan for each living unit that includes, but is not limited to, the following:
  - A. physical plant description;
  - B. capacity;
  - C. staffing pattern for each shift;
  - D. safety, security and supervision practices;
  - E. housing levels and specific population assigned;
  - F. general programming; and
  - G. special services and/or accommodations.
2. The housing plan will designate housing/bed assignments for high, medium, and low housing risk levels.
3. The superintendent must submit housing plans for approval to the regional director or administrator of halfway houses and independent living, as appropriate. Any modification to the housing plan must also be submitted for approval.
4. The superintendent or designee will review the housing reports/rosters weekly to ensure accuracy and compliance with policy and procedures.

### b. Initial Assessment at Intake.

A staff member trained in conducting safe housing assessments must complete the assessment during the intake process and before the youth is assigned to a room. The initial intake housing assessment is documented on the Safe Housing Assessment form,  [CCF-035](#).

### c. Re-Assessment upon Facility Transfer.



1. No earlier than seven calendar days prior to a youth's scheduled transfer to another facility, the youth's multi-disciplinary team will complete a re-assessment. The case manager will document the re-assessment on the Safe Housing Re-Assessment form, [CCF-036](#).
2. Prior to assigning the youth to a dorm at the receiving facility, the institutional placement coordinator or other staff trained to conduct housing assessments will review the youth's most recent CCF-036, and sign the form in acknowledgement.

**d. Periodic Re-Assessments.**

1. The youth's case manager will complete a re-assessment and document it on the CCF-036 at least once every 90 days after initial placement at the facility.
2. As part of its monthly review, the youth's MDT will determine if an additional re-assessment should be conducted prior to the next scheduled re-assessment in order to reflect new information that would positively or adversely affect the youth's housing risk level. The MDT will document the monthly review on the Chronological Record, [CCF-520](#).

**e. Automatic Re-Assessments.**

The youth's case manager will complete a re-assessment and document it on the CCF-036 within one workday after any of the following events:

1. life-threatening suicide attempt, as defined in [GAP.91.87](#);
2. the youth's 17th birthday;
3. successful completion of a dorm-based specialized treatment program; or
4. finding of true in a level I or II due process hearing for the following:
  - A. major rule violations as defined in [GAP.95.3](#):
    - i. Assault – Unauthorized Physical Contact with Staff (No Injury);
    - ii. Assault – Unauthorized Physical Contact with another Youth (No Injury);
    - iii. Assault Causing Bodily Injury to another Youth;
    - iv. Assault Causing Bodily Injury to Staff;
    - v. Chunking Bodily Fluids;
    - vi. Extortion or Blackmail;
    - vii. Participating in a Major Disruption of Facility Operations;
    - viii. Sexual Misconduct; or
    - ix. Threatening another with a Weapon.
  - B. penal code offenses:
    - i. Aggravated Assault;
    - ii. Aggravated Sexual Assault;
    - iii. Arson;
    - iv. Indecency with a child;
    - v. Terroristic Threat; or
    - vi. Unlawful Restraint.

**f. Overrides of Assessment Results.**

1. Staff may recommend an override of the results of the safe housing assessment. Justification for the override recommendation must be based on documented information and included on the CCF-035 or CCF-036, as appropriate.
2. Except as described in (3) and (4) below, the superintendent or designee must approve or disapprove all recommended overrides in writing on the assessment form.
3. Only the director of residential and community services or designee may approve an override:
  - A. for a youth 14 or younger to be assigned to a dorm/housing unit with at least one youth who is 17 or older; or
  - B. for a youth with a reportable adjudication for a sex offense to a multi-occupant room.
4. The director of residential and community services or designee will document approval or disapproval for the recommended override on the CCF-035 or CCF-036, as appropriate. Such an override may not be granted unless the facility has developed a plan that provides for enhanced supervision of the youth.

**g. Increases in Housing Level.**

If a completed CCF-036 results in a higher housing level than a youth's previous assessment, the case manager must submit the form to the superintendent or designee for approval.

**h. Record Keeping.**

Completed CCF-035 and CCF-036 forms are filed in the youth's masterfile.

**i. Annual Review and Staff Access.**

1. The safe housing placement process will be reviewed annually by the director of residential and community services or designee and updated as needed.
2. The safe housing placement policies, procedures, and forms are made available to staff involved in the assessment process via the agency intranet.



# General Administrative Policy Manual

**GAP.85.25**

**Chapter: Admission, Placement, Release, and Discharge**

**Effective Date: 9/1/09, T-99**

**Subchapter: Placement Planning**

**Rule: Minimum Length of Stay/Minimum Period of Confinement**

Replaces: GAP.85.25

Dated: 2/1/09,T-95

ACA Standard(s): 4-JCF-5B-01

Statute(s): HR Code §61.062

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## I. RULE

### a. Purpose.

This rule establishes a minimum period of time youth will spend in high or medium restriction placements.

### b. Applicability.

#### 1. This policy applies only to:

- A. youth who are committed to the Texas Youth Commission (TYC) on or after February 1, 2009; and
- B. youth whose parole is revoked on or after February 1, 2009, regardless of the commitment date.

#### 2. Youth who were committed to TYC and/or whose parole was revoked prior to February 1, 2009 remain subject to provisions of this rule in effect at the time of the commitment or revocation.

### c. Definitions.

Definitions pertaining to this rule are under [§85.1](#) of this title.

### d. Minimum Length of Stay.

#### 1. Minimum Length of Stay Assigned upon Commitment.

The initial minimum length of stay applies only to non-sentenced offenders. The initial minimum length of stay is calculated based on the severity of the committing offense and an assessment of the danger the youth poses to the community.

- A. Youth whose committing offense is of high severity will be assigned the following minimum length of stay:

- i. 24 months, for youth with a high assessment rating level;
- ii. 18 months, for youth with a medium assessment rating level; or
- iii. 15 months, for youth with a low assessment rating level.

B. Youth whose committing offense is of moderate severity will be assigned the following minimum length of stay:

- i. 15 months, for youth with a high assessment rating level;
- ii. 12 months, for youth with a medium assessment rating level; or
- iii. 12 months, for youth with a low assessment rating level.

C. Youth whose committing offense is of low severity will be assigned the following minimum length of stay:

- i. 12 months, for youth with a high assessment rating level;
- ii. 9 months, for youth with a medium assessment rating level; or
- iii. 9 months, for youth with a low assessment rating level.

**2. Minimum Length of Stay Assigned upon Parole Revocation.**

A. A minimum length of stay may also be assigned by a TYC administrative law judge during a parole revocation hearing. This type of minimum length of stay may be assigned to sentenced offenders or non-sentenced offenders. The minimum length of stay will be based on the revocation offense proven at the hearing. Youth whose parole is revoked will be assigned the following minimum length of stay:

- i. 9 months, for youth found to have engaged in felony level conduct;
- ii. 6 months, for youth found to have broken a federal, state, or other law that is not a felony grade offense; or
- iii. 3 months, for youth found to have violated a condition of parole that is not also a violation of law.

B. A designated minimum length of stay may be reduced by the administrative law judge if extenuating circumstances to the offense are found at the parole revocation hearing.

**e. Minimum Period of Confinement.**

The minimum period of confinement applies only to sentenced offenders. The minimum period of confinement is:

- 1. ten years for youth sentenced for capital murder;
- 2. three years for youth sentenced for an aggravated controlled substance felony or a felony of the first degree;
- 3. two years for a felony of the second degree; and
- 4. one year for a felony of the third degree.

**f. Creditable Time for Non-Sentenced Offenders.**

1. Upon admission, the minimum length of stay shall be counted from the first day a youth reaches any TYC operated or assigned facility.
2. On recommitment, the minimum length of stay shall be counted from the first day a youth reaches any TYC operated or assigned facility, and shall run concurrently with any incomplete minimum length of stay requirements.
  - A. A youth who is recommitted for the same conduct following an appeal of the original commitment shall be given credit toward completion of the new minimum length of stay for any time spent in TYC custody as a result of the original commitment; or
  - B. A youth who is recommitted for the same conduct for which a Level I hearing has already been held shall be given credit toward completion of the new minimum length of stay for the time already served as a result of that hearing.
3. After the count begins, all time spent in program, on furlough or in detention or jail (except as a disposition in a criminal case) will be counted toward meeting a minimum length of stay requirement.
4. Time spent as an escapee from a TYC placement or time spent in jail or a court ordered placement in an adult correctional residential program as disposition in a criminal case shall not be counted toward meeting the minimum length of stay requirement.

**g. Creditable Time for Sentenced Offenders.**

1. For sentenced offenders committed prior to June 9, 2007, the minimum period of confinement shall be counted from the first day a youth reaches any TYC residential placement.
2. For sentenced offenders committed on or after June 9, 2007, credit shall be granted toward completion of the minimum period of confinement for time spent in a secure detention facility in connection with the committing case prior to admission to TYC.
3. Regardless of the date of commitment:
  - A. once a youth reaches a TYC placement and is credited with any applicable time in detention, only time spent in a TYC residential placement shall be credited toward completion of the minimum period of confinement; and
  - B. credit shall be granted toward completion of the sentence for time spent in a secure detention facility in connection with the committing case prior to admission to TYC.

**h. Concurrent Commitments.**

If a youth is committed to TYC under both determinate and indeterminate commitment orders, the determinate commitment order will have precedence.

1. The minimum period of confinement and minimum length of stay will run concurrently. The youth will be managed as a sentenced offender until discharged from the determinate commitment.
2. If a youth completes the determinate sentence prior to meeting discharge criteria for the indeterminate commitment, the youth will be:
  - A. discharged from the determinate commitment;
  - B. reassessed for rehabilitation needs under the indeterminate commitment; and
  - C. required to serve any remaining minimum length of stay associated with the indeterminate commitment.

**i. Reductions to Minimum Length of stay.**

1. The minimum length of stay requirement may be reduced by the TYC executive commissioner when it is determined that the minimum length of stay is not justified because of the nature of the offense and offense history or when it is determined that the youth has made sufficient progress in treatment programs.
2. Upon recommendation by the facility administrator, the division director over residential services may reduce a youth's minimum length of stay up to three months due to positive progress in treatment programs so long as the youth serves at least nine months in a residential placement.

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**References:** see form  [CCF-040](#) for calculation of minimum length of stay upon commitment.

**Note:** Refer to [GAP.85.25 \(effective 8/11/05\)](#) for policy applicable to youth committed or revoked prior to February 1, 2009.



# General Administrative Policy Manual

**GAP.85.45**

**Chapter: Admission, Placement, Release, and Discharge**  
**Subchapter: Movement Prior to Program Completion**  
**Rule: Movement Prior to Program Completion**

**Effective Date: 9/1/09, T-99**  
Replaces: GAP.85.45  
Dated: 6/4/07, T-87

ACA Standard(s): 4-JCF-3A-24, 3C-17, 5I-04

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[Definitions](#) | [General Provisions](#) | [Transition Movement](#) | [Transition Criteria](#) |  
[Decision Authority](#) | [Hardship Cases](#) | [Population Control Movements](#) |  
[Mental Illness or Mental Retardation](#) | [Notification](#)

## I. RULE

### a. Purpose.

The purpose of this policy is to establish criteria and procedures for moving youth who have not met program completion requirements to placements of equal or lesser restriction.

### b. Definitions.

1. Except as noted below, definitions pertaining to this rule are under [§85.1](#) of this title.
2. **Operational Capacity** – the identified general population level that a Texas Youth Commission (TYC) operated residential facility is appropriately capable of housing. Unless otherwise specified by the executive commissioner or designee, the operational capacity for a program is equivalent to the budgeted average daily population (ADP). Operational capacity may be set higher than the budgeted ADP when there is need and it has been determined that adequate program space and resources, including personnel, are available to support the higher capacity. Operational capacity may be set lower than the budgeted ADP when program space or resources, including personnel, indicate a reduced population is warranted.

### c. General Provisions.

1. Prior to a transition, a youth may request and in doing so will be granted a Level II hearing.
2. A plan to minimize risk factors for re-offending shall be developed for each youth prior to release, unless the youth is to be discharged.
3. All residential programs releasing an undocumented foreign national youth must notify Immigration and Customs Enforcement (ICE) pursuant to [§85.79](#) of this title.

4. TYC shall comply with Chapter 57, Family Code and Article 56.02, Code of Criminal Procedure, regarding victim notification. Refer to [§81.35](#) of this title regarding victim notification rights.
5. TYC shall comply with the Sex Offender Registration Program, pursuant to Chapter 62, Code of Criminal Procedure, regarding youth who are subject to sex offender registration. Refer to [§87.85](#) of this title regarding sex offender registration requirements.
6. Parents or guardians of youth under the age of 18 will be notified of all movements. Youth 18 or older must give consent to disclose any movement information to a parent.

**d. Transition Movements.**

**1. Eligibility.**

Youth classified as Type A violent offenders prior to February 1, 2009, and sentenced offenders are not eligible for transition movement. Youth of eligible classifications must meet transition criteria as set forth in paragraphs (2) and (3) of this subsection to qualify for a transition movement.

**2. Transition Movement Criteria.**

Youth in a high restriction placement may be eligible for transition to a medium restriction placement when the following criteria have been met:

- A. no major rule violations confirmed through a Level I or II due process hearing within 30 days prior to the exit review or during the approval process; and
- B. completion of minimum length of stay requirements:
  - i. for youth committed to TYC prior to February 1, 2009:
    - I. general offenders must complete all but three months of the minimum length of stay; and
    - II. Type B violent offenders, chronic serious offenders, controlled substance dealer offenders and firearms offenders must complete all but six months of the minimum length of stay; or
  - ii. for youth committed to TYC on or after February 1, 2009:
    - I. youth with a committing offense of low severity must complete six months of the minimum length of stay in high restriction placements; or
    - II. youth with a committing offense of moderate severity must complete nine months of the minimum length of stay in high restriction placements; or
    - III. youth with a committing offense of high severity must complete all but 90 days of the minimum length of stay in high restriction placements; and



- iii. for youth placed in a high restriction facility following revocation of parole, regardless of date, the youth must complete at least 2/3 of the minimum length of stay;
  - C. participation in or completion of assigned specialized treatment programs or curriculum as required under [§87.51](#) of this title; and
  - D. completion of rehabilitation program requirements:
    - i. for TYC-operated facilities, assignment by the multi-disciplinary team to the second highest stage in the assigned rehabilitation program as described in [§87.3](#) of this title, which reflects that the youth is currently:
      - I. consistently participating in academic and/or workforce development programs commensurate with abilities as reflected in the youth's educational plan; and
      - II. consistently participating in skills development groups, as reflected in the youth's individual case plan; and
      - III. consistently demonstrating learned skills, as reflected in the individual youth log and daily ratings of performance expectations; or
    - ii. for facilities operated under contract with TYC, completion of requirements for transition to a community residential placement as defined in the TYC-approved rehabilitation program; and
  - E. completion of a draft community reintegration plan (or equivalent in a contract facility), to be finalized at the medium restriction facility, that demonstrates the youth's:
    - i. understanding of his/her risk and protective factors; and
    - ii. development of skills, abilities, and knowledge to reduce risk factors and increase protective factors; and
    - iii. identification of goals and a plan of action to achieve goals in the medium restriction placement; and
    - iv. identification of obstacles that may hinder successful community re-entry and plans to deal with those obstacles in the medium restriction placement.

### 3. Decision Authority for Approval of Transition.

- A. The final decision authority will approve the youth's transition plan upon a determination that the youth meets all transition criteria and the transition/release ICP adequately addresses risk factors.
- B. The final decision authority is:
  - i. the superintendent if the youth is assigned to a TYC-operated placement; or
  - ii. the division director over residential services or designee if the youth is assigned to a facility operated under contract with TYC.

e. **Population Control Movements.**

When overpopulation occurs in any high restriction facility, certain remedial actions are taken. The director of residential services may cancel or revise any population control measure in effect or implement any other youth movement option when necessary to control population and/or manage available funds concerning youth in residential placement.

1. **Overpopulation Condition.**

- A. When population reaches three percent (3%) above operational capacity for general population, the superintendent **may** invoke population control procedures, upon the approval of the appropriate director of residential services.
- B. When population reaches five percent (5%) above operational capacity for general population, the superintendent **must**:
  - i. invoke population control procedures; and
  - ii. notify the appropriate director of residential services.

2. **Release Criteria.**

- A. The following youth are **ineligible** for population control movement:
  - i. for youth committed to TYC prior to February 1, 2009: Type A violent offenders, and Type B violent offenders whose classification is for manslaughter, criminally negligent homicide, or intoxication manslaughter;
  - ii. for youth committed to TYC on or after February 1, 2009: youth with committing offenses of high severity;
  - iii. sentenced offenders;
  - iv. youth with a high specialized treatment need who have not completed required specialized treatment programming;
  - v. sex offenders with court orders deferring their sex offender registration requirements; and
  - vi. any sex offender who will be released to a parole placement where the victim or a potential victim resides.
- B. Youth who are eligible for transition or release due to an overpopulation condition must meet the following criteria:
  - i. completion of the minimum length of stay;
  - ii. no major rule violations confirmed through a Level I or II due process hearing within 30 days of the release date; and
  - iii. substantial completion of the youth's rehabilitation program as determined by the youth's treatment team and approved by the facility administrator or designee.

3. **Placement Options.**

Youth moved from high restriction under population management procedures will be placed in:

- A. TYC-operated medium restriction placements; or
- B. an approved parole placement (home or home substitute) if all appropriate medium restriction placements are currently at capacity.

**4. Administrative Transfers.**

Administrative transfers may be made for non-disciplinary, programmatic purposes among programs of equal restriction without a due process hearing. An administrative transfer may not be made in lieu of a disciplinary transfer for which a due process hearing is mandatory.

**f. Hardship Cases.**

In hardship cases, the executive commissioner or designee may approve placing a youth on parole status without meeting program completion criteria.

**g. Youth with Mental Illness or Mental Retardation.**

Pursuant to [§87.79](#) of this title, certain youth shall be discharged following application for appropriate services to address their mental illness or mental retardation.

**h. Notification.**

TYC will notify the committing juvenile court, the prosecuting attorney, the parole officer, and the chief juvenile probation officer in the county to which the youth is being moved no later than ten calendar days prior to the transition or release.

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**References**

- See TYC's Case Management Standards for implementation procedures for transition movements.
- See [INS.31.73](#) for implementation procedures for administrative transfers.



# General Administrative Policy Manual

**GAP.85.55**

**Chapter: Admission, Placement, Release, and Discharge**  
**Subchapter: Program Completion and Release**  
**Rule: Program Completion for Non-Sentenced Offenders**

**Effective Date: 9/1/09, T-99**

Replaces: GAP.85.55  
Dated: 6/4/07, T-87

ACA Standard(s): 4-JCF3A-22, 3A-23, 3A-25, 3A-26, 5I-01

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[General Provisions](#) | [Completion Criteria](#) | [Review and Approval Process](#) | [Decision Authority](#) | [Notification](#)

## I. RULE

### a. Purpose.

The purpose of this rule is to establish criteria and the approval process for release of youth upon program completion.

### b. Applicability.

1. Definitions pertaining to this rule are under [§85.1](#) of this title.
2. This rule does not apply to sentenced offenders.
3. This rule does not apply to youth who have received an extension of stay by the TYC Release Review Panel. See [§85.57](#) of this title for more information on releases issued by the Release Review Panel.

### c. General Provisions.

1. A detainer or bench warrant is not an automatic bar to earned release. The agency shall release a youth to authorities pursuant to a warrant.
2. A plan to minimize risk factors for re-offending shall be developed for each youth prior to release, unless the youth is to be discharged.
3. TYC shall comply with Chapter 57, Family Code, and Article 56.02, Code of Criminal Procedure, regarding victim notification. Refer to [§81.35](#) of this title for victim notification procedures.
4. Immigration and Customs Enforcement must be notified when releasing an undocumented foreign national youth. Refer to [§85.79](#) of this title for notification procedures regarding undocumented foreign national youth.
5. TYC shall comply with the Sex Offender Registration Program, pursuant to Chapter 62, Code of Criminal Procedure, regarding youth who are subject to sex offender registration. Refer to [§87.85](#) of this title for sex offender registration procedures.

6. Parents or guardians of youth under the age of 18 will be notified of all movements. Youth 18 or older must give consent to disclose any movement information to a parent.

**d. Program Completion Criteria.**

Youth in high or medium restriction placements will be eligible for release to TYC parole (home or home substitute) when the following criteria have been met:

1. no major rule violations confirmed through a Level I or II due process hearing within 30 days prior to the exit review or during the approval process; and
2. completion of the minimum length of stay; and
3. participation in or completion of assigned specialized treatment programs or curriculum as required under [§87.51](#) of this title; and
4. completion of rehabilitation program requirements:
  - A. for TYC-operated facilities, assignment by the multi-disciplinary team to the highest stage in the assigned rehabilitation program as described in [§87.3](#) of this title, which reflects that the youth is currently:
    - i. consistently participating in academic and workforce development programs commensurate with abilities as reflected in the youth's educational plan;
    - ii. consistently participating in skills development groups, as reflected in the youth's individual case plan;
    - iii. consistently demonstrating learned skills, as reflected in the individual youth log and daily rating of performance expectations;  
or
  - B. for facilities operated under contract with TYC, completion of requirements for release to parole as defined in the TYC-approved rehabilitation program; and
5. completion of a community re-integration plan (or equivalent in a contract facility), approved by the youth's treatment team, that demonstrates the youth's:
  - A. understanding of his/her risk and protective factors;
  - B. development of skills, abilities, and knowledge to reduce risk factors and increase protective factors;
  - C. identification of goals and a plan of action to achieve those goals; and
  - D. identification of obstacles that may hinder successful re-entry and plans to deal with those obstacles.

**e. Review and Approval Process.**

**1. Treatment Team Review.**

- A. Prior to expiration of a youth's minimum length of stay, the youth's treatment team must review and determine whether the youth meets program completion criteria.
- B. The review and determination must occur at least:
  - i. 30 days prior to the expiration of the minimum length of stay for youth with a committing offense of low or moderate severity; or
  - ii. and at least 90 days in advance for youth classified as Type A violent offenders prior to February 1, 2009 or youth with a committing or revocation offense of high severity.
- C. If the treatment team determines the youth does not meet program completion criteria, the youth's case will be referred to the Release Review Panel for decision in accordance with [§85.57](#) of this title.
- D. If the treatment team determines that the youth does meet program completion criteria, the youth's case will be referred to the final decision authority.

**2. Final Decision Authority for Approval of Release.**

- A. The final decision authority for youth classified as Type A violent offenders prior to February 1, 2009 and youth with a committing or revocation offense of high severity is the division director over programming and treatment services.
- B. The final decision authority for all other non-sentenced offender youth is:
  - i. the facility administrator for youth assigned to TYC-operated facilities; or
  - ii. the division director over residential services or designee for youth assigned to facilities operated under contract with TYC.
- C. If the final decision authority approves the release, the youth must be placed on parole or parole status on the minimum length of stay date.
- D. If the final decision authority does not approve the release, or if the youth loses release eligibility prior to the minimum length of stay date and the treatment team confirms that the youth no longer meets program completion criteria, the youth's case must be referred to the Release Review Panel.

**f. Notification.**

- 1. Staff shall notify the youth, parent/guardian, any designated advocate for the youth, and any identified victim(s) of the pending release review by the treatment team at least 30 days prior to the date of the review.

2. Staff shall notify the youth, parent/guardian, and any designated advocate for the youth of the review decision at least 30 days prior to the expiration of the minimum length of stay.
3. TYC will notify the committing juvenile court, the prosecuting attorney, the parole officer, and the chief juvenile probation officer in the county to which the youth is being moved no later than ten calendar days prior to the release.

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**References:** See TYC's Case Management Standards for implementation procedures.



# General Administrative Policy Manual

GAP.85.57

Chapter: Admission, Placement, and Program Completion  
Subchapter: Program Completion  
Rule: Release Review Panel

Effective Date: 5/1/09, T-96  
New

ACA Standard(s): 4-JCF-3A-22, 3A-23, 5I-01  
Statute(s): HR Code §61.0815

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[Definitions](#) | [General Provisions](#) | [Completion of MLOS](#) | [Completion of ELOS](#) | [Reconsideration Requests](#) | [Management Requirements](#)

## I. RULE

### a. Purpose.

This rule establishes a release review panel to determine whether a youth who has completed his/her minimum length of stay should be discharged from the custody of the Texas Youth Commission (TYC), released under supervision, or given an extended length of stay. This rule also establishes a process to request reconsideration of an order issued by the release review panel.

### b. Applicability.

This rule applies to all youth committed to the TYC without a determinate sentence who have completed the minimum length of stay and have not been released to parole or discharged from TYC custody.

### c. Definitions.

The following terms, as used in this rule, have the following meanings unless the context clearly indicates otherwise.

1. **Clear and Convincing Evidence** – a standard of proof meaning that measure or degree which will produce in the mind of the trier of facts a firm belief or conviction as to the position sought to be established; more than a preponderance of the evidence, but less than beyond a reasonable doubt.
2. **Discharge** – legal release from the legal jurisdiction of TYC.
3. **Extension Length of Stay** – a period of time in addition to the minimum length of stay that a youth is required to remain in residential placements. An extension length of stay may only be assigned by the Release Review Panel in accordance with provisions of this rule.
4. **Individual Risk and Protective Factors** – the dynamic characteristics of a youth's environment, behavior, and mental processes that contribute to the



likelihood of further delinquent activity (risk factors) or that contribute to the prevention of delinquent activity (protective factors).

5. **Major Rule Violation** – a violation in the most serious category of rule violations for residential facilities, as listed in [§95.3](#) of this title.
6. **Minimum Length of Stay** – the minimum period of time a youth is required to remain in residential placements. The minimum length of stay is assigned upon initial commitment, recommitment, or revocation of parole.
7. **Progress Review Team** – the TYC residential placement staff or TYC contract placement monitoring staff who are designated by the facility to meet and assess a youth’s progress in treatment programming.
8. **Release** – movement to parole supervision.
9. **Release Review Panel (or Panel)** – the TYC Central Office staff appointed to determine if a youth who has completed his/her minimum length of stay will be discharged, released, or given an extended length of stay.
10. **Residential Placement** - a high or medium restriction facility, as defined in [§85.27](#) of this title.

d. **General Provisions.**

1. **Panel Members.**

- A. The Panel will consist of an odd number of members appointed by the executive commissioner for terms of at least two years.
- B. Each member of the Panel must be a TYC employee who works at the TYC central office. Panel members may not be involved in any supervisory decisions concerning youth in the custody of TYC.

2. **Evidence used by the Panel.**

- A. The Panel may review any information relevant to the youth’s progress and rehabilitation.
- B. A youth, the parents/guardian of a youth, victims of a youth, or any advocate chosen by a youth may submit information for the Panel’s consideration. Information and arguments should be submitted to the Panel in writing on or before the expiration of the youth’s minimum length of stay, or if applicable, expiration of the extension length of stay. A youth may request assistance from any TYC staff member, volunteer, or advocate in communicating with the Panel.
- C. A parent/guardian, victim, or person representing a youth may make a written request for personal communication with a member of the Panel on or before the expiration of the youth’s minimum length of stay, or if applicable, expiration of the extension length of stay. The time, place, and manner of communication will be established by the Panel.

- D. The Panel may, at its discretion, interview the youth or any other individual who may have information relevant to the youth's rehabilitation needs. When notified that a youth has a representative assisting him/her with the review, the panel will notify the representative of any scheduled interviews with the youth prior to conducting the interview. A youth's refusal to speak to the Panel will not be held against the youth when making the release decision.
- E. To be considered as a factor in a determination to extend a youth's stay, a violation of the rules of conduct must have been proven via due process which provides advance written notice of the alleged violation, a written statement by the fact finder of the evidence relied upon and the reason for the decision, an opportunity to call witnesses and present evidence, and a neutral decision maker.
- F. Evidence of factors other than rule violations may be considered by the Panel irrespective of its form.

**3. Deadline for Release or Discharge.**

If the Panel determines that a youth's length of stay should not be extended, TYC must release or discharge the youth within 15 calendar days after the date of the Panel decision.

**e. Completion of Minimum Length of Stay.**

**1. Referral by the Progress Review Team.**

At least 30 calendar days prior to the expiration of a youth's minimum length of stay, the progress review team will determine whether or not the youth meets release criteria. If the progress review team determines the youth does not meet release criteria or recommends discharge of the youth, the following actions will occur:

- A. The progress review team will notify the youth, parent/guardian, and any identified victims that the case has been referred to the Panel for review.
- B. The progress review team will discuss with the youth the reasons for the decision to refer the youth's case to the Panel.
- C. On or before the date the minimum length of stay expires, the progress review team will submit to the Panel any information relevant to the decision on whether the youth is in need of additional rehabilitation in a residential placement.

**2. Panel Decision.**

- A. The Panel will make a determination as to whether TYC will discharge the youth, release the youth, or extend the youth's stay in a residential placement.
- B. The Panel may extend the youth's stay only if the Panel determines by majority vote and on the basis of clear and convincing evidence that:

- i. the youth is in need of additional rehabilitation from TYC; and
- ii. a residential placement will provide the most suitable environment for that rehabilitation.

C. The Panel's determination may include assessments of factors including, but not limited to, the following:

- i. the youth's efforts to reduce individual risk factors and increase individual protective factors;
- ii. length of time in a residential program relative to the youth's conduct;
- iii. degree and quality of the youth's participation in available treatment programs;
- iv. behavior during the youth's length of stay as evidenced by the number and frequency of rule violations confirmed through due process, with special consideration given to:
  - I. serious rule violations, aggressive incidents, or criminal conduct; and
  - II. incidents that demonstrate conduct similar to the youth's criminal conduct prior to TYC commitment.

D. If the Panel extends the length of a youth's stay, the Panel must:

- i. specify the additional period of time that the youth must remain in residential placements; and
- ii. provide a written report explaining the reason for the extension to the youth, parent/ guardian, and any designated advocate. The report must be provided within 10 calendar days after the date of the Panel decision.

**f. Completion of Extension Length of Stay.**


**1. Notification.**

At least seven calendar days prior to the expiration of an extension length of stay, the Panel will notify the youth, the youth's parents/guardian, and victim(s) that the youth's case is pending review before the Panel.

**2. Panel Decision.**

The Panel will conduct a review and make a determination to discharge the youth, release the youth, or extend the length of stay in a residential placement. The Panel must mail notification to all parties of the decision within 10 calendar days from the date of the decision.

**g. Request for Reconsideration of an Extension Order.**

- 1. The youth, the youth's parent/guardian, the youth's designated advocate, the youth's victim(s), a TYC employee, an employee of a TYC contractor, or a person who provides volunteer services at a TYC facility may submit a  [request for reconsideration](#) of an extension order.

2. The request for reconsideration must be in writing and should be received by the Panel within 15 calendar days after the date of the written notice explaining the reason for the extension.
3. The youth may request assistance from any TYC staff member, volunteer or advocate in completing a request for reconsideration.
4. The person submitting the request for reconsideration must state in the request the reason for the request.
5. Upon receipt of a request for reconsideration of an extension order, the Panel must reconsider an extension order that:
  - A. extends the youth's stay in TYC custody by six months or more; or
  - B. combined with previous extension orders, will result in an extension of the youth's stay in TYC custody by six months or more.
6. The Panel may, at its discretion, accept requests for reconsideration other than those described in paragraph (5) of this subsection. For reconsideration requests accepted by the Panel, the Panel will provide a written reply to all parties with an explanation of the Panel's decision. The reply will include an indication that the Panel has considered the information submitted in the request.
7. A reconsideration decision by the Panel exhausts all administrative remedies regarding release after expiration of the minimum length of stay.

**h. Request for Reconsideration of a Release or Discharge Order.**

The facility administrator or appropriate contract care monitoring staff may request reconsideration of a release or discharge order at any time prior to the youth's release or discharge if new information becomes available or the youth is alleged to have committed a major rule violation of which the panel was unaware at the time of its original decision. The facility must provide the youth a copy of the request for reconsideration. The youth may provide information to the panel concerning the reason(s) for the request.

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**II. MANAGEMENT REQUIREMENTS.**




**a. Designated Staff.**

For purposes of this policy, "**designated staff**" means:

1. the assigned case manager, for youth in TYC-operated institutions;
2. the superintendent, for youth in TYC-operated halfway houses, or
3. the TYC-employed primary service worker, for youth in contract care facilities.


**b. Initial Reviews.**

**1. Facility Responsibilities.**

- A. No later than 60 calendar days prior to completion of the minimum length of stay (MLOS), the facility superintendent or designee will send the Notice of Facility Review form,  [LS-152](#), to:
- i. the parents/guardian;
  - ii. the youth and any identified advocate; and
  - iii. any identified victim(s) who have requested notification.
- B. No later than 30 calendar days prior to completion of the MLOS, the designated staff will complete a review of whether the youth meets program completion criteria as established in [GAP.85.55](#).
- C. If the youth **has not met** program completion criteria, the following actions will be taken.
- i. No later than 30 calendar days prior to completion of the MLOS, designated staff will send the Notice of Referral to the Release Review Panel form,  [LS-150](#) to the parent/guardian, youth, and designated advocate, and any identified victim(s).
  - ii. Designated staff will send a packet containing the following information to the Panel prior to the MLOS date:
    - I. the Release Review: Facility Input form,  [LS-153](#);
    - II. a copy of the youth's original Futures Map and most recent community reintegration plan;
    - III. any information or documents submitted to the facility by the youth, parents/guardian, advocates, or victims;
    - IV. any other document not available electronically that will assist the Review Panel in making a decision, particularly information considered in making the determination that the youth has not met program completion criteria;
    - V. a copy of all notices sent by the facility (e.g., LS-150, LS-152); and
    - VI. for a youth with a committing offense of high severity or ever classified as Type A Violent offender, the following information:
      - (-a-) psychological evaluation;
      - (-b-) transition/release plan;
      - (-c-) home assessment, if applicable;
      - (-d-) incident summary;
      - (-e-) specialized treatment summary, if applicable; and
      - (-f-) victim involvement information, if applicable.
- D. If youth **has met** program completion criteria, designated facility staff will:
- i. submit the information to the appropriate decision authority for approval in accordance with GAP.85.55;
  - ii. notify the Panel of the youth's anticipated release date; and

- iii. for a youth with a committing offense of high severity or ever classified as a Type A Violent offender, notify the panel of the recommendation for release and the submission of a release packet to the Integrated Treatment and Support Division.

## 2. Review Panel Responsibilities.


- A. The Panel will review each youth who has not met program completion criteria. The Panel will complete its review within 30 calendar days after completion of the MLOS.
- B. Designated Panel staff will:
  - i. fax or email the completed Review Panel Report,  [CCF-047](#), to the youth's facility and complete data entry of the form within 2 business days; and
  - ii. mail written notice of the decision within ten calendar days after the decision to the youth, parents/guardian, and any designated advocate.
- C. If the Panel's decision is **not to extend** the youth's length of stay, the youth will be processed for release or discharge in accordance with requirements for notice and community transition set forth GAP.85.55.

## c. Extension Reviews.

### 1. Facility Responsibilities.

- A. The designated staff will submit updates on the information listed in (1)(C) above to the Panel no later than the extension length of stay (ELOS) date.
- B. If, during the ELOS, the designated staff determines that the youth has progressed sufficiently to merit release prior to completion of the ELOS, designated facility staff may submit a request for reconsideration to recommend early release.

### 2. Panel Responsibilities.

- A. No later than 14 calendar days prior to completion of the ELOS, designated Panel staff will send the Notice of Extension Review form,  [LS-151](#), to:
  - i. the parents/guardian;
  - ii. the youth and any designated advocate; and
  - iii. any victim(s) previously notified by the facility.
- B. The Panel will complete its review no later than 30 calendar days after completion of the ELOS.
- C. Designated Panel staff will:

1. fax or email the completed Review Panel Report, CCF-047, to the youth's facility and complete data entry of the form within 2 business days; and
2. mail written notice of the decision within ten calendar days after the decision to the youth, parents/guardian, and any designated advocate.

D. If the Panel's decision is **not to extend** the youth's length of stay, the youth will be processed for release or discharge in accordance with requirements for notice and community transition set forth GAP.85.55.

d. **Reconsideration Requests.**

1. The Panel must accept a reconsideration request if the decision resulted in an extension of six months or more beyond the youth's original MLOS date. However, the Panel may accept any other requests for reconsideration at any time.
2. The Panel will review the decision, including information considered by the original panel and any new information submitted by the requestor.
3. The Panel will complete its review of a reconsideration request no later than 15 calendar days after receipt of the request.
4. Designated Panel staff will:
  - A. fax or email the completed Review Panel Report, CCF-047, to the youth's facility and complete data entry of the form within 2 business days; and
  - B. mail written notice of the decision within ten calendar days after the decision to the youth, parents/guardian, and any designated advocate.
5. If the Panel's decision is **to overturn** the extension decision, the youth will be processed for release or discharge in accordance with requirements for notice and community transition set forth in GAP.85.55.

e. **Documentation.**

1. Notices to the youth may be sent in the facility's internal mail or hand delivered.
  2. Completed CCF-047 forms will be filed in Section 4: Legal of the youth's masterfile. All other correspondence and documentation will be maintained by the Panel in accordance with the agency's record retention schedule.
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# General Administrative Policy Manual

**GAP.85.59**

**Chapter: Admission, Placement, Release, and Discharge**  
**Subchapter: Program Completion and Release**  
**Rule: Program Completion for Sentenced Offenders**

**Effective Date: 9/1/09, T-99**  
Replaces: GAP.85.59  
Dated: 6/4/07, T-87

ACA Standard(s):4-JCF-3A-22; 3A-23; 3A-24; 3C-17; 5B-04; 5I-01, 5I-02

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[General Requirements](#) | [Completion Criteria](#) | [Release/Transfer Approval](#) | [Loss of Release/Transfer Eligibility](#) | [Release/Transfer Date](#) | [Notification](#) |

## I. RULE

### a. Purpose.

The purpose of this rule is to establish criteria and the approval process for sentenced offender youth to qualify for release or transfer to parole by completing required programming.

### b. Applicability.

1. Definitions pertaining to this rule are under [§85.1](#) of this title.
2. This rule applies only to sentenced offenders.
3. This rule does not apply to:
  - A. sentenced offenders who are discharged due to expiration of the sentence or transferred to the Texas Department of Criminal Justice (TDCJ) by court order or by aging out of TYC; or
  - B. sentenced offenders adjudicated for capital murder.

### c. General Requirements.

1. A detainer or bench warrant is not an automatic bar to earned release. The agency shall release a youth to authorities pursuant to a warrant.
2. In order to determine eligibility for release or transfer, the Special Services Committee (SSC) shall evaluate the youth:
  - A. six months after admission to TYC;
  - B. when the minimum period of confinement (MPC) is complete;
  - C. at 18 years of age and 18 years and six months of age for youth sentenced on or after June 9, 2007;
  - D. at 20 years of age and 20 years and six months of age for youth sentenced before June 9, 2007; and
  - E. at other times as requested by the committee.



3. Staff shall notify the youth, parent/guardian, any designated advocate for the youth, and any identified victim(s) of a pending SSC exit review/interview at least 30 days prior to the date of the review. The notification shall inform the recipients that they have the opportunity to submit written comments to the SSC. Victims may also submit a written request to participate in the exit review in accordance with [§81.35](#) of this title. Any information received from a youth's family members, victims, local officials, or the general public will be considered by the SSC or designee and included in the release/transfer packet.
4. A plan to minimize risk factors for re-offending shall be developed for each youth prior to release or transfer to TDCJ – Parole Department (TDCJ-PD), unless the youth is to be discharged.
5. TYC shall comply with Chapter 57, Family Code and Article 56.02, Code of Criminal Procedure, regarding victim notification. Refer to [§81.35](#) of this title for victim notification procedures.
6. Immigration and Customs Enforcement must be notified when releasing an undocumented foreign national youth. Refer to [§85.79](#) of this title for notification procedures for youth who are undocumented foreign nationals.
7. TYC shall comply with the Sex Offender Registration Program, pursuant to Chapter 62, Code of Criminal Procedure, regarding youth who are subject to sex offender registration. Refer to [§87.85](#) of this title for sex offender registration procedures.
8. Parents or guardians of youth under the age of 18 will be notified of all movements. Youth 18 or older must give consent to notify parents or guardians of any movement.
9. Sentenced offenders shall serve the entire MPC applicable to the youth's committing offense in high restriction facilities unless:
  - A. the youth is transferred to TDCJ-Institution Division in accordance with legal requirements or committing court approval. See [§85.65](#) of this title; or
  - B. the youth is approved by the committing court to attain parole status prior to completion of serving the MPC; or
  - C. the youth's sentence expires before the MPC expires; or
  - D. the executive commissioner waives such placement.

**d. Program Completion Criteria.**

1. A sentenced offender youth whose committing offense occurred before September 1, 2005 will be eligible for release/transfer from a high restriction facility as described in paragraph (3) of this subsection when the following criteria have been met:
  - A. no major rule violations confirmed through a Level I or II due process hearing within 90 days prior to the SSC exit interview or during the approval process; and

- B. participation in or completion of assigned specialized treatment programs or curriculum as required under [§87.51](#) of this title; and
  - C. assignment by the multi-disciplinary team to the highest stage in the assigned rehabilitation program as described in [§87.3](#) of this title, which reflects that the youth:
    - i. is consistently participating in academic and workforce development programs commensurate with abilities as reflected in the youth's educational plan; and
    - ii. is consistently participating in skills development groups, as reflected in the youth's individual case plan; and
    - iii. is consistently demonstrating learned skills, as reflected in the individual youth log and daily rating of performance expectations; and
    - iv. has completed a community re-integration plan, approved by the multi-disciplinary team, that demonstrates the youth's:
      - I. understanding of his/her risk and protective factors;
      - II. development of skills, abilities, and knowledge to reduce risk factors and increase protective factors;
      - III. identification of goals and a plan of action to achieve those goals; and
      - IV. identification of obstacles that may hinder successful re-entry and plans to deal with those obstacles; and
  - D. completion of the MPC.
2. A sentenced offender youth whose committing offense occurred on or after September 1, 2005, may be considered for release/transfer from a high restriction facility as described in paragraph (3) of this subsection when he/she:
- A. meets criteria listed in paragraph (1)(A)-(C) of this subsection; and
  - B. meets the following:
    - i. completes all but nine months of the sentence if the sentence expires before the MPC or simultaneously with the MPC; or
    - ii. completion of the MPC if the sentence expires after the MPC.
3. Release will be to TYC parole unless, at the time the youth meets program completion criteria, he/she is:
- A. within two months prior the 19th birthday if committed to TYC on or after June 9, 2007, in which case the youth will be transferred to TDCJ-PD; or
  - B. at least 19 years of age if committed to TYC before June 9, 2007, in which case the youth will be transferred to TDCJ-PD.

**e. Release/Transfer Approval.**

The executive commissioner or designee shall approve the youth's release or transfer upon a determination that the youth meets program completion criteria as set forth in this rule.

**f. Loss of Release/Transfer Eligibility.**

1. Eligibility for release/transfer is lost when any of the following occurs after the exit interview:
  - A. youth commits a major rule violation that is confirmed through a Level I or II due process hearing; or
  - B. the youth's multi-disciplinary team determines that the youth no longer meets the required rehabilitation program criteria.
2. Except as described in paragraph (3) of this subsection, a youth who loses release or transfer eligibility will not be eligible for release/transfer until such time as the youth meets program completion criteria and a subsequent SSC exit interview confirms release/transfer eligibility.
3. If a youth whose committing offense occurred on or after September 1, 2005, is being considered for release/transfer nine months prior to his/her sentence completion loses eligibility for release/transfer, he/she will remain in high restriction until his/her sentence has expired.

**g. Release/Transfer Date.**

1. The SSC must hold an exit interview within 14 calendar days from the date a youth meets program completion criteria as set forth in subsection (d) of this section.
2. If the SSC confirms the youth meets program completion criteria, the youth shall be:
  - A. released to TYC parole within 120 calendar days after the date the youth met program completion criteria, unless the youth loses release eligibility as described in subsection (f) of this section in which case the release process is re-initiated when the youth meets program completion criteria; or
  - B. transferred to TDCJ parole within 120 calendar days after the date the youth met program completion criteria, unless:
    - i. the youth loses transfer eligibility as set forth in subsection (f) of this section in which case the transfer process is re-initiated when the youth meets program completion criteria; or
    - ii. the Department of Sentenced Offender Disposition has not received notification of parole conditions from TDCJ to confirm the transfer date, in which case the 120-day deadline will be extended to determine the status of the transfer request. The Department of Sentenced Offender Disposition will determine the duration of the extension.

**h. Notification.**

TYC will notify the committing juvenile court, the prosecuting attorney, the parole officer, and the chief juvenile probation officer in the county to which the youth is being moved no later than ten calendar days prior to the release.

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**References:** See TYC's Case Management Standards for implementation procedures.

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# General Administrative Policy Manual

**GAP.85.69**

**Chapter: Admission, Placement, and Program Completion**  
**Subchapter: Program Completion**  
**Rule: Transfer of Sentenced Offenders Adjudicated for Capital Murder**

**Effective Date: 9/1/09, T-99**  
Replaces: GAP.85.69  
Dated: 6/4/07, T-87

ACA Standard(s): 4-JCF-3A-22, 3A-23

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[General Provisions](#) | [Program Completion Criteria](#) | [Youth Who Do Not Meet Program Completion Criteria](#) | [Decision Authority](#) | [Transfer Process](#) | [Notification](#)

## I. RULE

### a. Purpose.

The purpose of this rule is to establish criteria and the approval process for transferring sentenced offenders adjudicated for capital murder to the Texas Department of Criminal Justice–Parole Division (TDCJ-PD) or the Texas Department of Criminal Justice–Institutional Division (TDCJ-ID).

### b. Applicability.

1. Definitions pertaining to this rule are under [§85.1](#) of this title.
2. For specific information regarding the rehabilitation program and assessment, see [§87.3](#) of this title.
3. This rule does not apply to sentenced offender youth adjudicated for any offense other than capital murder.

### c. General Provisions.

1. A detainer or bench warrant is not an automatic bar to earned release. The agency shall release a youth to authorities pursuant to a warrant.
2. The Special Services Committee (SSC) shall evaluate the youth six months after admission to TYC, when the minimum period of confinement (MPC) is complete, and at other times as requested by the committee.
  - A. For youth committed before June 9, 2007, the SSC will also complete a review when the youth reaches 20 years of age and 20 years and six months of age to determine eligibility for transfer to TDCJ-ID or TDCJ-PD.
  - B. For youth committed on or after June 9, 2007, the SSC will also complete reviews:
    - i. on or about the youth’s 18th birthday, and

- ii. on or about the date a youth reaches 18 years and six months of age to determine eligibility for transfer to TDCJ-ID or TDCJ-PD.
- 3. Staff shall notify the youth, parent/guardian, any designated advocate for the youth, and any identified victim(s) of a pending SSC exit review/interview at least 30 days prior to the date of the review. The notification shall inform the recipients that they have the opportunity to submit written comments to the SSC. Victims may also submit a written request to participate in the exit review in accordance with [§81.35](#) of this title. Any information received from a youth's family members, victims, local officials, or the general public will be considered by the SSC or designee and included in the release/transfer packet.
- 4. A plan to minimize risk factors for re-offending shall be developed for each youth prior to transferring him/her to TDCJ-PD.
- 5. TYC shall comply with Chapter 57, Family Code, and Article 56.02, Code of Criminal Procedure, regarding victim notification. Refer to [§81.35](#) of this title for victim notification procedures.
- 6. Immigration and Customs Enforcement must be notified when transferring an undocumented foreign national youth to TDCJ-PD. Refer to [§85.79](#) of this title for notification procedures regarding undocumented foreign national youth.
- 7. TYC shall comply with the Sex Offender Registration Program, pursuant to Chapter 62, Code of Criminal Procedure, regarding youth who are subject to sex offender registration. Refer to [§87.85](#) of this title for sex offender registration procedures.
- 8. Parents or guardians of youth under the age of 18 will be notified of all movements. Youth 18 or older must give consent to disclose any movement information to a parent.
- 9. Youth whose committing offense is capital murder shall serve the entire MPC applicable to the youth's committing offense in high restriction facilities unless:
  - A. the youth is transferred to TDCJ-Institution Division in accordance with legal requirements or committing court approval; or
  - B. the youth is approved by the committing court to attain parole status prior to completion of serving the MPC; or
  - C. the youth's sentence expires before the MPC expires.
- 10. A youth who **has not** received court approval to transfer to TDCJ-ID will be transferred to TDCJ-PD no later than the age at which TYC jurisdiction ends.
- 11. TYC jurisdiction shall be terminated and a sentenced offender discharged when he/she is transferred to TDCJ or his/her sentence has expired, except when the youth is committed to TYC under concurrent determinate and indeterminate commitment orders as specified in [§85.25](#) of this title.

**d. Program Completion Criteria.**

TYC will review youth for program completion and possible transfer to TDCJ-PD when the following criteria have been met:

1. no major rule violations confirmed through a Level I or II due process hearing, within 90 days prior to the SSC exit interview or during the approval process; and
2. completion of at least three years toward the MPC; and
3. participation in or completion of assigned specialized treatment programs or curriculum as required under [§87.51](#) of this title; and
4. assignment by the multi-disciplinary team to the highest stage in the assigned rehabilitation program as described in [§87.3](#) of this title, which reflects that the youth:
  - A. is consistently participating in academic and workforce development programs commensurate with abilities as reflected in the youth's educational plan;
  - B. is consistently participating in skills development groups, as reflected in the youth's individual case plan;
  - C. is consistently demonstrating learned skills, as reflected in the individual youth log and daily rating of performance expectations; and
  - D. has completed a community re-integration plan, approved by the multi-disciplinary team, that demonstrates the youth's:
    - i. understanding of his/her risk and protective factors; and
    - ii. development of skills, abilities, and knowledge to reduce risk factors and increase protective factors; and
    - iii. identification of goals and a plan of action to achieve those goals; and
    - iv. identification of obstacles that may hinder successful re-entry and plans to deal with those obstacles.

**e. Youth Who do Not Meet Program Completion Criteria.**

If the youth does not meet the criteria in subsection (d) of this section, TYC will recommend transfer to TDCJ-PD or TDCJ-ID to the committing juvenile court and will consider the following in forming its recommendation:

1. length of stay in TYC;
2. youth's progress in the rehabilitation program;
3. youth's behavior while in TYC;
4. youth's offense/delinquent history; and
5. any other relevant factors, such as:
  - A. risk factors and protective factors the youth possesses as identified in his/her psychological evaluation; and
  - B. the welfare of the community.

**f. Transfer to TDCJ-ID Prior to Termination of TYC's Jurisdiction.**

TYC may request a court hearing at any time in order to recommend transfer to TDCJ-ID if the following criteria have been met:

1. youth is at least age 16; and
2. youth has spent at least six months in a high restriction facility; and
3. youth has not completed his/her sentence; and
4. youth has met at least one of the following behavior criteria:
  - A. youth has committed a felony or Class A misdemeanor while assigned to residential placement; or
  - B. youth has committed major rule violations on three or more occasions as proven through Level I or II due process hearings; or
  - C. youth has engaged in chronic disruption of program (five security admissions or extensions in one month or ten in three months); or
  - D. youth has demonstrated an inability to progress in his/her rehabilitation program due to persistent noncompliance with objectives; and
5. alternative interventions have been tried without success; and
6. youth's conduct indicates that the welfare of the community requires the transfer.

**g. Decision Authority.**

1. No later than five months before a youth reaches the age at which TYC's jurisdiction ends, the executive commissioner must:
  - A. determine whether the youth meets criteria under this rule for transfer to TDCJ-PD, or transfer to TDCJ-ID; and
  - B. approve the request for a hearing by the committing juvenile court to transfer to TDCJ-PD or TDCJ-ID.
2. For a youth committed for capital murder, the committing juvenile court is the final decision authority for transfer to TDCJ-PD or TDCJ-ID.

**h. Notification.**

TYC will notify the committing juvenile court, the prosecuting attorney, the parole officer, and the chief juvenile probation officer in the county to which the youth is being moved no later than ten calendar days prior to the discharge.

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**References:** See TYC's Case Management Standards for implementation procedures.

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# General Administrative Policy Manual

**GAP.85.95**

**Chapter: Admission, Placement, Release, and Discharge**  
**Subchapter: Parole Placement and Discharge**  
**Rule: Parole Completion and Discharge**

**Effective Date: 9/1/09, T-99**  
Replaces: GAP.85.95  
Dated: 7/1/07

ACA Standard(s): N/A

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[Discharge Criteria](#) | [Direct Discharge](#) | [Discharge Due to Age](#) | [Special Circumstances](#)  
[Other Types Discharge](#) | [Notification](#) | [Management Requirements](#)

## I. RULE

### a. Purpose.

The purpose of this rule is to establish criteria for discharge from agency jurisdiction for any youth committed to the Texas Youth Commission (TYC).

### b. Applicability.

This policy does not apply to sentenced offenders. Refer to [§85.65](#) of this title for information relating to discharge of sentenced offenders.

### c. Discharge Criteria.

#### 1. Discharge Due to Successful Completion of Parole.

A. Youth who have never been classified as a Type A Violent Offender and whose committing offense(s) are of moderate or low severity may qualify for discharge upon completion of the following criteria:

- i. successful completion of the pre-discharge level of surveillance and supervision;
- ii. compliance with the youth's conditions of parole, based on the individual needs assessment; and
- iii. no pending delinquency petitions or criminal charges;
- iv. completion of 60 hours of community service as specified in the youth's conditions of Parole (credit will be granted for community service performed while in a medium restriction facility, if applicable); and
- v. completion of 40 hours of constructive activities as defined on the conditions of parole each week for at least 30 days. This includes time spent working, attending school, attending treatment/counseling, completing community service, actively searching for employment, and time spent providing direct supervision to a child.

B. The executive commissioner or designee may approve the discharge of a youth prior to completion of the requirements in paragraph (1)(A) of this

subsection when consideration of a youth's committing offense, behavior, history, and progress towards completion of parole conditions justifies an earlier discharge.

**2. Direct Discharge from Residential Placement by Release Review Panel.**

Pursuant to [§85.57](#) of this title, the Release Review Panel may discharge a youth directly from a residential placement upon a finding that the youth is no longer in need of rehabilitation or that TYC is no longer the most suitable location to provide the needed rehabilitation.

**3. Discharge Due to Age.**

A. Youth committed to TYC before February 1, 2009 who were ever classified as Type A Violent offenders or youth committed to TYC on or after February 1, 2009 with committing or revocation offenses of high severity will not be discharged prior to reaching age 19. These youth must be discharged on:

- i. the day before the 19th birthday, if the youth is assigned to a residential placement; or
- ii. the last working day prior to the 19th birthday, if the youth is assigned to a non-residential placement.

B. Any youth who has not previously been discharged due to successful completion of parole or by the Release Review Panel shall be discharged on:

- i. the day before the 19th birthday, if the youth is assigned to a residential placement; or
- ii. the last working day prior to the 19th birthday, if the youth is assigned to a non-residential placement.

C. A youth on parole status who is discharged due to age will be considered to have successfully completed parole if the youth:

- i. is not in jail or on abscond status;
- ii. has no pending delinquency petitions or criminal charges; and
- iii. has substantially complied with all parole requirements.

**4. Special Circumstances.**

A. Youth who have never been classified as a Type A Violent Offender and do not have a committing offense of high severity may be discharged prior to completion of parole requirements to enlist in the military. The executive commissioner must approve such a discharge.

B. Youth placed out of the state may be discharged when requested by the placement state for satisfactory adjustment or when court action is taken by the placement state in accordance with [§85.85](#) of this title. The parole director must approve such a discharge.

C. Youth who have completed length of stay requirements and who are unable to progress in the agency's rehabilitation program because of

mental illness or mental retardation may be discharged as specified in [§87.79](#) of this title.

- D. Youth who have never been classified as a Type A violent offender and do not have a committing offense of high severity who are age 18 or older may be discharged prior to completion of parole requirements in order to obtain appropriate services. The executive commissioner must approve such discharge.
- E. Youth may be discharged for special circumstances, other than those addressed in subparagraphs (A) - (D) of this paragraph, upon the executive commissioner's approval.

**5. Other Types of Discharges.**

- A. Youth shall be discharged under the following circumstances:
  - i. placement on actively supervised adult probation for conduct which occurred while on TYC parole status; or
  - ii. the youth is sentenced for a minimum of six months in a state or county jail as part of the disposition of a criminal case.
- B. Youth shall be discharged:
  - i. if the court orders the reversal of the commitment; or
  - ii. upon closing of records following a youth's death or recommitment.
- C. Youth shall be discharged when sentenced or transferred to Texas Department of Criminal Justice – Institutional Division (TDCJ-ID).

**6. Notification.**

- 1. A youth's primary service worker shall immediately notify the youth of the discharge. The primary service worker shall provide the youth a written explanation on procedures for sealing records and a copy will be provided to the parent/guardian or custodian.
- 2. TYC will notify the committing juvenile court, the prosecuting attorney, parole officer, and the county chief juvenile probation officer in the county to which the youth is being moved not later than ten calendar days prior to the discharge.

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**I. MANAGEMENT REQUIREMENTS**

**a. Approvals.**

- 1. For discharge procedures, see TYC's Case Management Standards.
- 2. Approvals are not necessary for youth automatically discharged when TYC jurisdiction ends.

3. Discharges requiring executive commissioner approval are routed through the director of parole.
4. Discharge of TYC youth placed out-of-state may be requested by the deputy administrator of interstate compact and approved by the director of residential and parole services.

**b. Notification.**

For notification procedures, see TYC's Case Management Standards.

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# General Administrative Policy Manual

**GAP.95.3**

**Chapter: Behavior Management and Youth Discipline**  
**Subchapter: Behavior Management**  
**Rule: Rules and Consequences for Residential Facilities**

**Effective Date: 9/1/09, T-99**

Replaces: GAP.95.3  
Dated: 11/8/05, T-75

ACA Standard(s): 4-JCF-3B-02, 3B-04, 3B-07, 3B-08, 3B-09,  
3C-05, 3C-07, 3C-14, 3C-15

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**a. Purpose.**

The purpose of this rule is to establish the actions that constitute violations of the rules of conduct youth will be expected to follow while in residential facilities. Violations of the rules may result in disciplinary consequences that are proportional to the severity and extent of the violation. Appropriate due process must be followed before imposing consequences.

**b. Applicability.**

This rule applies to youth assigned to a residential facility.

**c. Definitions.**

The following terms, as used in this rule, have the following meanings.

1. **Bodily Injury**--physical pain, illness, or impairment of physical condition. Fleeting pain or minor discomfort does not constitute bodily injury.
2. **Multi-Disciplinary Team**--has the meaning assigned by [§85.1](#) of this title.
3. **Residential Facility**--includes both high and medium restriction residential placements.
4. **Attempting to Commit**--engaging in conduct that amounts to more than mere planning, but failing to commit the intended rule violation.

**d. General Provisions.**

1. Rules in this policy may be restated or otherwise adapted to accommodate a particular program to help clarify expected behavior in that program. All adapted or restated rules shall remain consistent with the general rules of conduct.
2. The rules of conduct must be posted in a visible area accessible to youth in each facility and program.

3. Repeated violations of any rule of conduct may result in more serious disciplinary consequences.
4. Youth may be issued more than one disciplinary consequence for a rule violation proven in a Level II or III due process hearing held in accordance with [§95.55](#) or [§95.57](#) of this title, respectively.
5. Major rule violations require the completion of a formal incident report.
6. A youth's disciplinary record shall consist only of rule violations that are proven through a Level I or II due process hearing in accordance with [§95.51](#) or §95.55 of this title, respectively.
7. Within 24 hours after a report of a major rule violation or a minor rule violation resulting in a security referral, a case worker, program specialist, or other appropriate non-involved staff member will review the incident and assess whether to request a Level II due process hearing in order to pursue major consequences and/or placement of the violation on the youth's disciplinary record.<sup>1</sup> The facility administrator or designee will determine whether or not to hold a Level II due process hearing. When a youth is found to be in possession of prohibited money as defined in this rule, a Level II due process hearing is required to seize the money. Seized money will be placed in the student benefit fund in accordance with §95.55 of this title.
8. Except as noted in paragraph (9) of this subsection, minor rule violations will be documented on the appropriate activity log. A formal incident report is not required.
9. A minor rule violation that escalates to the point that the current program/activity cannot continue due to the disruption, or that poses a substantial risk to personal safety or facility security, must be documented on a formal incident report. In high restriction facilities, this type of minor rule violation will also include a referral to the security unit.
10. Any time a formal incident report is prepared for an alleged rule violation, a copy of the incident report must be given to the youth within 24 hours after the alleged violation.<sup>2</sup>
11. Although certain rule violations may not result in immediate disciplinary consequences, a rule violation proven through a Level II due process hearing may be considered upon expiration of the youth's minimum length of stay in determining whether a youth is in need of additional rehabilitation.
12. Each multi-disciplinary team will review all privilege suspensions for youth on its caseload at least once per week. The multi-disciplinary team may:
  - A. lessen the duration of the suspension or allow the youth to accrue certain privileges for use after the period of suspension is complete as an incentive to display positive behavior; or
  - B. extend (one time only) or modify an on-site privilege suspension issued by direct care staff if warranted by the youth's behavior.

e. **Consequences for High Restriction Facilities.**

1. **Major Disciplinary Consequences.**

- A. **Major Suspension of Privileges**--a youth has all privileges suspended for 30 calendar days from the date of the hearing. This consequence may be issued only for minor rule violations resulting in a referral to the security unit or major rule violations, and only if the rule violation is proven through a Level II due process hearing in accordance with §95.55 of this title.
- B. **Loss of Transition Eligibility**--a youth who has not completed the minimum length of stay will serve an additional month in high restriction facilities prior to becoming eligible for transition to a medium restriction facility under [§85.45](#) of this title. This consequence may only be issued if it is proven through a Level II due process hearing that the youth committed:
- i. assault causing bodily injury to youth or staff, as defined in subsection (i)(3)-(4) of this section; or
  - ii. sexual misconduct as defined in subsection (i)(21)(A)-(B) of this section.

2. **Minor Disciplinary Consequences.**

A. **Suspension of Privileges by Multi-Disciplinary Team.**

A youth has one or more privileges removed for up to 14 calendar days from the date of the multi-disciplinary team meeting, or has his/her privileges adjusted to those associated with a lower stage until the next scheduled meeting. This consequence may be issued for major or minor rule violations. In order to issue this consequence, the multi-disciplinary team must:

- i. meet with the youth to discuss the youth's behavior and potential consequences;
- ii. consider any on-site suspension of privileges already imposed for the behavior; and
- iii. document the discussion of the youth's conduct and consequence imposed.

B. **On-Site Suspension of Privileges.**

A youth has one specific privilege removed for up to seven calendar days from the date of the violation or all privileges removed for up to three calendar days. This consequence may be issued by a staff member with direct supervisory responsibility for the youth after witnessing a major or minor rule violation. This consequence should be issued only after non-disciplinary interventions have been attempted. The staff member must document the conduct and consequence and discuss the consequence and the reasons for it with the youth.

f. **Consequences for Medium Restriction Facilities.**

1. **Major Consequences.**

- A. **Disciplinary Transfer**--a youth assigned to a medium restriction facility is transferred to a high restriction facility. Disciplinary transfer may be issued only for major rule violations that are proven through a Level II due process hearing in accordance with §95.55 of this title. This consequence does not apply to youth who are on parole status and who are currently assigned to a medium restriction facility.
- B. **Major Suspension of Privileges**--a youth has all privileges suspended for 30 calendar days from the date of the hearing. This consequence may be issued only for major rule violations that are proven through a Level II due process hearing.

2. **Minor Consequences.**

Minor disciplinary consequences include but are not limited to consequences described herein. Minor consequences may only be imposed following a Level III due process hearing held in accordance with §95.57 of this title.

- A. **Privilege Suspension**--a suspension of one or more privileges for no more than 14 calendar days.
- B. **Community Service Hours**--disciplinary assignment of up to 40 hours in an approved community service assignment.
- C. **Trust Fund Restriction**--youth is restricted from accessing his/her accrued personal funds for up to seven calendar days.
- D. **Facility Restriction**--youth is restricted for up to 48 hours from participating in any activity outside the assigned placement other than the approved constructive activities.

g. **Review and Appeal of Consequences.**

- 1. All minor disciplinary consequences issued by staff other than the youth's multi-disciplinary team will be reviewed for policy compliance by the youth's assigned case worker or dorm supervisor within one workday of issuance. All minor consequences issued by the youth's multi-disciplinary team will be reviewed for policy compliance and consistency by the facility administrator or designee.
- 2. The facility administrator or designee:
  - A. must review any minor consequence issued for longer than 24 hours within 24 hours after issuance of the consequence; and
  - B. may overturn or modify any privilege suspension determined to be excessive or not validly related to the nature or seriousness of the conduct.<sup>3</sup>
- 3. Youth may appeal major disciplinary consequences by filing an appeal in accordance with §95.51 or §95.55 of this title.<sup>4</sup>



**h. Placement Disposition Options.**

In accordance with [§95.17](#) of this title, youth in high restriction facilities may be placed in the Redirect program when the youth is found to have engaged in certain major rule violations. Placement in the Redirect program is not a disciplinary consequence.

**i. Major Rule Violations.**

It is a violation to knowingly violate, attempt to violate, or help someone else violate any of the following:

1. **Assault - Unauthorized Physical Contact with another Youth (No Injury)**--making unauthorized physical contact with another youth that does not result in bodily injury, such as, but not limited to, pushing, poking, and grabbing.
2. **Assault - Unauthorized Physical Contact with Staff (No Injury)**--intentionally making unauthorized physical contact with a staff member, contract employee, or volunteer that does not result in bodily injury, such as, but not limited to, pushing, poking, and grabbing.
3. **Assault Causing Bodily Injury to Another Youth**--intentionally and knowingly or recklessly engaging in conduct that causes another youth to suffer bodily injury.
4. **Assault Causing Bodily Injury to Staff**--intentionally and knowingly or recklessly engaging in conduct that causes a staff member, contract employee, or volunteer to suffer bodily injury.
5. **Attempted Escape**--committing an act that amounts to more than mere planning but that fails to effect an escape.
6. **Chunking Bodily Fluids**--causing a person to contact the blood, seminal fluid, vaginal fluid, saliva, urine, and/or feces of another with the intent to harass, alarm, or annoy another person.
7. **Distribution of Prohibited Substances**--distributing or selling any prohibited substances or items.
8. **Escape**--leaving a high or medium restriction residential placement without permission or failing to return from an authorized leave.
9. **Extortion or Blackmail**--demanding or receiving favors, money, actions, or anything of value from another in return for protection against others, to avoid bodily harm, or in exchange for not reporting a violation.
10. **Fighting Not Resulting in Bodily Injury**--engaging in a mutually instigated physical altercation with another person or persons that does not result in bodily injury.
11. **Fighting that Results in Bodily Injury**--engaging in a mutually instigated physical altercation with another person or persons that results in bodily injury.

12. **Fleeing Apprehension**--running from or refusing to come to staff when called and such act results in disruption of facility operations.
13. **Two or More Failures to Comply with Written Reasonable Request (for Youth in Medium Restriction Residential Placement)**--failing on two or more occasions to comply with a written reasonable request of staff. If the expectation is daily or weekly, the two failures to comply must be within a 30-day period. If the expectation is monthly, the two failures to comply must be within a 90-day period.
14. **Misuse of Medication**--using medication provided to the juvenile by authorized personnel in a manner inconsistent with specific instructions for use, including removing the medication from the dispensing area.
15. **Participating in a Major Disruption of Facility Operations**--intentionally participating with two (2) or more persons in conduct that poses a threat to persons or property and substantially disrupts the performance of facility operations or programs.
16. **Possession of Prohibited Items**--possessing the following prohibited items:
  - A. cellular telephone;
  - B. matches or lighters;
  - C. jewelry, unless allowed by facility rules;
  - D. money in excess of the amount or in a form not permitted by facility rules (see §95.55 of this title for procedures concerning seizure of such money);
  - E. pornography;
  - F. items which have been fashioned to produce tattoos or body piercing;
  - G. cleaning products when the youth is not using them for a legitimate purpose; or
  - H. other items that are being used inappropriately in a way that poses a danger to persons or property or threatens facility security.
17. **Possession of a Weapon**--possessing a weapon or item(s) which has been made or adapted for use as a weapon.
18. **Possession or Use of Prohibited Substances and Paraphernalia**--possessing or using any unauthorized substance, including controlled substances or intoxicants (including alcohol and tobacco), medications not prescribed for the juvenile by authorized medical or dental staff, tobacco products, similar intoxicants, or related paraphernalia such as that used to deliver or make any prohibited substance.
19. **Refusing a Drug Screen**--refusing to take a drug screen when requested to do so by staff or tampering with or contaminating the urine sample provided for a drug screen. (Note: If the youth says he/she cannot provide a sample, the youth must be given water to drink and two hours to provide the sample.)
20. **Refusing a Search**--refusing to submit to an authorized search of person or area.

21. **Sexual Misconduct**--intentionally and knowingly engaging in any of the following:
  - A. causing contact, including penetration (however slight), between the penis and the vagina or anus; between the mouth and penis, vagina or anus; or penetration (however slight) of the anal or genital opening of another person by hand, finger or other object;
  - B. touching or fondling, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another person;
  - C. kissing for sexual stimulation;
  - D. exposing the anus, buttocks, breasts, or genitals to another or exposing oneself knowing the act is likely to be observed by another person;
  - E. masturbating in an open and obvious way, whether or not the genitals are exposed.
  
22. **Stealing**--intentionally taking property from another without permission and the property has an estimated value of \$100 or more.
  
23. **Tampering with Safety Equipment**--intentionally tampering with, damaging, or blocking any device used for safety or security of the facility. This includes, but is not limited to, any locking device or item that provides security access or clearance, any fire alarm or fire suppression system or device, video camera, radio, telephone (when the tampering prevents it from being used as necessary for safety and/or security), handcuffs, or shackles.
  
24. **Tattooing/Body Piercing**--engaging in tattooing or body piercing of self or others. Tattooing is defined as making a mark on the body by inserting pigment into the skin.
  
25. **Threatening another with a Weapon**--intentionally and knowingly threatening another with a weapon. A weapon is something that is capable of inflicting bodily injury in the manner in which it is being used.
  
26. **Vandalism**--intentionally causing \$100 or more in damage to state or personal property of another.
  
27. **Violation of any Law**--violating a Texas or federal law that is not already defined as a major or minor rule violation.

j. **Minor Rule Violations.**

It is a violation to knowingly violate, attempt to violate, or help someone else violate any of the following:

1. **Breaching Group Confidentiality**--disclosing or discussing information provided in a group session to another person not present in that group session.
  
2. **Disruption of Program**--engaging in behavior that requires intervention to the extent that the current program of the youth and/or others is disrupted. This includes, but is not limited to:
  - A. disrupting a scheduled activity;
  - B. being loud or disruptive without staff permission;

- C. using profanity or engaging in disrespectful behavior toward staff or peers; or
  - D. refusing to participate in a scheduled activity or abide by program rules.
3. **Failure to Abide by Dress Code**--failing to follow the rules of dress and appearance as provided by facility rules.
  4. **Failure to do Proper Housekeeping**--failing to complete the daily chores of cleaning the living environment to the expected standard.
  5. **Gang Activity**--participating in an activity or behavior that promotes the interests of a gang or possessing or exhibiting anything related to or signifying a gang, such as, but not limited to, gang-related literature, symbols, or signs.
  6. **Gambling or Possession of Gambling Paraphernalia**--engaging in a bet or wager with another person or possessing paraphernalia that may be used for gambling.
  7. **Horseplay**--engaging in wrestling, roughhousing, or playful interaction with another person or persons that does not rise to the level of an assault. Horseplay does not result in any party getting upset or causing injury to another.
  8. **Improper Use of Telephone/Mail/Computer**--using the mail, a computer, or the telephone system for communication that is prohibited by facility rules, at a time prohibited by facility rules, or to inappropriately access information.
  9. **Lending/Borrowing/Trading Items**--lending or giving to another youth, borrowing from another youth, or trading with another youth possessions, including food items, without permission from staff.
  10. **Lying/Falsifying Documentation/Cheating**--lying or withholding information from staff, falsifying a document, and/or cheating on an assignment or test.
  11. **Possession of an Unauthorized Item**--possessing an item the youth is not authorized to have (possession of which is not a major rule violation), including items not listed on the youth's personal property inventory. This does not include personal letters or photographs.
  12. **Refusal to Follow Staff Verbal Instructions**--deliberately failing to comply with a specific reasonable verbal instruction made by a staff member.
  13. **Stealing**--intentionally taking property from another without permission and the property has an estimated value of less than \$100.
  14. **Threatening Others**--making verbal or physical threats toward another person or persons.
  15. **Undesignated Area**--being in any area without the appropriate permission to be in that area.
  16. **Vandalism**--intentionally causing less than \$100 in damage to state or personal property.

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<sup>1</sup>ACA standard 4-JCF-3B-09  
<sup>2</sup>ACA standard 4-JCF-3B-08, 3C-05  
<sup>3</sup>ACA standard 4-JCF-3C-14  
<sup>4</sup>ACA standard 4-JCF-3C-15



# General Administrative Policy Manual

**GAP.95.4**

**Chapter: Behavior Management and Youth Effective Date: 9/1/09, T-99**

**Discipline**

**Subchapter: Youth Privilege System**

**Rule: Rules and Consequences for Youth on Parole**

Replaces: GAP.95.9, 8/30/06  
GAP.95.15, 4/26/04

**ACA Standards: N/A**

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## **I. RULE**

### **a. Purpose.**

The purpose of this rule is to establish what actions constitute violations of the rules of conduct youth will be expected to follow while under parole supervision. Violations of the rules may result in disciplinary consequences, including revocation of parole, that are proportional to the severity and extent of the violation. Appropriate due process must be followed before imposing consequences.

### **b. Applicability.**

1. This rule applies to youth on parole to a home placement.
2. For parole revocation purposes, this rule applies to youth on parole status assigned to a residential placement as a home substitute.
3. For daily rules of conduct for youth on parole status assigned to a residential placement as a home substitute, see [§95.3](#) of this title.

### **c. General Provisions.**

1. The rules of conduct are provided to the youth when they initially register with their parole officers and other times as necessary.
2. Repeated violations of any rule of conduct may result in more serious disciplinary consequences.

### **d. Parole Rule Violations.**

It is a violation to knowingly violate, attempt to violate, or help someone else violate any of the following:

1. **Abscond**--leaving a home placement or failing to return from an authorized leave without permission of his/her primary service worker and the youth's whereabouts are unknown to his/her primary service worker.
2. **Escape**--leaving a high or medium restriction residential placement without permission or failing to return from an authorized leave.
3. **Failure to Comply with Sex Offender Conditions of Parole**--intentionally and knowingly failing to comply with one of the following conditions of parole present in his/her Sex Offender Conditions of Parole addendum:
  - A. not having unsupervised contact with children under the age specified by the conditions of parole;
  - B. not babysitting or participating in any activity where the youth is responsible for supervising or disciplining children under the age specified by the conditions of parole; or
  - C. not initiating physical contact or touching of any kind with a child, victim, or potential victim.
4. **Possession of a Weapon**--possessing a weapon or item(s) which has been made or adapted for use as a weapon.
5. **Use of Unauthorized Substances**--using an unauthorized substance or intoxicant including controlled substances or intoxicants (including alcohol and tobacco if youth is underage), medications not prescribed for the juvenile by authorized medical or dental staff, or similar intoxicants.
6. **Refusing a Drug Screen**--refusing to take a drug screen when requested to do so by staff or tampering with or contaminating the urine sample provided for a drug screen.
7. **Repeated Non-Compliance with a Written Reasonable Request of Staff**--failing on two or more occasions to comply with a specific condition of release under supervision and/or a specific written reasonable request of staff. If the expectation is daily or weekly, the two failures to comply must be within a 30-day period. If the expectation is monthly, the two failures to comply must be within a 90-day period.
8. **Tampering with Monitoring Equipment**--a youth intentionally and knowingly tampers with monitoring equipment assigned to any youth.
9. **Violation of any law**--violating a federal or state law or municipal ordinance.

e. **Possible Consequences.**

1. A parole rule violation may result in a Level I Hearing or a Level III Hearing conducted in accordance with [§95.51](#) or [§95.57](#) of this title, respectively. Parole officers are encouraged to be creative in determining a consequence appropriate to address and correct the youth's behavior. All assigned consequences should be related to the misconduct when possible.
2. Consequences through a Level III Hearing for a youth on parole include but are not limited to:

- A. **Verbal Reprimand**--conference with a youth including a verbal reprimand drawing attention to the misbehavior and serving as a warning that continued misbehavior could result in more severe consequences.  
A verbal reprimand may not be considered as a less severe disciplinary consequence for the purpose of parole revocation.
  - B. **Curfew Restriction**--an immediate change in existing curfew requirements outlined in the youth's Conditions of Parole.
  - C. **Community Service Hours**--disciplinary assignment of a specific number of hours the youth is to perform community service in addition to the hours assigned when the youth was placed on parole. In no event may more than 20 community service hours be assigned through a Level III Hearing.
  - D. **Increased Level of Surveillance**--an assigned increase in the number of primary contacts between the youth and parole officer in order to increase the youth's accountability.
  - E. **Electronic Tracking**--assignment to a system whereby a youth's movement and location can be tracked electronically.
  - F. **Intensive Surveillance Supervision**--assignment to an intensive surveillance supervision program designed to restrict the youth's access to the community by establishing a stricter curfew and increased supervision by the parole officer.
  - G. **Writing Assignment**--an assignment designed for the youth to address the misbehavior and identify appropriate behavior in similar situations.
3. Consequences through a Level I Hearing for a youth on parole, including youth assigned to a residential placement as a home substitute, include:
- A. Parole revocation and placement in any high restriction program operated by or under contract with TYC; and
  - B. Assignment of a length of stay consistent with [§85.25](#) of this title.





# General Administrative Policy Manual

**GAP.95.51**

**Chapter: Behavior Management and Youth Discipline**  
**Subchapter: Due Process Hearings Procedures**  
**Rule: Level I Hearing Procedure**

**Effective Date: 9/1/09, T-99**

Replaces: GAP.95.51  
Dated: 8/30/06, T-80

ACA Standard(s): 4-JCF-3A-27, 3C-06, 3C-08, 3C-09, 3C-10, 3C-11, 3C-13, 3C-14, 3C-15, 3C-17

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## I. RULE

### a. Purpose.

The purpose of this rule is to establish a due process procedure to be followed when seeking to revoke the parole status of a youth as a disciplinary consequence for behavior that presents an unacceptable risk to the safety of persons and property. Parole revocation is considered a major consequence.

### b. Definitions.

Definitions pertaining to this rule are under [§95.50](#) of this title.

### c. General Provisions.

1. A Level I hearing is required in order to revoke a youth's parole status. Parole may be revoked if it is found that a youth has committed a law violation or a parole rule violation as established in [§95.4](#) of this title and:
  - A. revocation is determined to be in the best interest of the youth or community; and/or
  - B. the youth is found to be in need of further rehabilitation at a Texas Youth Commission (TYC) or contract placement.
2. The following information will be considered to determine if parole revocation is appropriate:
  - A. the severity of the offense(s) found true at the hearing;
  - B. any behavioral or adjustment issues while on parole and the steps taken by the staff representative to address those issues;
  - C. whether or not the youth's conduct while on parole presents a threat to persons or property;
  - D. reasons the youth is in need of services offered at a TYC or contract placement;
  - E. whether appropriate community-based alternatives have been exhausted;
  - F. any impact statement(s) written by the victim(s);

- G. any participation in constructive activity; and
  - H. any extenuating circumstances.
3. A Level I hearing on any allegation(s) shall be scheduled as soon as possible but no later than seven days from the date of the alleged offense, excluding weekends and holidays, except when:
    - A. staff documents that it was impossible, impractical, or inappropriate to have scheduled the hearing sooner; or
    - B. local authorities make a written request that TYC defer an allegation to their jurisdiction for prosecution; or
    - C. TYC staff elects to defer a Level I hearing on all allegations of misconduct due to criminal allegation(s) pending or filed as adult charges, except that if the pending charge is a first degree felony offense, there must be a written request as described in subparagraph (B) of this paragraph in order to defer the allegation.
  4. TYC may re-issue a directive and request a Level I hearing concerning new or previously deferred allegation(s) if later circumstances make such action appropriate.
  5. The hearing shall be conducted by an administrative law judge appointed by the TYC hearings section chief. The administrative law judge shall be impartial.
  6. The hearing shall be conducted in two parts: fact-finding and disposition.
    - A. The purpose of the fact-finding shall be to establish whether there is a preponderance of evidence to prove the youth engaged in the alleged misconduct.
    - B. The purpose of the disposition shall be to determine whether revocation of parole is appropriate under the circumstances.
  7. A youth whose parole is revoked will be assigned a minimum length of stay in accordance with [§85.25](#) of this title.
  8. The person requesting a hearing shall appoint a staff representative to appear at the hearing and present the reasons for the proposed action. The staff representative shall also be responsible for making relevant information available to all parties to the hearing.
  9. The youth shall be assisted by legal counsel at the hearing. The agency will arrange counsel for indigent youth.
  10. If the youth's parole is not revoked, lesser disciplinary consequences may be imposed for any rule violation(s) proved at the hearing.
  11. If the youth is on parole from another state and is being supervised by TYC under agreement with the other state, a parole revocation hearing may be held by TYC and the youth may be returned to the sending state. Such a hearing is coordinated by the TYC interstate compact administrator and general counsel.

12. If a TYC parolee commits an offense in another state, the return of such youth is coordinated by the TYC interstate compact administrator and the general counsel. A parole revocation hearing is coordinated by and held at the request of the assigned staff representative.
13. The hearing shall be held in the community where the alleged rule violation occurred unless the administrative law judge directs that it be held in another locale.
14. All necessary parties shall be present at the hearing site unless it is conducted pursuant to [§95.53](#) of this title.
15. The staff representative shall provide the youth with written notice of the date and time of the hearing not less than three (3) working days before the scheduled date. This notice shall include:
  - A. the reason(s) for the hearing;
  - B. the proposed action to be taken; and
  - C. the youth's rights in connection with the hearing.
16. If the youth is under 18 years of age, the staff representative shall make reasonable efforts to inform the youth's parent(s) of the date, time, place of, and reasons for the hearing not less than three (3) working days prior to the scheduled hearing date. If the youth is 18 years of age or older, such notice shall be provided only with the youth's authorization to release information.
17. The staff representative shall provide counsel for the youth with written notice of the date, time, place of, and reasons for the hearing not less than three (3) working days prior to the scheduled hearing date. The notice to counsel shall also include:
  - A. the name, address, and telephone number of the staff representative and the administrative law judge;
  - B. a list of all witnesses the staff representative intends to call;
  - C. an indication of the expected testimony of each witness;
  - D. copies of any statements made by the youth;
  - E. copies of any statements, affidavits, reports, or other documentation relied upon as grounds for the proposed action; and
  - F. copies of any reports or summaries which will be relied upon at disposition.
18. The staff representative shall provide counsel for the youth with reasonable access to all information held by TYC concerning the youth. Counsel for the youth will respect the confidential nature of such information and will comply with reasonable requests to withhold sensitive information from the youth or the youth's family.
19. As soon as possible following receipt of the notice of hearing, and no later than the commencement of the hearing, counsel shall inform the staff representative of any witnesses he/she wishes to call on behalf of the youth. The staff representative will, if necessary and possible, assist counsel in contacting those witnesses and securing their attendance at the hearing.

20. The staff representative will ensure that all witnesses are given written notice of the time, date, and location of the hearing at least three days in advance of the hearing.
21. At the staff representative's request, the TYC chief administrative law judge may sign and issue a subpoena to compel the attendance of a necessary witness at the hearing or the production of books, records, papers, or other objects. A person who testifies falsely, fails to appear when subpoenaed, or fails or refuses to produce material under the subpoena is subject to the same orders and penalties to which a person taking those actions before a court is subject.
22. The administrative law judge may, upon his/her own motion or the good cause motion of any party, recess or continue the hearing for such periods of time as may be necessary to ensure an informed fact finding.
23. Prior to the hearing, the administrative law judge may review copies of any documentation previously provided to counsel except for those documents which relate solely to dispositional criteria. The administrative law judge shall review such information only if the hearing proceeds to disposition.
24. A victim who appears as a witness should be provided a waiting area which eliminates or minimizes contact between the victim and the youth, the youth's family, or witnesses on behalf of the youth.
25. To protect the confidential nature of the hearing, persons other than the youth, counsel for the youth, the staff representative, and the youth's parent(s) may be excluded from the hearing room at the discretion of the administrative law judge, however:
  - A. observers may be permitted with the consent of the youth;
  - B. any person except the youth's counsel or the staff representative may be excluded from the hearing room if his/her presence causes undue disruption or delay of the hearing. The reason(s) for the youth's exclusion shall be stated on the record.
26. The hearing shall be recorded and the administrative law judge shall retain copies of all documents admitted into evidence. Physical evidence may be retained at the discretion of the administrative law judge; if not retained, an adequate description of the item(s) shall be entered in the record by oral stipulation.
27. Factual issues not in dispute may be stipulated to by the staff representative and counsel for the youth. Such stipulations shall be made on the record of the hearing.
28. A youth accused of misconduct shall be given the opportunity to respond "true" or "not true" to each allegation of such conduct prior to any evidence being heard on such allegations.
  - A. The youth shall have a right to respond "not true" to any such allegation and require that proof of the allegation be presented at the hearing.

- B. A response of “true” to any such allegation shall be sufficient to establish each and every element necessary to proof of that allegation without the presentation of any other evidence.
29. The administrative law judge may administer an oath to all witnesses to testify truthfully.
  30. With the exception of the youth and the staff representative, any person designated as a witness may be excluded from the hearing room during the testimony of other witnesses and may be instructed to refrain from discussing his/her testimony with anyone until all the witnesses have been dismissed.
  31. The administrative law judge may question each witness at his/her discretion. Counsel for the youth and the staff representative shall be given an opportunity to question each witness.
  32. The administrative law judge may permit a witness to testify outside the presence of the youth if such appears reasonable and necessary to secure the testimony of the witness. If the youth is excluded from the hearing room during testimony, counsel for the youth shall be present during the testimony and shall have the opportunity to review the testimony with the youth before questioning the witness.
  33. The youth shall not be called as a witness unless, after consulting with counsel, the youth waives his/her right to remain silent on the record.
    - A. The youth’s failure to testify shall not create a presumption against him/her.
    - B. A youth who waives his/her right to remain silent may only be questioned concerning those issues addressed by the youth’s testimony.
  34. All factual issues shall be determined by a preponderance of the evidence.
  35. The administrative law judge shall determine the admissibility of evidence. Irrelevant, immaterial, or unduly repetitious evidence will be excluded.
  36. The rules of evidence will generally be applicable to the fact-finding portion of the hearing. Unless specifically precluded by statute, evidence not admissible under those rules may be admitted if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Criminal exclusionary rules are not applicable in TYC hearings.
  37. A judgment from a court indicating a youth has pled guilty or true to an offense and has not received deferred adjudication is sufficient to prove the youth committed the offense.
  38. Copies of due process hearing documents need not be certified if such document(s) are part of the youth’s record(s) or have been received through Interstate Compact. Such documents are considered reliable and admissible for all purposes.
  39. Accomplice testimony is sufficient to prove an allegation if it is corroborated by other evidence tending to connect the youth with the alleged violation. The corroboration is not sufficient if it merely shows the commission of the violation

alleged. If two accomplices testify, the testimony of each can serve to corroborate the other.

40. Legally recognized privileges of relationships will be given effect.
41. Evidence otherwise admissible may be received in written form if so doing will expedite the hearing and will not significantly prejudice the rights or interests of the youth. This includes but is not limited to use of affidavits admitted to show the following:
  - A. ownership and lack of consent;
  - B. identity of signature on instrument and lack of consent of complaining witness in a forgery case;
  - C. lack of permission to leave designated placement;
  - D. chain of custody;
  - E. identity of substance found in a urine sample;
  - F. identity of a controlled substance found in possession of a youth.
42. A youth's written statement concerning his/her possible involvement in illegal activities is admissible if it is signed by the youth and accompanied by evidence indicating that the youth made the statement voluntarily after being advised of:
  - A. the right to remain silent;
  - B. the possible consequences of giving the statement;
  - C. the right to consult with an attorney prior to giving the statement; and
  - D. the right to have an attorney provided if the youth is indigent.
43. A youth's non-recorded oral statement is admissible if it:
  - A. relates facts which are found to be true and which tend to establish the youth's guilt; or
  - B. was *res gestae* of the conduct that is the subject of the hearing or of the arrest; or
  - C. even if it does not meet subparagraph (A) or (B) of this paragraph, the statement does not stem from law enforcement or agency staff questioning of youth; or
  - D. even if the statement does stem from law enforcement or agency staff questioning, the statement is voluntary and bears on the youth's credibility as a witness.
44. A youth's recorded oral statement (tape recorded, videotaped, or otherwise electronically recorded) concerning his/her possible involvement in illegal activities is admissible if it is accompanied by evidence on the recording that it was given after the youth was advised of the rights in paragraph (42) of this subsection. All voices on the recording must be identified and the recording must be accurate and unaltered. A transcript of the recordings is not sufficient.
45. A youth's admissible out of hearing/court statement admitting he/she committed an offense is sufficient to prove the offense only if it is corroborated by other evidence that the offense was committed.


46. The administrative law judge shall rule immediately on any motions or objections made in the course of the hearing. All such motions, objections, and rulings shall be included in the administrative law judge's written report.
47. Following the presentation of all evidence pertaining to the factual issues raised at the hearing, the administrative law judge shall announce his/her findings as to those issues.
  - A. The administrative law judge may find that the evidence suffices to prove conduct other than that originally alleged and enter the appropriate finding in the record if the original allegation gave sufficient notice of the conduct proved.
  - B. Irrespective of the evidence, the administrative law judge may not find a criminal offense more serious than that originally alleged unless the original allegation has been amended on the record and after notice to counsel for the youth.
  - C. If the administrative law judge finds any allegation to be true, the hearing shall proceed to disposition; if not, the hearing shall be adjourned with no change in the youth's status.
48. The administrative law judge may receive additional evidence for purposes of disposition. The evidence received at disposition may be in the form of testimony from witnesses submitted during fact-finding or at disposition, as well as written reports offered by youth, staff, professionals, counselors, or consultants. Relevant documents contained in the youth's record may be admitted and considered. All written documents offered shall be provided to the parties three days prior to the hearing unless otherwise waived. Hearsay evidence is admissible in disposition.
49. Parole will be revoked if the administrative law judge determines that revocation is in the youth's and/or the community's best interest and/or the youth is in need of further rehabilitation at a TYC facility.
50. If parole is revoked, the youth will be assigned a minimum length of stay in accordance with [§85.25](#) of this title, based on the most serious offense found true at the hearing. Such minimum length of stay may be reduced in accordance with [§85.25](#) of this title.
51. If, despite a finding of extenuating circumstances relevant to the proven offense, the administrative law judge finds revocation is appropriate under the circumstances, the youth's parole will be revoked but the assigned minimum length of stay will be reduced.
52. Following announcement of the decision as to disposition, the administrative law judge shall inform the youth of the right to appeal any or all findings and decisions made at the hearing.
53. Immediately following the close of the hearing, the administrative law judge shall give the youth a copy of the hearing report form.

54. A notice of appeal shall not suspend implementation of the administrative law judge's decision(s), which shall be effective when announced at the hearing.
55. As soon as possible following the conclusion of the hearing, the administrative law judge shall prepare a written report which shall include:
  - A. a summary of the evidence presented;
  - B. findings of fact, including the reliability of the evidence and the credibility of the witnesses, and the reasons for those findings;
  - C. conclusions of law;
  - D. an explanation of the dispositional decision; and
  - E. rulings made on motions and objections and the reasons therefore.
56. Copies of the administrative law judge's report shall be provided to counsel for the youth and the staff representative.
57. An edited copy of the administrative law judge's report is given to the youth.

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## II. MANAGEMENT REQUIREMENTS

### a. Scheduling the hearing.

1. With the approval of the parole supervisor, quality assurance administrator, or halfway house superintendent, the primary service worker (PSW) may request a hearing. The approval must be based on a reasonable belief that the youth's behavior requires placement in a high restriction facility because the youth is in need of further rehabilitation and/or it is in the best interest of the youth or community and lesser sanctions have failed or are inappropriate for the youth. The decision is documented in writing.
  2. The PSW requests a hearing by completing the Level I Hearing Request form,  [LS-177](#), and sending it to the legal services department as soon as practical but no later than seven days, excluding weekends and holidays, after the alleged violation. A delay of more than seven days in requesting the hearing must be justified by documentation of circumstances (including a deferral to local authorities) which made it impossible, impractical, or inappropriate to schedule the hearing earlier.
  3. The date and time for the hearing shall be determined by the hearings section.
  4. The PSW requesting a hearing may cancel at any time prior to the commencement of the hearing. The PSW must contact the hearings coordinator if canceling a hearing.
- b. A copy of the administrative law judge's report is placed in the casework subfile only if the allegations are found true. If allegations are not found true, all references to the disciplinary actions are removed from the youth's casework subfile.
- c. All Level I hearings and dispositions are reviewed by the chief administrative law judge or his/her designee to ensure conformity with policy and procedures.



- d. The Administrative Law Judge's Report of a Level I Hearing form, [CCF-160](#), shall be entered into the correctional care system within 24 hours of the hearing.
- e. The finding of a felony must be documented in the casework subfile.
- f. Specific placements following parole revocation are the responsibility of the Centralized Placement Unit.
- g. **Subpoena Procedures.**

To serve and enforce a subpoena that has been issued by the chief administrative law judge:

1. The staff representative should complete two copies of the **top** portion of the Subpoena form, [LS-170](#) and arrange for the subpoena to be served by a peace officer, apprehension specialist, non-party staff representative or other TYC official to the witness at least three days prior to the date the witness is requested to appear. The subpoena may be served by hand delivery, certified mail or any other manner allowable in a court of original criminal jurisdiction.
  2. Once the subpoena has been served, the person who served it completes the **bottom** portion (Return of Service) of the second copy of the LS-170 and returns it to the staff representative, who maintains it in the hearing packet.
  3. If a witness fails to appear when subpoenaed, the chief administrative law judge shall determine if the testimony sought was relevant, material and necessary.
  4. Upon such determination, the chief administrative law judge may apply to a court of record having original criminal jurisdiction in the county of the hearing to compel attendance, the giving of testimony or the production of material. Such application shall be in writing, state the name and address of the witness, that the testimony of such witness is material and be accompanied by the Subpoena (Return of Service) form, LS-170, and the Affidavit for Successful Delivery of Subpoena form, [LS-173](#), that the subpoena was successfully served to the witness.
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# General Administrative Policy Manual

**GAP.95.55**

**Chapter: Behavior Management and Youth Discipline**  
**Subchapter: Due Process Hearings Procedures**  
**Rule: Level II Hearing Procedure**

**Effective Date: 9/1/09, T-99**  
Replaces: GAP.95.55  
Dated: 8/30/06, T-80

ACA Standard(s): 4-JCF-3B-02, 3B-09, 3C-06, 3C-07, 3C-08, 3C-09, 3C-10, 3C-11, 3C-12, 3C-13, 3C-14, 3C-15, 3C-17

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[Purpose](#) | [Applicability](#) | [Criteria](#) | [Procedure](#) | [Management Requirements](#)

## I. RULE

### a. Purpose.

The purpose of this rule is to establish a procedure to be followed when the second highest level of due process is afforded a youth. Rule violations proven through a Level II Hearing will be part of the youth's disciplinary record.

### b. Definitions.

Definitions pertaining to this rule are under [§95.50](#) of this title.

### c. Applicability.

The Level II hearing procedure is appropriate due process in the following instances:

1. imposing a major disciplinary consequence in accordance with [§95.3](#) of this title;
2. placing a youth in the Redirect program in accordance with [§95.17](#) of this title;
3. placement of a youth on parole assigned to a home or home substitute in a medium restriction facility for non-disciplinary reasons;
4. placement of a youth whose initial assignment was to a medium restriction facility in a high restriction facility for non-disciplinary reasons;
5. with a few exceptions in procedure as identified in [§95.71](#) of this title:
  - A. admission to the Corsicana Stabilization Unit; and
  - B. extension of time to treat a psychiatric disorder in connection with a Corsicana Stabilization Unit placement (as appropriate); or
6. deposit of contraband money into the student benefit fund found in possession of a youth while in a residential program.

### d. Criteria.

1. To impose a major consequence, place a youth in the Redirect program, or place contraband money in the student benefit fund, the hearing manager must find:
  - A. the youth committed an eligible rule violation; and
  - B. there are no extenuating circumstances.
2. To transfer a youth to a higher restriction level for non-disciplinary reasons; the hearing manager must find there are no less restrictive placements appropriate and available for the youth.
3. For criteria for admission to or extension in the Corsicana Stabilization Unit, see [§87.67](#) of this title.

**e. Procedure.**

1. When a youth in a residential facility is alleged to have committed a major rule violation or a minor rule violation requiring a security referral, an investigation into that violation must be started within 24 hours of the alleged offense and completed within 24 hours of the time started. A decision on whether or not to pursue a Level II Hearing must be made within 24 hours of the completion of the investigation. Any delay in these timelines must be justified with documentation of circumstances that made it impossible, impractical, or inappropriate to meet them. The investigation must be conducted by a staff member other than the one reporting the alleged violation.
2. The appropriate staff person shall request permission to schedule a hearing from the facility administrator, parole supervisor, quality assurance administrator, or their designees.
3. For hearings regarding rule violations or contraband money, the hearing shall be conducted as soon as practical but not later than seven days, excluding weekends and holidays, after the alleged violation was committed or the money was found. A delay of more than seven days in holding the hearing must be justified by documentation of circumstances which made it impossible, impractical, or inappropriate to schedule the hearing earlier.
4. For hearings regarding a non-disciplinary transfer, the youth may waive the hearing in writing and agree to the transfer. If the youth does not waive the hearing, the hearing must be held prior to the transfer. If good cause compels a pre-hearing transfer, the hearing shall be held within three calendar days after the transfer.
5. If the youth is being held in a security unit due to potential interference with a pending a Level II hearing, the hearing shall be conducted within five calendar days from the date of admission to detention. A delay of more than five days in holding the hearing must be justified by documentation of circumstances which made it impossible, impractical, or inappropriate to schedule the hearing earlier.
6. Failure to document circumstances making it impossible, impractical, or inappropriate to timely investigate and hold the hearing may result in a dismissal or reversal of the decision of the hearing manager.

7. The appropriate facility administrator, parole supervisor, quality assurance administrator, or their designees will appoint a hearing manager and staff representative.
8. The hearing manager shall be a Texas Youth Commission (TYC) staff member who is trained to function as a hearing manager.
  - A. The hearing manager shall not be a person who:
    - i. witnessed any part of the alleged violation of which the youth is accused; or
    - ii. made a decision to place the youth in the security unit or in a detention program pending the hearing.
  - B. If the youth is currently assigned to an institution, the hearing manager shall be someone not directly responsible for supervising the youth.
  - C. If the youth is currently assigned to a halfway house, the hearing manager shall not be a member of the halfway house staff.
  - D. If the youth is currently assigned to a contract program, the hearing manager shall not be the TYC quality assurance specialist assigned to that youth.
  - E. If the youth is currently assigned to his/her home, the hearing manager shall not be the parole officer assigned to the youth's case or the quality assurance specialist who works directly with the youth's supervising officer.
9. The staff representative shall be responsible for assembling all evidence and giving all notices required for the hearing as well as presenting all evidence at the hearing.
10. The youth shall be given written notice of his/her rights not less than 24 hours prior to the hearing. The youth's rights are:
  - A. the right to remain silent;
  - B. the right to be assisted by an advocate at the hearing;
  - C. the right to confront and cross-examine adverse witnesses who testify at the hearing;
  - D. the right to contest adverse evidence admitted at the hearing;
  - E. the right to call readily available witnesses and present readily available evidence on his/her own behalf at the hearing; and
  - F. the right to appeal the results of the hearing. The youth's right to appeal cannot be waived.
11. The youth shall be assisted by a TYC employee, contract employee, or volunteer who has been trained to serve as an advocate. The youth shall be given the opportunity to choose an advocate from those trained. The youth's choice shall be honored unless there is a showing of unavailability for any reason. If the youth makes no choice, or the first choice is unavailable for any reason, the hearing manager shall appoint the advocate. In cases where the youth is not proficient in the English language, the appointed advocate shall be proficient in

English as well as the primary language of the youth or an interpreter shall be used.

12. The youth and the youth's advocate shall be given written notice of the reasons for calling the hearing, the proposed action to be taken, and the evidence to be relied upon not less than 24 hours prior to the hearing. After receipt of the written notice and consultation with the advocate, the youth may waive the 24-hour notice period by agreeing, in writing, to an earlier hearing time.
13. All youth in TYC facilities and secure contract placements shall be given the hearing packet (all written materials relied upon and a list of witnesses) at least 24 hours in advance of the hearing. The paperwork may be taken away from the youth if the youth is misusing the papers in any way.
14. If the youth is less than 18 years of age, reasonable efforts shall be made to inform the youth's parent(s) of the time and place of the hearing not less than 24 hours prior to the hearing. If the youth is 18 years of age or older, such notice shall be provided only with the youth's authorization to release information.
15. Hearings to impose major consequences, to place a youth in the Redirect program, or to place contraband money in the student benefit fund shall consist of two parts: fact-finding and disposition, and shall be held where the youth resides unless the hearing manager determines that some other site is more appropriate. During the fact-finding portion of the hearing, only evidence concerning the alleged misconduct may be considered; the youth's prior behavior shall not be considered unless disposition is reached.
16. Hearings regarding non-disciplinary transfers shall consist of fact finding to determine if the transfer is necessary because there are no less restrictive placement options appropriate and available for the youth.
17. The hearing shall be recorded and the recording shall be the official record of the hearing. The recording and the hearing packet shall be preserved for six months following the hearing.
18. The youth shall be present during the hearing unless the youth waives his/her presence or his/her behavior prevents the hearing from proceeding in an orderly and expeditious fashion.
  - A. A voluntary waiver of the youth's presence shall be in writing and signed by the youth and his/her advocate. If the youth does not sign the waiver for any reason, his/her presence is not waived.
  - B. If the youth waives his/her presence, the hearing may be conducted by teleconference.
  - C. If a youth is excluded for behavioral reasons, or to secure the testimony of a witness, those reasons shall be documented in the hearing record. The advocate shall be present during the testimony and shall have the opportunity to question the witness.
  - D. A true plea cannot be entered on behalf of a youth who has waived his/her presence at the hearing.

19. A victim who appears as a witness should be provided a waiting area where he/she is not likely to come in contact with the youth except during the hearing.
20. Witnesses will take an oath prior to testifying. Witnesses may testify by telephone or videoconference if in-person testimony is impractical or unfeasible. If testimony is provided by phone, persons required to be present at the hearing must be able to simultaneously hear the testimony.
21. The hearing manager, staff representative, and advocate may question each witness in turn. The staff representative and advocate may offer summation statements.
22. To protect the confidential nature of the hearing, persons other than the youth, the youth's advocate, staff representative, and the youth's parent(s) may be excluded from the hearing room at the discretion of the hearing manager; however, any person except the staff representative or the youth's advocate may be excluded from the hearing room if his/her presence causes undue disruption or delay of the hearing. The reason(s) for the exclusions are stated on the record.
23. With the exception of the youth or staff representative, any person designated as a witness may be excluded from the hearing room during the testimony of other witnesses and may be instructed to refrain from discussing his/her testimony with anyone until all the witnesses have been dismissed.
24. The hearing manager may permit a witness to testify outside the presence of the youth if such appears reasonable and necessary to secure the testimony of the witness. If the youth is excluded from the hearing room during testimony, the advocate for the youth shall be present during the testimony and shall have the opportunity to review the testimony with the youth before questioning the witness.
25. The youth shall not be called as a witness unless, after consulting with the advocate, he/she waives his/her right to remain silent on the record. Neither the hearing manager nor the staff representative may question the youth unless he/she waives the right to remain silent.
  - A. The youth's failure to testify shall not create a presumption against him/her.
  - B. A youth who waives the right to remain silent may only be questioned concerning those issues addressed by his/her testimony.
26. All credible evidence may be considered, irrespective of its form.
27. The standard of proof for all disputed issues is a preponderance of the evidence.
28. The hearing manager may recess or continue the hearing for such period(s) of time as may be necessary to ensure an informed and accurate fact-finding or to secure evidence the hearing manager determines may be relevant.
29. The hearing manager will announce his/her findings of fact.
30. If there is a finding of true, the hearing manager shall proceed to disposition and provide the youth an opportunity to present extenuating circumstances, with the








exception that extenuating circumstances are not applicable to admissions or extensions of stay in the Corsicana Stabilization Unit or to transfers for non-disciplinary reasons. If no extenuating circumstances are found, the hearing manager shall order the disposition recommended by the staff representative.

- A. A hearing manager's decision that a youth will be transferred is final subject to approval by the appropriate administrator.
  - B. A hearing manager's decision that a youth will be issued a consequence to be served at the youth's current placement is final subject to an appeal by the youth.
  - C. If extenuating circumstances are found incident to the rule violation(s) proved at a Level II hearing, the youth shall not be assigned the requested dispositions or any other major consequences. However, the true finding will remain in the youth's record and can be considered by the youth's treatment team or parole officer in determining appropriate actions to address the youth's behavior. If extenuating circumstances are found incident to a youth's possession of prohibited money, the hearing manager determines the appropriate way to dispose of the money.
31. The hearing manager shall prepare a report of his/her findings, which includes grounds for the hearing, evidence relied upon, and the decision.
32. The youth is informed of his/her right to appeal to the agency's chief administrative officer at the close of the hearing. The pendency of an appeal shall not preclude implementation of the hearing manager's dispositional decision.
33. A copy of the hearing report is given to the youth immediately following the close of the hearing.

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## II. MANAGEMENT REQUIREMENTS

- a. Training to be a hearing manager or advocate is provided by TYC. No individual may serve as a hearing manager or advocate before completing this training.
- b. All institutions and halfway houses shall have sufficient staff trained to serve as hearing managers and advocates. As many parole officers as possible shall be trained to serve as hearing managers and advocates. Each location will maintain a list of trained staff, including the most recent date on which each person was trained.
- c. Whenever possible:
  - 1. the youth's case manager will not be assigned as the staff representative; and
  - 2. the staff representative and hearing manager will not be from the same dorm, halfway house, or parole office.
- d. Level II hearings may be held by conference call, if necessary.

- e. A copy of the report is placed in the masterfile only if the reasons for the hearing are found, i.e., it is proven that the youth violated the rules. If the reasons for the hearing are not found, all references to the disciplinary action are removed from the youth's casework subfile and the alleged rule violation shall not be held against the youth for any reason.
- f. Proper completion and automated entry of the Hearing's Manager's Report form,  [CCF-170](#), shall be completed within three working days of the hearing.
- g. The hearing manager's report is reviewed by the appropriate supervisor, institutional superintendent, halfway house superintendent, parole supervisor, or quality assurance administrator as are all disciplinary reports, to assure consistency in the application of policy.
- h. Staff currently employed at and youth currently residing at the location of the hearing are considered to be "readily available" and shall be called to testify at the youth's request. If there are unusual circumstances which would prevent the witness from attending in person or by phone or videoconference, the hearing may be postponed or continued to allow a witness's testimony. If the witness' testimony cannot be secured within a reasonable time, the hearing may proceed without the witness. The reasons for proceeding without requested witnesses must be documented.
- i. Evidence is considered "readily available" if it is within the control of any TYC staff at the location of the hearing or is otherwise easily attainable. The reasons for excluding requested evidence must be documented.
- j. The following items should be placed in a secure file to be retained for six months after the hearing for purposes of responding to any youth appeal:
  - 1. the recording made at the hearing;
  - 2. Hearing Manager's Report of a Level II Hearing form, CCF-170, (copy of form given to youth and final copy with all required signatures and approvals);
  - 3. Notice of Rights - Level II Hearing form,  [LS-200](#);
  - 4. Youth Notice of Level II Hearing form,  [LS-201](#);
  - 5. Waiver of Youth Attendance at Level II Hearing form,  [LS-202](#), (if applicable);
  - 6. Family Notice of Level II Hearing form,  [LS-203](#);
  - 7. Advocate Notice of Level II Hearing form,  [LS-204](#);
  - 8. Youth Statement Level I or II Hearing form,  [LS-129](#);
  - 9. Level II Hearing Request adjustment summary; and
  - 10. copies of all documents introduced at the Level II hearing. These documents may be purged after six months.



# THE INS AND OUTS OF TYC

INTAKE, PROCESSING, LENGTHS OF STAY,  
AND RELEASE DECISIONS

# Commitment to TYC

- Must be for felony offense
- May be a determinate or indeterminate sentence

# Physical conveyance to TYC facility HRC §61.064

- Juvenile court shall assign an officer or other suitable person to accompany the child. The person assigned to accompany a female must be a woman.
- The cost of conveying the child shall be paid by the county from which the child is committed.



# Information to be provided by committing court

- HRC §61.065 requires a certified copy of the order of commitment and
- County officials shall make available to the commission all pertinent information in their possession regarding the case



# Information to be provided by committing court

- §61.0651 requires copies of a laundry list of things, including:
  - the petition
  - adjudication and disposition orders
  - probation terms and revocation order
  - social history report
  - psychological/Psychiatric Assessments
  - and Numerous other things

# What happens?

- Youth arrive at Orientation and Assessment unit and begin process
  - McLennan County State Juvenile Correctional Facility (Mart) if male,
  - or the Ron Jackson State Juvenile Correctional Complex (Brownwood) if female



# Orientation and Assessment

- a physical evaluation and medical history
- educational testing and assessment
- psychological evaluation and social summary
- introduction to TYC's treatment program
- specialized treatment needs assessment
- assignment of Minimum Length of Stay for indeterminate commitments

# Assessment

- Positive Achievement Change Tool (PACT) is administered to each youth to begin process of identifying individual risk and protective factors to be addressed during their time within TYC custody



# Assessment and Case Planning

- PACT is used to create individualized treatment plans to address specific areas of risk and to enhance protective factors
- Factors analyzed to determine youth's placement

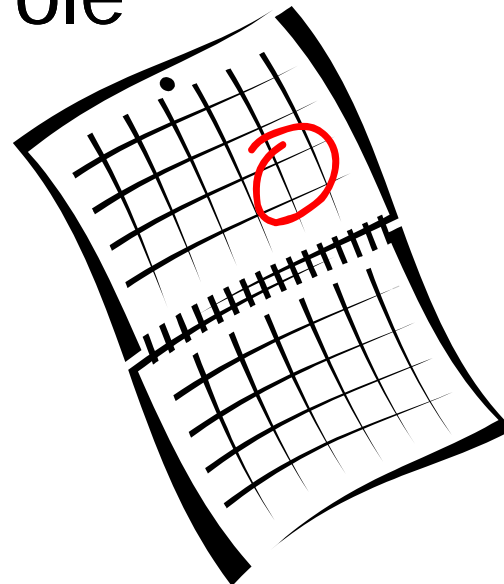


# Indeterminate Commitment

- Youth committed to TYC for unspecified period of time not to exceed age 19
  - TYC, not the court, determines the length of time youth must spend in institution before eligible for parole (MLOS)
  - TYC determines the length of time youth spend on parole before discharge

# Minimum Length of Stay

- The minimum amount of time a youth with an indeterminate commitment must spend in a residential facility before being released to parole



# Minimum Length of Stay

- Human Resources Code §61.062
  - The commission shall establish a minimum length of stay (MLOS) for each child committed to the commission without a determinate sentence.

# Minimum Length of Stay

- Nature of and seriousness of the conduct engaged in by the child
  - Penal code level of offense
  - Aggravating factors
    - Felony against person
    - Sexual offense
    - Weapon present

# Severity Rating

- First Degree or Capital Murder without aggravating factors = moderate
- First Degree or Capital with aggravating factors = high

# Severity Rating

- Second Degree Murder, Manslaughter, or Sexual Assault = high (all contain aggravating factors)

# Severity Rating

- State Jail, Third Degree, other Second Degree without aggravating factors = low
- State Jail, Third Degree, other Second Degree with aggravating factors = moderate



# Assessment Rating

- the danger the child poses to the community
    - # of felony and misdemeanor referrals\*
    - # of felony referrals\* for offenses against persons
    - # of felony and misdemeanor adjudications\*
    - Age at first commitment
    - Prior residential placements
- \*Referrals and adjudications counted by date

Youth Information				
Youth Name (Last, First, MI)	TYC Number	Home Region	Caseworker	Committing Offense

SEVERITY OF COMMITTING OFFENSE		
<b>Felony Level:</b> <input type="checkbox"/> 1 <sup>st</sup> Degree/Capital <input type="checkbox"/> 3 <sup>rd</sup> Degree <input type="checkbox"/> 2 <sup>nd</sup> Degree <input type="checkbox"/> State Jail	<b>Presence of:</b> Felony Sex Offense*: <input type="checkbox"/> Yes <input type="checkbox"/> No Felony against Person*: <input type="checkbox"/> Yes <input type="checkbox"/> No Weapon or Firearm: <input type="checkbox"/> Yes <input type="checkbox"/> No	
	<b>Weapon, sexual felony and/or felony against person <u>PRESENT</u></b>	<b>Weapon, sexual felony and/or felony against person <u>NOT PRESENT</u></b>
1 <sup>st</sup> Degree/Capital	High	Moderate
2 <sup>nd</sup> Degree: Murder, Manslaughter, Sexual Assault	High	N/A
2 <sup>nd</sup> Degree: All Others	Moderate	Low
3 <sup>rd</sup> Degree	Moderate	Low
State Jail	Moderate	Low

<b>SEVERITY RATING:</b>  <input type="checkbox"/> High <input type="checkbox"/> Moderate <input type="checkbox"/> Low
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ASSESSMENT FACTORS	Answer	Value	Score
1. Number of felony and/or misdemeanor referrals to juvenile court:	<input type="checkbox"/> 1	0	
	<input type="checkbox"/> 2	1	
	<input type="checkbox"/> 3	2	
	<input type="checkbox"/> 4	3	
	<input type="checkbox"/> 5	4	
	<input type="checkbox"/> 6 or more	5	
2. Number of referrals for offenses against person	<input type="checkbox"/> 0	0	
	<input type="checkbox"/> 1	1	
	<input type="checkbox"/> 2 or more	2	
3. Number of felony and/or misdemeanor adjudications:	<input type="checkbox"/> 1	0	
	<input type="checkbox"/> 2	1	
	<input type="checkbox"/> 3	2	
	<input type="checkbox"/> 4 or more	3	
4. Age at commitment	<input type="checkbox"/> 17	0	
	<input type="checkbox"/> 16	1	
	<input type="checkbox"/> 15	2	
	<input type="checkbox"/> 10 - 14	3	
5. Any residential placements prior to TYC commitment	<input type="checkbox"/> No	0	
	<input type="checkbox"/> Yes	1	
<b>Total Score →</b>			

<b>ASSESSMENT RATING LEVEL:</b>  <input type="checkbox"/> High (12+) <input type="checkbox"/> Medium (6-11) <input type="checkbox"/> Low (0-5)
--

		Severity Rating		
		High	Moderate	Low
Assessment Rating	High	<input type="checkbox"/> 1	<input type="checkbox"/> 3	<input type="checkbox"/> 4
	Medium	<input type="checkbox"/> 2	<input type="checkbox"/> 4	<input type="checkbox"/> 5
	Low	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5

Minimum Length of Stay:
1 → 24 months
2 → 18 months
3 → 15 months
4 → 12 months
5 → 9 months

<b>MINIMUM LENGTH OF STAY:</b>  <b>MONTHS</b>
---

\_\_\_\_\_ Printed Name/Title                      \_\_\_\_\_ Signature                      \_\_\_\_\_ Date

# Minimum Length of Stay

- 9 months – low/low or low/medium
- 12 months – low/high or moderate/low or moderate/medium
- 15 months – moderate/high or high/low
- 18 months – high/medium
- 24 months – high/high

Note: severity level/assessment rating

# Determinate Commitment

- §54.04 Disposition – Determinate Sentence
  - Only way for juvenile court to order specific time or “sentence” within TYC
- Possible transfer to TDCJ

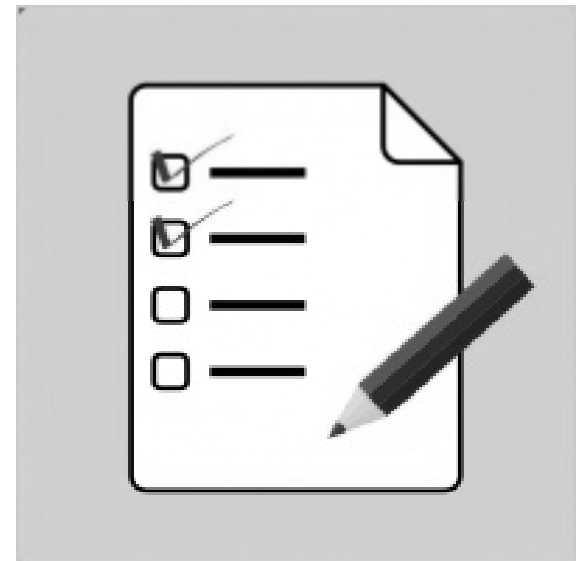
# Minimum Period of Confinement

- Third degree felony – 1 year
- Second degree felony – 2 years
- First degree felony or aggravated controlled substance felony – 3 years
- Capital murder – 10 years

Human Resources Code 61.081

# Placement Assessment – T.A.C. 85.21

- Placement factors (in order):
  - gender
  - treatment needs (High given priority)
  - placement risk score
  - proximity to home



# Assessment Factors

- Assessment Rating Score from MLOS
- Runaway referrals/escapes
- Number of rule violations in TYC

All are combined to determine placement risk level

# Placement Assignment

- High or medium restriction
- Specific assignment
- MDT reviews and can make alternate recommendations
- Executive Director/Designee can waive high restriction requirement when appropriate



# Placement within facility

- Age
- Committing offense
- Delinquency history
- Gang affiliation
- Treatment Needs
- Vulnerability
- Violence risk

# GETTING RELEASED FROM TYC



# Determinate Sentences

- Complete MPC and TYC program before 19 – release to TYC parole
- Complete MPC but not TYC program before 19 – Transfer Hearing or TDCJ-Parole
- Do not complete MPC before 19 – must go to court for hearing to determine if going to TDCJ – ID or TDCJ – Parole

# Determinate Sentences

- TYC has option to take youth to transfer hearing after turning 16 if circumstances warrant



# Indeterminate Sentences

- Complete the TYC program before MLOS is completed and maintain release eligibility – Facility Release
- If program is not complete before MLOS expires, Release Review Panel will review the youth

TAC 85.55 – program completion criteria

# Program Completion – Indeterminate Sentences

- No Major Rule Violations proven through hearing in last 30 days; and
- Completion of rehabilitation program requirements; and
- Completion of specialized treatment program requirements; and

# Program Completion – Indeterminate Sentences

- Completion of a community reintegration plan that demonstrates the youth's
  - Understanding of his risk/protective factors
  - Development of skills, abilities, and knowledge to reduce risk factors and increase protective factors
  - Identification of goals and plan of action to achieve those goals
  - Identification of obstacles that may hinder successful re-entry and plans to deal with those obstacles

# Release Review Panel

- Human Resources Code Section 61.0815, added by SB103 in 2007, creates the Panel
- Panel is required to review all youth committed without a determinate sentence “after the child has completed the minimum length of stay” assigned at commitment.





# Statutory Decision Authority

HRC §61.0815 states:

Upon review, the Panel shall determine if the youth should be:

- 1) Discharged from custody of TYC,
- 2) Released under supervision, or
- 3) Extended in the custody of the commission for an additional period of time.

# Extension Decision

- Majority Vote
  
- Clear And Convincing Evidence
  - youth is in need of additional rehabilitation, *and*
  - TYC will provide the most suitable environment for rehabilitation.

# Unlike the adult system...

- TYC must discharge or release if insufficient evidence to prove stay should be extended
- Adult prisoners must earn their way out; however, in the juvenile system, TYC must prove the youth needs to stay.

# TYC Policy

- SB 103 provisions are reflected in General Administrative Policy (GAP)85.57. The Policy does not expand the Panel's options beyond those specifically mentioned in the law.
- Although specific decision factors are not required by the law, GAP.85.57 provides examples of factors to be used in the Panel's decision making.

# Decision Making

- Statute does not define “in need of additional rehabilitation” and the “most suitable location.”  
Examples of factors currently considered:
  - Youth’s efforts to reduce personal risk factors or increase personal protective factors
  - Degree and quality of participation in available treatment programs
  - Negative behavior proven through due process hearing
  - Total time in high restriction relative to the youth’s conduct

# Transition Placements

## Texas Administrative Code §85.45

- Eligibility to move to medium restriction before released on parole
- No rule violations for 30 days
- Must complete specific treatment requirements.
  - Youth with high severity offenses must do all but 90 days of MLOS in high restriction,
  - Youth with medium or low severity offenses must do 9 months of MLOS in high restriction

# TYC Parole

- Community supervision of released youth who have not been discharged
- Youth are to follow the law and specific parole conditions

# Parole Revocation Hearings

- Violate parole conditions AND
- Revocation is in best interest of youth and/or community and/or youth is in need of further rehabilitation at a TYC facility
- Hearings conducted by TYC administrative law judges; youth appointed a defense attorney



# Parole Revocation MLOS

- Felony offense – 9 months
- Misdemeanor offense – 6 months
- Technical offense – 3 months

# Discharge – Determinate Commitments

- Sentence expiration
- Transfer to TDCJ-ID
- Transfer to TDCJ-Parole

# Discharge – Indeterminate Commitments

- Successful Completion of Parole
  - Compliance with parole requirements
  - Not in jail or abscond status
  - No pending petitions or criminal charges

# Discharge

- Sentenced to TDCJ – ID
- Sentenced to six months jail or any supervised adult probation for conduct that occurred while on parole
- Release Review Panel discharge
- Executive Director discharge
- Age 19

# QUESTIONS?

Karen Kennedy – Review Panel Director

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Kaci Sohrt – Chief Administrative Law Judge

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