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PAROLE GUIDELINES

ANNUAL REPORT

FY 2010



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PAROLE GUIDELINES
ANNUAL REPORT
FISCAL YEAR 2010

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.

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HISTORY OF THE PAROLE GUIDELINES

Prior to 1984, both parole and executive clemency acts required the affirmative action of the Board of Pardons and Paroles and the Governor before relief could be given. Statutory changes made by the 68th Legislature had a significant impact on agency operations in fiscal year 1984. 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 for the state. Senate Bill 396 designated the Board as a statutory agency with exclusive authority to approve paroles, increased Board membership to six members to be appointed by the governor, and gave the Board authority to revoke paroles and issue warrants for the arrest of administrative release violators.

The Texas Board of Pardons and Paroles (Board) used Salient and Significant Factor Score sheets when making parole decisions. The Salient Factor score sought to classify parole candidates according to their risk for succeeding or failing under parole supervision. The Significant Factor reflected the seriousness of the offense committed. If parole was denied, an offender was set-off and the case was reviewed within one year, or was given a serve-all where the offender remained in prison until released to mandatory supervision or until discharged sentence in prison.

The Board adopted the PABLO Scale in 1983 to assist board members to use similar criteria when making parole decisions. It calculated the level or risk of an offender by evaluating the offender's rating on twenty variables, which included criminal history, juvenile history, substance abuse history, age at the time of the offense, education, etc.

The legislature mandated that the Board incorporate parole guidelines, with minimum release criteria, into parole decision-making in 1985. The guidelines were to be developed according to acceptable research methods and be based on the seriousness of the offense and the likelihood of a favorable parole outcome.

The Board replaced the PABLO Scale with parole guidelines that combined measurements of parole risks with PABLO Scale to define the parole risk score in 1987. The risk factors consisted of nine variables that have been 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 offense severity assigned the most severe offense the offender was serving time for into one of four levels (aggravated, high severity, medium severity, and low severity). Finally, the time served item was used to adjust the risk and offense severity score.

The actual formula for computing the parole score was as follows:

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

When the computed score reached a certain score, the Board could set a tentative parole date that could be over-ridden by the Board at its discretion. However, the reasons for over-rides had to conform to a limited set of over-ride 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 decision.”

After conducting a study of the Board’s use of the guidelines, in 1996 CJPC recommended that revised guidelines be formulated to ensure the guideline 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).

Reliability is a measure of consistency of the Institutional Parole Officers (IPO) to extract and present the same relevant data to the Board so it can make parole decisions. Validity is a measure of the risk factors to accurately predict whether or not a candidate for parole falls into a class of offenders who are either 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 have been shown to be predictive of 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 provide technical assistance for an initial site visit and assessment. NIC reported “...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, a contract was awarded to Security Response Technologies, Incorporated (SRT). The Board Chair established a parole guidelines committee to act as the liaison between the Board and the consultant. Initially, the committee was comprised of seven board members, one from each board office. Each member was responsible for providing their colleagues with current information regarding the guidelines initiative, along with soliciting their input as well.

The Board’s contract with SRT was an 18-month project divided into three distinct phases:

- Phase I consisted of a comprehensive review of the Board’s current practices as well as the practices of other states that use parole guidelines.
- Phase II activities involved completing a validation test of the existing guidelines along with an evaluation of the other selected factors that would be used for assessing risk.
- Phase III consisted of training Board and Institutional Parole Officers (IPOs) in the use of the new guidelines. In September 2001, the Board began using the parole guidelines to assist them in making parole decisions.

Based on SRT’s recommendation, the committee re-reviewed the NCIC offenses initially ranked in 2000, one year after the implementation of the parole guidelines.

The Board requested that an analysis be conducted based on the voting patterns of the voting members as it pertained to DWI offenders,. On October 25, 2006 Dr. Austin, Consultant with NIC, attained statistical data as approved through NIC regarding ongoing guideline issues in regard to Levels 6 and 7, and DWI offenders. In April 2007, Dr. Austin presented his findings in a Risk-Based Parole Guidelines Technical Assistance Final Report with the following findings/recommendations:

- DWI offenders with a prior state incarceration for a DWI should be reclassified as a high-risk level. Dr. Austin indicated this could be accomplished by adjusting Item # 3 of the Static Risk Factors on the Risk Item Factors Scale. This adjustment would result in an increase of a 3 points score, ensuring a higher score with the inability to be assessed as a low risk offender.
- He further indicated the Board should be aware that such offenders have higher recidivism rates.

In July 2008, Dr. Austin presented his report based on data revalidating the Board's parole guidelines and risk analysis. In May 2009, the Board adopted Dr. Austin's November 2008 Final Report modifying and updating the parole guidelines. In addition to submitting the final report, Dr. Austin made the necessary revisions to the current Instructions for Completing the Texas Board of Pardons and Paroles Risk Assessment, created the new Supplemental DWI Risk Assessment Factors and Scale and participated in training the staff in utilizing the updated instructions and new instrument.

COMPONENTS OF THE GUIDELINES

Parole Guidelines (guidelines) are tools that assist the members of the parole panel or the Board in making discretionary parole release decisions. The parole guidelines consist of two major components that interact to provide a single score. The first is a Risk Assessment Instrument that weighs both static and dynamic factors associated with the inmate's record. The other component is Offense Severity class.

~ ***Risk Assessment Instrument***

Static factors are those associated with the inmate's prior criminal record. They will not change over time. Dynamic factors reflect characteristics the inmate has demonstrated since being incarcerated and are factors that can change over time.

* Static factors include:

- Age at first admission to a juvenile or adult correctional facility
- History of supervisory release revocations for felony offenses
- Prior incarcerations
- Employment history
- The commitment offense

* Dynamic factors include:

- Inmate's current age
- Whether the inmate 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
- Current prison custody level.

An inmate can be assigned 0-9 points on static factors and 0-12 points on dynamic factors. A low score is associated with low risk. The higher the score, the greater the risk the inmate presents for a successful parole:

SCORE ASSIGNED	RISK LEVEL	POINTS
<i>Based on the total of static and dynamic factor points, the risk level to be assigned to the inmate should be determined below:</i>		
Low Risk		0-5
Moderate Risk		6-8
High Risk		9-11
Highest Risk		12+

~ *Offense Severity Class*

Parole Board members have assigned an offense severity rating to every one of the 2,474 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. An inmate's most serious active offense is assigned an Offense Severity Class according to the established list.

THE PAROLE GUIDELINES SCORE

After both of the above factors have been considered, the two components of the guidelines are then merged into a matrix that creates the inmate's Parole Guidelines Score based on the intersection of his risk level and the offense severity rating. Parole Guidelines Scores range from 1 for an individual with the poorest probability for success, up to 7 for an inmate with the greatest probability of success.

OFFENSE SEVERITY CLASS	RISK LEVEL			
	Highest	High	Moderate	Low
Highest	1	2	2	3
High	2	3	4	4
Moderate	2	4	5	6
Low	3	4	6	7

The higher an inmate's score, the better risk he is predicted to complete parole. The guidelines are not automatic indicator as to whether an inmate will be paroled. Voting members retain the discretion to vote a case regardless of the parole guidelines score when the circumstances of an individual case merit their doing so.

DEPARTING FROM THE GUIDELINES

Section 508.144, Texas Government Code, requires the parole panel members to document the reason for deviating/departing from the guidelines. For example, guidelines level 5 has a total of 4,315 approved cases, which is divided by 11,611 total cases considered for an aggregate approval rate of 37.16%. The recommended approval rate for guidelines level 5 is 36% to 50%.

Aggregate approval rates are compared to the recommended approval rates and categorized as a percentage of the total votes by guidelines levels. A comparison of aggregate approval rates with recommended approval rates by guidelines level is made available to the Board Members and Parole Commissioners on a monthly basis. However, Board Members and Parole Commissioners vote cases on a daily basis; therefore, at the time of the parole panel member's vote, the current monthly aggregate approval rates by guidelines level are not available to them. This means that the panel member voting a case is unaware of the aggregate approval rate to determine whether or not they are voting within the range of the recommended approval rate. This being the case, 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 IPO delivers a copy of the Notice of Parole Panel Action to the offender.

UPDATING PAROLE GUIDELINES

Based on the other issues identified in Dr. Austin's November 2008 report, the Board required a professional consultant for domestic violence, gender (female) and security threat groups to revise the Board's parole guidelines based upon the standard prescribed by the statute - "develop according to an acceptable research method the parole guidelines that are the basic criteria on which a parole decision is made" and "base the guidelines on the seriousness of the offense and the likelihood of a favorable parole outcome" (Government Code, Section 508.144(a), supra). The consultation includes assistance to the Board in implementing the guidelines and making reports thereon.

The Board selected an outside consultant, MGT of America, Inc., to perform research and make recommendations to the Board for updating the parole guidelines. The contract is an 18-month initiative and began on November 1, 2010.

**RECOMMENDED APPROVAL RATES AND ACTUAL APPROVAL RATES COMPARISON
FY 2010**

GUIDELINES LEVEL STATEWIDE

GUIDELINE LEVEL	CASES CONSIDERED	CASES APPROVED	APPROVAL RATE	RECOMMENDED APPROVAL RATE
1	1,058	85	8.03%	0% - 5%
2	13,344	2,635	19.75%	6% - 15%
3	10,308	2,796	27.12%	16% - 25%
4	29,593	8,146	27.53%	26% - 35%
5	11,611	4,315	37.16%	36% - 50%
6	9,752	4,534	46.49%	51% - 75%
7	2,907	1,855	63.81%	76% - 100%
TOTAL	78,573	24,366	31.01%	

**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 positions in the board offices are noted in footnotes. There are also occasions when a board member or parole commissioner is out of the office for an extended period of time where a board member or parole commissioner from another office will vote cases in their absence.

GUIDELINES LEVEL BY BOARD MEMBER/PAROLE COMMISSIONER
GROUPED BY BOARD OFFICE

AMARILLO BOARD OFFICE

AYCOCK, C.

SHIPMAN, C.

LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE	LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE
1	227	33	14.54%	0% - 5%	1	213	9	4.23%	0% - 5%
2	2,782	797	28.65%	6% - 15%	2	2,230	299	13.41%	6% - 15%
3	2,615	1,089	41.64%	16% - 25%	3	1,407	242	17.20%	16% - 25%
4	5,414	1,950	36.02%	26% - 35%	4	4,222	1,025	24.28%	26% - 35%
5	1,773	574	32.37%	36% - 50%	5	1,739	575	33.06%	36% - 50%
6	1,359	560	41.21%	51% - 75%	6	1,435	567	39.51%	51% - 75%
7	309	149	48.22%	76% - 100%	7	328	148	45.12%	76% - 100%
TOTAL	14,479	5,152	35.58%		TOTAL	11,574	2,865	24.75%	

POLAND, J.*

MOBERLEY, M.*

LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE	LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE
1	19	0	0%	0% - 5%	1	109	9	8.26%	0% - 5%
2	224	57	25.45%	6% - 15%	2	1,256	218	17.36%	6% - 15%
3	148	29	19.60%	16% - 25%	3	781	163	20.87%	16% - 25%
4	413	96	23.20%	26% - 35%	4	2,544	619	24.33%	26% - 35%
5	173	74	42.77%	36% - 50%	5	1,041	348	33.43%	36% - 50%
6	160	68	42.50%	51% - 75%	6	766	286	37.34%	51% - 75%
7	37	17	45.95%	76% - 100%	7	183	93	50.82%	76% - 100%
TOTAL	1,174	341	29.05%		TOTAL	6,680	1,736	25.99%	

* During FY 2010, J. Poland served as a Parole Commissioner in the Amarillo Board Office from September 1, 2009 through September 30, 2009.

* During FY 2010, M. Moberley served as a Parole Commissioner from January 19, 2010 to August 31, 2010.

GUIDELINES LEVEL BY BOARD MEMBER/PAROLE COMMISSIONER
GROUPED BY BOARD OFFICE

ANGLETON BOARD OFFICE

DAVIS, C.

LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE
1	123	13	10.57%	0% - 5%
2	2,173	648	29.82%	6% - 15%
3	2,393	940	39.28%	16% - 25%
4	5,037	1,642	32.60%	26% - 35%
5	1,523	488	32.04%	36% - 50%
6	1,331	598	44.93%	51% - 75%
7	329	204	62.01%	76% - 100%
TOTAL	12,909	4,533	35.12%	

FREEMAN, P.

LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE
1	102	6	5.88%	0% - 5%
2	1,699	422	24.84%	6% - 15%
3	1,218	339	27.83%	16% - 25%
4	4,310	1,383	32.09%	26% - 35%
5	1,727	740	42.85%	36% - 50%
6	1,458	674	46.23%	51% - 75%
7	337	186	55.19%	76% - 100%
TOTAL	10,851	3,750	34.56%	

RUZICKA, L.

LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE
1	69	4	5.80%	0% - 5%
2	1,466	383	26.13%	6% - 15%
3	1,104	384	34.78%	16% - 25%
4	3,813	1,462	38.34%	26% - 35%
5	1,597	706	44.21%	36% - 50%
6	1,342	737	54.92%	51% - 75%
7	312	215	68.91%	76% - 100%
TOTAL	9,703	3,891	40.10%	

GUIDELINES LEVEL BY BOARD MEMBER/PAROLE COMMISSIONER
GROUPED BY BOARD OFFICE

GATESVILLE BOARD OFFICE

GUTIERREZ, D.*

LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE
1	78	14	17.95%	0% - 5%
2	1,876	550	29.32%	6% - 15%
3	1,944	860	44.24%	16% - 25%
4	6,136	2,146	34.97%	26% - 35%
5	2,436	955	39.20%	36% - 50%
6	2,069	1,013	48.96%	51% - 75%
7	588	385	65.48%	76% - 100%
TOTAL	15,127	5,923	39.16%	

HIGHTOWER, E.

LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE
1	49	4	8.16%	0% - 5%
2	1,258	244	19.40%	6% - 15%
3	985	225	22.84%	16% - 25%
4	4,732	1,430	30.22%	26% - 35%
5	2,212	899	40.64%	36% - 50%
6	1,983	1,132	57.09%	51% - 75%
7	570	451	79.12%	76% - 100%
TOTAL	11,789	4,385	37.20%	

THRASHER, H.

LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE
1	58	3	5.17%	0% - 5%
2	1,393	233	16.73%	6% - 15%
3	967	209	21.61%	16% - 25%
4	5,161	1,469	28.46%	26% - 35%
5	2,365	889	37.59%	36% - 50%
6	1,964	863	43.94%	51% - 75%
7	595	326	54.79%	76% - 100%
TOTAL	12,503	3,992	31.93%	

**During FY 2010, D. Gutierrez served as a Board Member in the Gatesville Board Office from September 14, 2009 through August 31, 2010.*

GUIDELINES LEVEL BY BOARD MEMBER/PAROLE COMMISSIONER
GROUPED BY BOARD OFFICE

HUNTSVILLE BOARD OFFICE

LEEPER, T.

GARCIA, R.

LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE	LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE
1	172	16	9.30%	0% - 5%	1	188	10	5.32%	0% - 5%
2	2,356	659	27.97%	6% - 15%	2	2,244	482	21.48%	6% - 15%
3	2,381	950	39.90%	16% - 25%	3	1,557	444	28.52%	16% - 25%
4	4,722	1,860	39.39%	26% - 35%	4	4,963	1,660	33.45%	26% - 35%
5	1,381	547	39.61%	36% - 50%	5	1,897	815	42.96%	36% - 50%
6	1,281	555	43.33%	51% - 75%	6	1,670	813	48.68%	51% - 75%
7	413	234	56.66%	76% - 100%	7	513	343	66.86%	76% - 100%
TOTAL	12,706	4,821	37.94%		TOTAL	13,032	4,567	35.04%	

HUMPHREY, B.*

LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE
1	163	7	4.29%	0% - 5%
2	2,005	398	19.85%	6% - 15%
3	1,363	389	28.54%	16% - 25%
4	4,516	1,496	33.13%	26% - 35%
5	1,668	750	44.96%	36% - 50%
6	1,482	726	48.99%	51% - 75%
7	471	282	59.87%	76% - 100%
TOTAL	11,668	4,048	34.69%	

* During FY 2010, B. Humphrey served as a Parole Commissioner from October 26, 2009 to August 31, 2010.

GUIDELINES LEVEL BY THE CHAIR'S VOTE

R. OWENS, CHAIR

LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE
1	13	10	76.92%	0% - 5%
2	395	356	90.13%	6% - 15%
3	741	695	93.79%	16% - 25%
4	868	799	92.05%	26% - 35%
5	44	37	84.09%	36% - 50%
6	41	31	75.61%	51% - 75%
7	12	12	100%	76% - 100%
TOTAL	2,114	1,940	91.77%	

GUIDELINES LEVEL BY BOARD MEMBER/PAROLE COMMISSIONER
GROUPED BY BOARD OFFICE

PALESTINE BOARD OFFICE

DENOYELLES, J.

LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE
1	124	3	2.42%	0% - 5%
2	2,045	500	24.45%	6% - 15%
3	2,148	796	37.06%	16% - 25%
4	4,704	1,832	38.95%	26% - 35%
5	1,443	668	46.29%	36% - 50%
6	1,135	664	58.50%	51% - 75%
7	374	287	76.74%	76% - 100%
TOTAL	11,973	4,750	39.67%	

HENSARLING, J.

LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE
1	95	2	2.11%	0% - 5%
2	1,465	322	21.98%	6% - 15%
3	1,062	263	24.76%	16% - 25%
4	4,035	1,351	33.48%	26% - 35%
5	1,414	594	42.01%	36% - 50%
6	1,097	565	51.50%	51% - 75%
7	369	274	74.25%	76% - 100%
TOTAL	9,537	3,371	35.35%	

KIEL, J.

LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE
1	86	2	2.33%	0% - 5%
2	1,402	216	15.41%	6% - 15%
3	1,001	227	22.68%	16% - 25%
4	3,747	1,021	27.25%	26% - 35%
5	1,401	645	46.04%	36% - 50%
6	1,054	637	60.44%	51% - 75%
7	359	300	83.57%	76% - 100%
TOTAL	9,050	3,048	33.68%	

GUIDELINES LEVEL BY BOARD MEMBER/PAROLE COMMISSIONER
GROUPED BY BOARD OFFICE

SAN ANTONIO BOARD OFFICE

GONZALEZ, J.

LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE
1	156	38	24.36%	0% - 5%
2	2,240	839	37.46%	6% - 15%
3	2,261	1,116	49.36%	16% - 25%
4	5,038	2,387	47.38%	26% - 35%
5	1,771	924	52.17%	36% - 50%
6	1,429	802	56.12%	51% - 75%
7	421	261	62.00%	76% - 100%
TOTAL	13,316	6,367	47.81%	

MORALES, E.

LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE
1	112	23	20.54%	0% - 5%
2	1,678	497	29.62%	6% - 15%
3	1,128	407	36.08%	16% - 25%
4	4,201	1,846	43.94%	26% - 35%
5	1,856	985	53.07%	36% - 50%
6	1,429	826	57.80%	51% - 75%
7	415	281	67.71%	76% - 100%
TOTAL	10,819	4,865	44.97%	

SPEIER, C.

LEVEL	CON	APP	APP RATE	RECOMMENDED APPROVAL RATE
1	121	38	31.40%	0% - 5%
2	1,557	505	32.43%	6% - 15%
3	1,044	377	36.11%	16% - 25%
4	3,628	1,530	42.17%	26% - 35%
5	1,692	859	50.77%	36% - 50%
6	1,330	739	55.56%	51% - 75%
7	399	270	67.67%	76% - 100%
TOTAL	9,771	4,318	44.19%	



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