TEXAS BOARD OF PARDONS AND PAROLES

Parole Guidelines Annual Report

Fiscal Year 2012

In accordance with Section 508.1445, Government Code, the Board annually shall submit a report to the Criminal Justice Legislative Oversight Committee, the Lieutenant Governor, the Speaker of the House of Representatives, and the presiding officers of the standing committees in the Senate and House of Representatives primarily responsible for criminal justice regarding the Board's application of the parole guidelines adopted under Section 508.144.

April 2013

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MISSION STATEMENT

THE MISSION OF THE TEXAS BOARD OF PARDONS AND PAROLES is to perform its duties as imposed by Article IV, Section 11, of the Texas Constitution and:

• Determine which prisoners are to be released on parole or discretionary mandatory supervision;

• Determine conditions of parole and mandatory supervision;

• Determine revocation of parole and mandatory supervision; and,

• Recommend the resolution of clemency matters to the Governor.

VISION STATEMENT

THE TEXAS BOARD OF PARDONS AND PAROLES, guided by sound application of the discretionary authority vested by the Constitution of the State of Texas, shall:

• Render just determination in regard to parole release and revocations, thereby maximizing the restoration of human potential while restraining the growth of prison and jail populations;

• Impose reasonable and prudent conditions of release consistent with the goal of structured reintegration of the offender into the community; and,

• Resolutely administer the clemency process with recommendation to the Governor fully commensurate with public safety and due consideration.

PAROLE GUIDELINES OVERVIEW

Parole Guidelines are tools to assist parole panel members in making discretionary parole release decisions. Guidelines provide a framework for more consistent voting across parole panels.

The Texas Board of Pardons and Paroles guidelines combine a risk assessment with a measurement of the severity of an offense. The research-based risk assessment measures the likelihood of an offender to have a successful parole. It uses both historical (static) information and an offender's current situation (dynamic factors).

The level of risk combines with the offense severity ranking to create a Parole Guidelines Score. The score ranges from one to seven -- one indicates the poorest probability, and seven the greatest, for success on parole.

While the score provides a measurement for parole panel consideration, the guidelines do not produce a precise recommendation to either deny or grant parole.

Security Response Technologies, Inc., the consulting firm contracted to assist the Board in developing guidelines in 2001, stated that "to have a so called 'presumptive' grant rate for each case would neither be practical nor desirable for a system that is designed to provide guidance and not certainty to each reviewed case."

Not every aspect of an offender's case is measured by the parole guidelines. Board members and parole commissioners also consider such information as plea bargains, victim statements, protests from trial officials (judges, district attorneys, sheriffs and police chiefs), and letters of support. These factors may also influence parole decisions.

Ensuring public safety, victim justice and adherence to law -- while restoring human potential to society -- is the challenge facing the Board of Pardons and Paroles. Parole guidelines are a tool to help the parole panels consistently achieve that balance.

HISTORY OF TEXAS PAROLE GUIDELINES

Prior to 1983, parole and executive clemency required positive actions by both the Board of Pardons and Paroles and the Governor before relief could be given to an offender. The 68th Legislature brought changes.

Article IV, Section 11 of the Texas Constitution was amended to remove the Governor from the parole process and make the Board of Pardons and Paroles the final parole authority in Texas. Senate Bill 396 designated the Board as a statutory agency with exclusive authority to approve parole. It also gave the Board authority to revoke paroles and issue warrants for arrest of administrative release violators.

At that time, the Board used Salient and Significant Factor Score sheets when making parole decisions. The Salient Factor score sought to classify parole candidates according to the likelihood for succeeding under parole supervision. The Significant Factor reflected the seriousness of the offense committed.

In 1983, the Board adopted the PABLO Scale to aid members in applying similar criteria to parole decisions. The scale calculated the risk of releasing an offender by evaluating the offender's rating on 20 variables, which included criminal history, juvenile history, substance abuse history, age at the time of the offense, education, etc.

In 1985, the Legislature mandated that the Board incorporate parole guidelines, with minimum release criteria, into parole decision-making. Based on research, the guidelines were to consider the seriousness of the offense and the likelihood of a favorable parole outcome.

In 1987, the Board combined the PABLO Scale with parole guidelines that measured parole risks to set a parole risk score.

The risk factors consisted of nine variables shown to be associated with recidivism (number of prior convictions, number of prior incarcerations, age at first incarceration, commitment offense, number of prior parole or probation violations, history of alcohol/drug dependence, employment history, level of education, and release plan).

The offender's most severe current offense was assigned one of four severity levels (highest, high, medium, and low).

Finally, time served was used to adjust the risk and offense severity score.

The actual formula for computing the parole score was:

$$\text{Parole Score} = [(\text{Risk/Offense Severity}) + \text{percent of Time Served}] \times 1.9$$

When the computed score reached a certain number, the Board could set a tentative parole date that could be overridden by the Board at its discretion. However, the reasons for overrides had to conform to a limited set of factors established by the Board.

In 1993, the 73rd Legislature directed the Criminal Justice Policy Council (CJPC) to report "at least annually to the Legislative Criminal Justice Board, the Texas Board of Criminal Justice, and the Texas Board of Pardons and Paroles on the use of the parole guidelines by each member of the Board in making parole decisions."

After conducting a study of guideline usage, CJPC recommended in 1996 that revised guidelines be developed to ensure the criteria reflect Board policy, are applied in a consistent manner to all candidates for parole (reliable), and are predictive of risk to public safety (valid).

Texas Board of Pardons and Paroles

Reliability is a measure of the consistency of institutional parole officers in extracting and presenting the same data to the Board for consideration in parole decisions. Validity is a measure of risk factors to accurately predict whether a candidate is a good, moderate, or poor risk to succeed on parole. Guidelines are able to accomplish these two objectives by developing scoring instruments that use well-defined measures of risk that correlate with post-release success.

The Board applied to the National Institute of Corrections (NIC) for technical assistance in developing parole guidelines in 1998.

NIC agreed to an initial site visit and assessment. NIC reported that "…to simply update existing guidelines will not increase the viability or effectiveness of the Board's case decision making and would not bring Texas in line with new approaches that have been successful in other jurisdictions. A fundamental re-examination and redesign is required."

In 1999, the Board contracted with Security Response Technologies, Inc., for an 18-month, three-phase project:

- I - a comprehensive review of the Board's current practices as well as those of other states in using parole guidelines.

- II - a validation test of existing guidelines, along with an evaluation of other selected factors to be used in assessing risk.

- III - training of Board members, parole commissioners and institutional parole officers in using the new guidelines.

In 2001, the Board began using the new parole guidelines to assist in making parole decisions.

In 2006, the Board requested a voting pattern analysis on DWI offender cases. Dr. James Austin, NIC consultant, presented a report based on data revalidating the Board's parole guidelines and risk analysis.

In 2009, the Board adopted his report, modifying and updating the parole guidelines. Additionally, Austin revised instructions for completing the risk assessment, created a new Supplemental DWI Risk Assessment Factors and Scale, and trained staff.

In 2010, the Board selected MGT of America, Inc., to perform research and make recommendations for updating the parole guidelines.

The 18-month initiative researched data on domestic violence, gender (female) differences and security threat group considerations.

In 2012, the consultant recommended no changes in factors involving domestic violence and security threat groups. The major change was to separate risk scales by gender.

COMPONENTS OF THE GUIDELINES

The parole guidelines consist of two major components that interact to provide a single score.

The Risk Assessment Instrument weighs both static and dynamic factors associated with the offender's record.

The Offense Severity Class is the second component.

RISK ASSESSMENT INSTRUMENT

Static factors come from the offender's prior criminal record, which do not change over time.

Static factors include:

- Age at first commitment to a juvenile or adult correctional facility,

- History of supervisory release revocations for felony offenses,

- Prior incarcerations,

- Employment history, and

- The commitment offense.

Dynamic factors reflect characteristics the offender has demonstrated since being incarcerated, and can change over time.

Dynamic factors include:

- Current age,

- Whether the offender is a confirmed security threat group (gang) member,

- Education, vocational and certified on-the-job training programs completed during the present incarceration,

- Prison disciplinary conduct, and

- Current prison custody level.

An offender receives 0-10 points on static factors

and 0-9 points on dynamic factors. A low score is associated with low risk. The higher the score, the greater the risk in granting parole.

The re-validation study completed in 2012 determined the need for a separate risk scale for males and females.

SCORE ASSIGNED RISK LEVEL		
Based on total of static and dynamic factor points, risk level assigned to offender should be determined below:	MALE (POINTS)	FEMALE (POINTS)
Low Risk	3 or less	3 or less
Moderate Risk	4-8	4-9
High Risk	9-15	10+
Highest Risk	16+	N/A

OFFENSE SEVERITY CLASS

The Board has assigned an offense severity ranking to each of the 2,586 felony charges in the Penal Code.

Offense Severity classes range from Low for non-violent crimes such as credit card abuse, to Highest for capital murder.

For each assessment, the offender's most serious active offense is assigned an Offense Severity Class according to the established list.

The Parole Guidelines Committee of the Board continually reviews current offenses for possible reranking and new offenses for appropriate ranking.

THE PAROLE GUIDELINES SCORE

The two components of the guidelines – Risk Assessment and Offense Severity -- are merged into a matrix that creates the offender's Parole Guidelines Score (at the intersection of risk level and offense severity in the diagrams below). Separate risk scales have been developed for male and female offenders.

Parole Guidelines Scores range from one, for an individual with the poorest probability for success, to seven for an offender with the greatest probability for successfully discharging their sentence on parole without returning to prison.

The guidelines are neither automatic nor presumptive of whether an offender will receive parole. Parole panel members retain the discretion to vote outside the guidelines when circumstances of an individual case merit doing so.

Offense Severity Class	MALE RISK LEVEL				FEMALE RISK LEVEL		
	Highest (16)	High (9-15)	Moderate (4-8)	Low (3 or less)	Highest (10+)	Moderate (4-9)	Low (3 or less)
Highest	1	2	2	3	2	2	3
High	2	3	4	4	3	4	4
Moderate	2	4	5	6	4	5	6
Low	3	4	6	7	4	6	7

ACTUAL APPROVAL RATES FY 2012

GUIDELINES LEVEL STATEWIDE

GUIDELINE LEVEL	CASES CONSIDERED	CASES APPROVED	APPROVAL RATE
1	841	109	13.0%
2	12,241	3,405	27.8%
3	9,730	3,433	35.3%
4	28,252	8,930	31.6%
5	14,783	5,813	39.3%
6	11,399	5,700	50.0%
7	3,392	2,299	67.8%
TOTAL	80,638	29,689	36.8%

- Total Parole Considerations in FY 2012 were 80,644, with six MRIS cases considered and approved without a Guidelines score.

Board members and parole commissioners vote cases daily. Approval rates, with recommended rates by guidelines level, are available monthly, which means that, while voting cases, panel members are unaware of the aggregate approval rate to determine whether they are voting within the range of the recommended approval rate.

The parole panel member provides approval and denial reasons for all votes.

A Notice of Parole Panel Action letter is generated with a detailed written statement explaining the denial reason(s) specific to each case. The institutional parole officer delivers a copy of the notice to the offender.

APPROVAL RATE BY GUIDELINE LEVEL
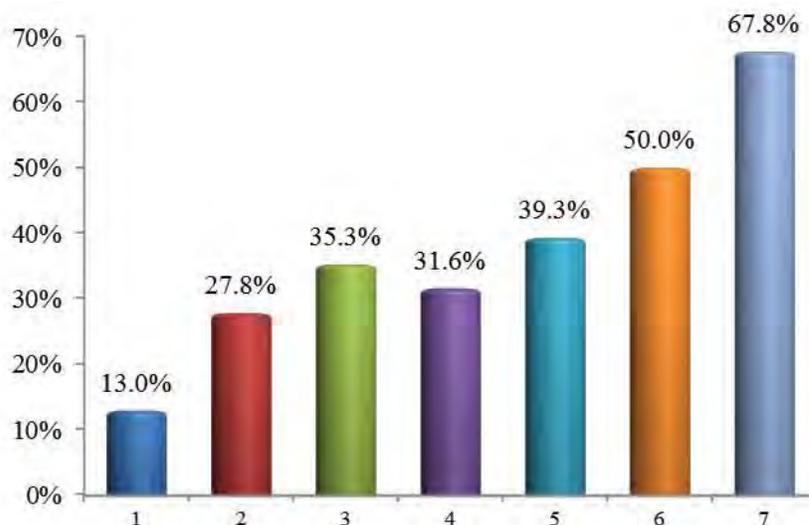
GUIDELINES LEVEL
BY BOARD MEMBER/PAROLE COMMISSIONER
GROUPED BY BOARD OFFICE

The Board annually reports parole guideline votes statewide and by individual Board member and parole commissioner. The statutory requirements for this report pertaining to regional offices are displayed in the following charts grouped by Board office.

Vacancies and new parole panel voters are noted in footnotes. Occasionally a Board member or parole commissioner is out of the office for an extended period of time and a panel member from another office will vote cases in their absence.

AMARILLO BOARD OFFICE

LaFavers, James

LEVEL	CON	APP	APP RATE
1	132	26	19.7%
2	2,027	692	34.1%
3	2,033	993	48.8%
4	3,769	1,445	38.3%
5	1,515	474	31.3%
6	1,028	456	44.4%
7	251	147	58.6%
TOTAL	10,755	4,233	39.4%

Shipman, Charles

LEVEL	CON	APP	APP RATE
1	161	16	9.9%
2	1,651	251	15.2%
3	1,028	181	17.6%
4	3,295	839	25.5%
5	1,553	536	34.5%
6	1,033	446	43.2%
7	283	182	64.3%
TOTAL	9,004	2,451	27.2%

Moberley, Marsha

LEVEL	CON	APP	APP RATE
1	138	16	11.6%
2	1,624	378	23.3%
3	1,066	274	25.7%
4	3,013	908	30.1%
5	1,529	626	40.9%
6	1,075	585	54.4%
7	258	208	80.6%
TOTAL	8,703	2,995	34.4%

ANGLETON BOARD OFFICE

Davis, Conrith

LEVEL	CON	APP	APP RATE
1	102	17	16.7%
2	1,764	659	37.4%
3	2,133	985	46.2%
4	4,005	1,336	33.4%
5	1,595	462	29.0%
6	1,256	628	50.0%
7	368	260	70.7%
TOTAL	11,223	4,347	38.7%

Ruzicka, Lynn

LEVEL	CON	APP	APP RATE
1	64	6	9.4%
2	1,132	361	31.9%
3	851	320	37.6%
4	2,957	975	33.0%
5	1,486	600	40.4%
6	1,193	621	52.1%
7	349	252	72.2%
TOTAL	8,032	3,135	39.0%

Rangel, Fred *

LEVEL	CON	APP	APP RATE
1	24	3	12.5%
2	622	199	32.0%
3	455	160	35.2%
4	1,805	466	25.8%
5	1,063	318	29.9%
6	839	416	49.6%
7	233	179	76.8%
TOTAL	5,041	1,741	34.5%

* Fred Rangel began serving as a Parole Commissioner on January 30, 2012.

GATESVILLE BOARD OFFICE

Gutiérrez, David

LEVEL	CON	APP	APP RATE
1	59	13	22.0%
2	1,390	562	40.4%
3	1,736	985	56.7%
4	3,240	1,467	45.3%
5	1,581	615	38.9%
6	1,491	799	53.6%
7	409	327	80.0%
TOTAL	9,906	4,768	48.1%

Hightower, Elvis

LEVEL	CON	APP	APP RATE
1	45	12	26.7%
2	836	288	34.4%
3	703	275	39.1%
4	2,380	842	35.4%
5	1,453	616	42.4%
6	1,330	760	57.1%
7	360	283	78.6%
TOTAL	7,107	3,076	43.3%

Marshall, Trent

LEVEL	CON	APP	APP RATE
1	54	9	16.7%
2	908	266	29.3%
3	757	267	35.3%
4	2,571	787	30.6%
5	1,686	608	36.1%
6	1,544	741	48.0%
7	425	299	70.4%
TOTAL	7,945	2,977	37.5%

HUNTSVILLE BOARD OFFICE

Leeper, Thomas

LEVEL	CON	APP	APP RATE
1	178	34	19.1%
2	2,480	875	35.3%
3	2,585	1,222	47.3%
4	4,646	1,978	42.6%
5	1,826	840	46.0%
6	1,388	737	53.1%
7	433	299	69.1%
TOTAL	13,536	5,985	44.2%

Garcia, Roy "Tony"

LEVEL	CON	APP	APP RATE
1	163	14	8.6%
2	1,984	481	24.2%
3	1,483	422	28.5%
4	4,207	1,238	29.4%
5	2,023	844	41.7%
6	1,513	714	47.2%
7	497	331	66.6%
TOTAL	11,870	4,044	34.1%

Freeman, Pamela

LEVEL	CON	APP	APP RATE
1	120	17	14.2%
2	1,627	490	30.1%
3	1,177	447	38.0%
4	3,482	1,099	31.6%
5	1,673	730	43.6%
6	1,292	616	47.7%
7	396	203	51.3%
TOTAL	9,767	3,602	36.9%

* During FY 2012, Pamela Freeman served as a Parole Commissioner in both the Angleton and Huntsville Board offices.

PALESTINE BOARD OFFICE

Skyrme, Michelle

LEVEL	CON	APP	APP RATE
1	117	19	16.2%
2	2,009	698	34.7%
3	2,087	1,101	52.8%
4	4,809	1,673	34.8%
5	2,225	713	32.0%
6	1,609	576	35.8%
7	582	265	45.5%
TOTAL	13,438	5,045	37.5%

Hensarling, James

LEVEL	CON	APP	APP RATE
1	107	9	8.4%
2	1,516	402	26.5%
3	1,132	405	35.8%
4	4,162	1,272	30.6%
5	2,321	911	39.3%
6	1,749	799	45.7%
7	642	410	63.9%
TOTAL	11,629	4,208	36.2%

Fox, Troy*

LEVEL	CON	APP	APP RATE
1	34	10	29.4%
2	671	270	40.2%
3	513	256	49.9%
4	2,101	850	40.5%
5	1,417	620	43.8%
6	1,061	565	53.3%
7	351	240	68.4%
TOTAL	6,148	2,811	45.7%

* Troy Fox became a Parole Commissioner on January 15, 2012, with service in both the Palestine and San Antonio Board offices.

SAN ANTONIO BOARD OFFICE

González, Juanita

LEVEL	CON	APP	APP RATE
1	118	20	16.9%
2	2,048	812	39.6%
3	2,194	1,126	51.3%
4	4,188	1,823	43.5%
5	1,947	790	40.6%
6	1,462	715	48.9%
7	445	240	53.9%
TOTAL	12,402	5,526	44.6%

Speier, Charles

LEVEL	CON	APP	APP RATE
1	107	13	12.1%
2	1,462	407	27.8%
3	1,004	336	33.5%
4	3,416	1,091	31.9%
5	1,918	874	45.6%
6	1,451	751	51.8%
7	439	257	58.5%
TOTAL	9,797	3,729	38.1%

Kiel, James Paul *

LEVEL	CON	APP	APP RATE
1	72	4	5.6%
2	1,209	280	23.2%
3	843	253	30.0%
4	3,002	921	30.7%
5	1,701	842	49.5%
6	1,274	762	59.8%
7	371	290	78.2%
TOTAL	8,472	3,352	39.6%

* During FY 2012, Paul Kiel served as a Parole Commissioner in both the San Antonio and Palestine Board offices.

THE CHAIR'S VOTE

Rissie Owens, Chair

LEVEL	CON	APP	APP RATE
1	13	11	84.6%
2	419	387	92.4%
3	811	789	97.3%
4	847	800	94.5%
5	74	60	81.1%
6	53	44	83.0%
7	19	18	94.7%
TOTAL	2,236	2,109	94.3%

NOTES

Texas Board of Pardons and Paroles
P. O. Box 13401, Capitol Station
Austin, Texas 78711
(512) 406-5452

www.tdcj.state.tx.us/bpp