TEXAS BOARD OF PARDONS AND PAROLES

Parole Guidelines Annual Report
Fiscal Year 2011

HISTORY

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UPDATE

SCORE

PAROLE GUIDELINES
ANNUAL REPORT
FISCAL YEAR 2011

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:

Parole Score = [(Risk/Offense Severity) + percent of Time Served] X 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.

Texas Board of Pardons and Paroles

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	
Based on the total of static and dynamic factor points, the risk level to be assigned to the inmate should be determined below:	POINTS
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.

UPDATING PAROLE GUIDELINES

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. The research includes domestic violence, gender (female), and security threat groups. The consultants will recommend revisions to 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.

APPROVAL RATES

ACTUAL APPROVAL RATES
FY 2011

GUIDELINES LEVEL STATEWIDE

GUIDELINE LEVEL	CASES CONSIDERED	CASES APPROVED	APPROVAL RATE
1	1,087	76	6.99%
2	13,444	2,775	20.64%
3	10,408	2,868	27.56%
4	29,247	7,849	26.84%
5	11,647	4,248	36.47%
6	9,689	4,645	47.94%
7	2,866	1,878	65.53%
TOTAL	**78,388**	**24,339**	**31.05%**

There were three MRIS cases considered without a Guidelines Score not included in the above numbers.

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.

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	LEVEL	CON	APP	APP RATE
1	194	26	13.40%	1	203	8	3.94%
2	1,974	544	27.56%	2	1,886	212	11.24%
3	2,019	921	45.62%	3	1,138	162	14.24%
4	3,630	1,236	34.05%	4	3,482	680	19.53%
5	1,054	308	29.22%	5	1,255	370	29.48%
6	718	251	34.96%	6	972	351	36.11%
7	200	95	47.50%	7	249	130	52.21%
TOTAL	9,789	3,381	34.54%	TOTAL	9,185	1,913	20.83%

MOBERLEY, M.   LAFAVERS, J.**

LEVEL	CON	APP	APP RATE	LEVEL	CON	APP	APP RATE
1	225	8	3.56%	1	22	1	4.55%
2	1,905	223	11.71%	2	216	39	18.06%
3	1,150	193	16.78%	3	153	39	25.49%
4	3,452	675	19.55%	4	391	79	20.20%
5	1,347	446	33.11%	5	137	36	26.28%
6	931	408	43.82%	6	96	36	37.50%
7	262	167	63.74%	7	30	17	56.67%
TOTAL	9,272	2,120	22.86%	TOTAL	1,045	247	23.64%

During FY 2011, C. Aycock served as a Board Member in the Amarillo Board Office from September 1, 2010 through June 30, 2011.

** *During FY 2011, J. LaFavers served as a Board Member from July 11, 2011 to August 31, 2011.*

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

ANGLETON BOARD OFFICE

DAVIS, C.

LEVEL	CON	APP	APP RATE
1	123	17	13.82%
2	1,934	545	28.18%
3	2,219	939	42.32%
4	4,135	1,198	28.97%
5	1,309	377	28.80%
6	1,178	622	52.80%
7	287	192	66.90%
TOTAL	11,185	3,890	34.78%

FREEMAN, P.

LEVEL	CON	APP	APP RATE
1	84	3	3.57%
2	1,376	317	23.04%
3	1,065	303	28.45%
4	3,545	981	27.67%
5	1,448	574	39.64%
6	1,332	533	40.02%
7	307	129	42.02%
TOTAL	9,157	2,840	31.01%

RUZICKA, L.

LEVEL	CON	APP	APP RATE
1	71	5	7.04%
2	1,225	322	26.29%
3	904	311	34.40%
4	3,056	1,016	33.25%
5	1,264	552	43.67%
6	1,135	576	50.75%
7	287	194	67.60%
TOTAL	7,942	2,976	37.47%

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

GATESVILLE BOARD OFFICE

GUTIERREZ, D.   HIGHTOWER, E.

LEVEL	CON	APP	APP RATE	LEVEL	CON	APP	APP RATE
1	105	12	11.43%	1	67	3	4.48%
2	1,688	435	25.77%	2	1,185	188	15.86%
3	1,988	850	42.76%	3	944	167	17.69%
4	4,451	1,253	28.15%	4	3,760	741	19.71%
5	1,743	506	29.03%	5	1,905	602	31.60%
6	1,556	727	46.72%	6	1,654	838	50.67%
7	451	343	76.05%	7	509	403	79.17%
TOTAL	11,982	4,126	34.43%	TOTAL	10,024	2,942	29.35%

THRASHER, H.*   MARSHALL, T.**

LEVEL	CON	APP	APP RATE	LEVEL	CON	APP	APP RATE
1	40	3	7.50%	1	2	0	0.00%
2	693	85	12.27%	2	66	9	13.64%
3	584	64	10.96%	3	57	16	28.07%
4	2,099	339	16.15%	4	294	66	22.45%
5	1,099	257	23.38%	5	174	70	40.23%
6	929	334	35.95%	6	111	64	57.66%
7	296	155	52.36%	7	35	30	85.71%
TOTAL	5,740	1,237	21.55%	TOTAL	739	255	34.51%

During FY 2011, H. Thrasher served as a Parole Commissioner in the Amarillo Board Office from September 1, 2010 through April 30, 2011.

*** During FY 2011, T. Marshall served as a Parole Commissioner from August 1, 2011 to August 31, 2011.*

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

HUNTSVILLE BOARD OFFICE

LEEPER, T.

LEVEL	CON	APP	APP RATE
1	159	23	14.47%
2	2,152	678	31.51%
3	2,343	1,066	45.50%
4	4,103	1,729	42.14%
5	1,242	489	39.37%
6	1,108	478	43.14%
7	288	157	54.51%
TOTAL	11,397	4,622	40.55%

GARCIA, R.

LEVEL	CON	APP	APP RATE
1	150	8	5.33%
2	2,132	460	21.58%
3	1,507	407	27.01%
4	4,015	1,209	30.11%
5	1,583	644	40.68%
6	1,396	655	46.92%
7	385	225	58.44%
TOTAL	11,170	3,610	32.32%

HUMPHREY, B.*

LEVEL	CON	APP	APP RATE
1	156	16	10.26%
2	1,924	489	25.42%
3	1,426	438	30.72%
4	3,684	1,382	37.51%
5	1,376	715	51.96%
6	1,255	678	54.02%
7	336	176	52.38%
TOTAL	10,159	3,896	38.35%

During FY 2011, B. Humphrey served as a Parole Commissioner from September 1, 2010 to July 31, 2011.

GUIDELINES LEVEL BY THE CHAIR'S VOTE

R. OWENS, CHAIR

LEVEL	CON	APP	APP RATE
1	15	12	80.00%
2	327	311	95.11%
3	740	728	98.38%
4	688	670	97.38%
5	21	17	80.95%
6	21	14	66.67%
7	4	4	100.00%
TOTAL	1,816	1,756	96.70%

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

PALESTINE BOARD OFFICE

DENOYELLES, J.*

LEVEL	CON	APP	APP RATE
1	118	10	8.47%
2	1,534	382	24.90%
3	1,862	728	39.10%
4	3,331	1,192	35.79%
5	918	354	38.56%
6	772	443	57.38%
7	321	234	72.90%
TOTAL	8,856	3,343	37.75%

HENSARLING, J.

LEVEL	CON	APP	APP RATE
1	109	2	1.83%
2	1,356	261	19.25%
3	1,043	272	26.08%
4	3,380	975	28.85%
5	1,239	482	38.90%
6	981	501	51.07%
7	380	264	69.47%
TOTAL	8,488	2,757	32.48%

KIEL, J.

LEVEL	CON	APP	APP RATE
1	115	2	1.74%
2	1,355	196	14.46%
3	1,028	228	22.18%
4	3,357	783	23.32%
5	1,239	508	41.00%
6	993	561	56.50%
7	423	347	82.03%
TOTAL	8,510	2,625	30.85%

SKYRME, M.**

LEVEL	CON	APP	APP RATE
1	24	0	0.00%
2	221	37	16.74%
3	156	51	32.69%
4	499	107	21.44%
5	171	59	34.50%
6	126	59	46.83%
7	57	35	61.40%
TOTAL	1,254	348	27.75%

* During FY 2011, J. DeNoyelles served as a Board Member in the Amarillo Board Office from September 1, 2010 through June 30, 2011.

** During FY 2011, M. Skyrme served as a Board Member from July 11, 2011 to August 31, 2011.

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

SAN ANTONIO BOARD OFFICE

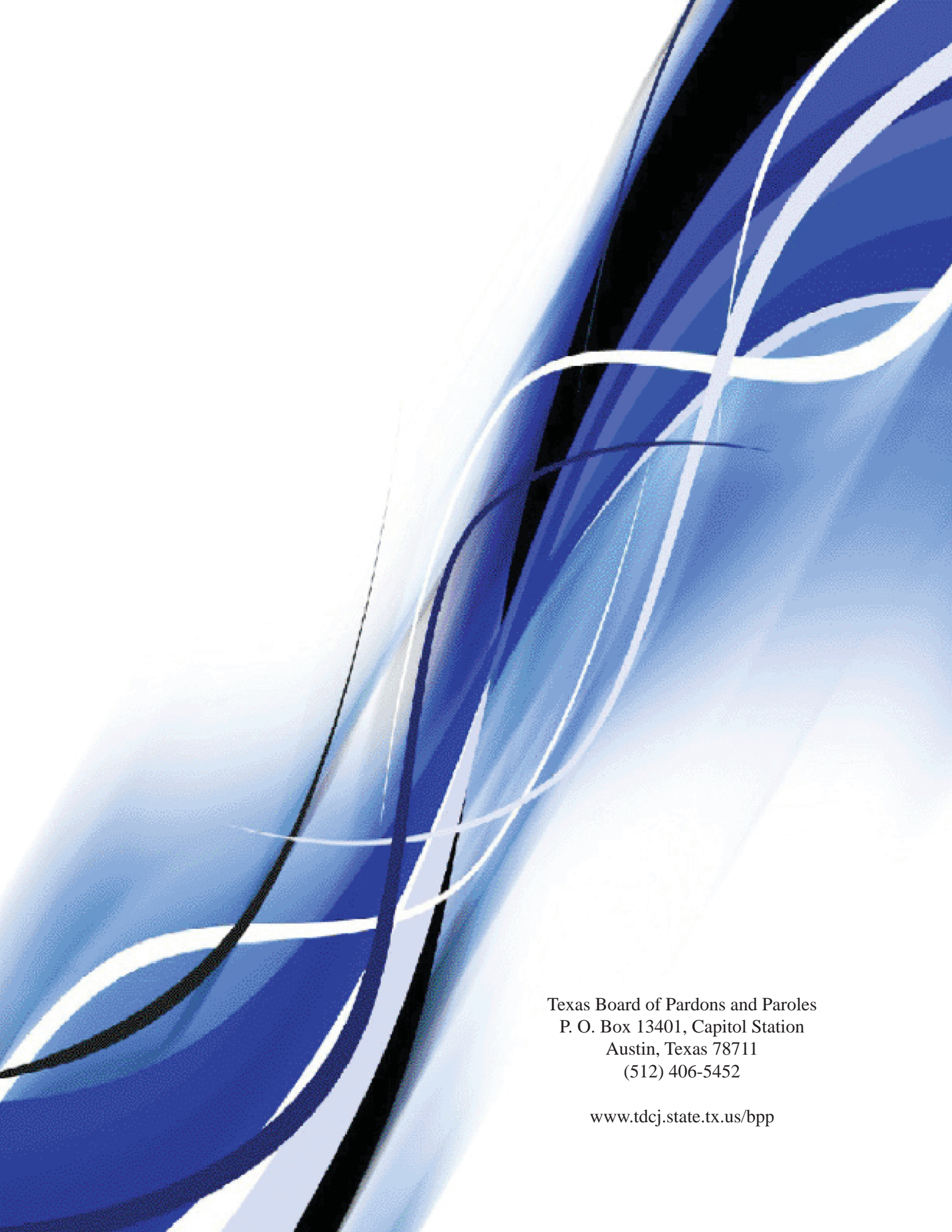#### GONZALEZ, J.

LEVEL	CON	APP	APP RATE
1	151	29	19.21%
2	1,950	801	41.08%
3	2,039	1,088	53.36%
4	3,677	1,662	45.20%
5	1,250	553	44.24%
6	1,011	524	51.83%
7	319	180	56.43%
TOTAL	10,397	4,837	46.52%

MORALES, E.

LEVEL	CON	APP	APP RATE
1	117	17	14.53%
2	1,419	474	33.40%
3	891	323	36.25%
4	2,801	1,062	37.92%
5	1,285	580	45.14%
6	1,036	592	57.14%
7	314	208	66.24%
TOTAL	7,863	3,256	41.41%

SPEIER, C.

LEVEL	CON	APP	APP RATE
1	89	16	17.98%
2	1,333	430	32.26%
3	860	307	35.70%
4	2,685	961	35.79%
5	1,240	542	43.71%
6	1,030	539	52.33%
7	319	177	55.49%
TOTAL	7,556	2,972	39.33%

NOTES

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